

Date October 26, 2009

**HOLD HEARING FOR THE VACATION AND CONVEYANCE OF A SMALL SEGMENT OF SOUTHEAST 28<sup>th</sup> STREET NORTH OF EAST MARKET STREET, TO GREENSTAR MID-AMERICA, LLC, FOR \$900.00**

**WHEREAS**, on August 24, 2009, by Roll Call No. 09-1542, the City Council received a recommendation from the City Plan and Zoning Commission that Southeast 28<sup>th</sup> Street north of East Market Street, hereinafter more fully described, be vacated and sold; and

**WHEREAS**, Greenstar Mid-America, LLC, is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the portion of such right-of-way described below, in order to use such right-of-way for the expansion and incorporation with their existing site, which purchase price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, on October 12, 2009, by Roll Call No. 09- 1845, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on October 26, 2009, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation more specifically described as follows:

All that part of Southeast 28<sup>th</sup> Street right-of-way lying West of and adjoining Lots 128 thru 130 Hoffman's Addition to Grant Park, an Official Plat, and lying South of the westerly extension of the South line of Lot 131 of said Hoffman's

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Addition as vacated by Ordinance No. 6061, June 29, 1959, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. The proposed sale of such vacated right-of-way, as described below, to GREENSTAR MID-AMERICA, LLC, for \$900.00, subject to reservation of a permanent public access easement and utilities easement, is hereby approved:

All that part of vacated Southeast 28<sup>th</sup> Street right-of-way lying West of and adjoining Lots 128 thru 130 Hoffman's Addition to Grant Park, an Official Plat, and lying South of the westerly extension of the South line of Lot 131 of said Hoffman's Addition as vacated by Ordinance No. 6061, June 29, 1959, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantees.

8. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

★ Roll Call Number

Agenda Item Number

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(Council Communication No. **09-746** )

Moved by \_\_\_\_\_ to adopt

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

*PN*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED  
 \_\_\_\_\_ Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk