

Date February 28, 2011

RESOLUTION APPROVING THE VACATION AND SALE OF  
RIGHTS-OF-WAY NECESSARY FOR THE RELOCATION OF GANNETT AVENUE  
TO ACCOMMODATE THE PLANNED EXPANSION OF THE EXISTING  
HEWLETT-PACKARD FACILITY AT 3600 ARMY POST ROAD

WHEREAS, Opus Development Corporation ("Opus") has requested that the City vacate and convey to it the segment of Gannett Avenue extending east from SW 34th Street and a segment of SW 34th Street extending north from Gannett Avenue, all in Airport Business Park Plat 2, in exchange for the dedication and improvement of the right-of-way necessary to relocate Gannett Avenue to a more northerly location between SW 34th Street and the existing segment of Gannett Avenue in Airport Commerce Park Plat 2, to allow for the planned expansion of the Hewlett-Packard facility at 3600 Army Post Road; and,

WHEREAS, on February 14, 2011, by Roll Call No. 11- 0202, the City Council received a recommendation from the City Plan and Zoning Commission that such rights-of-way be vacated and sold, and the City Council resolved that the proposed vacation and conveyance of such rights-of-way be set down for hearing on February 28, 2011, at 5:00 p.m., in the Council Chambers; 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 of the portions of Gannett Avenue and SW 34th Street, more specifically described as follows:

***Gannett Avenue right-of-way described as follows:***

A PARCEL OF LAND WITHIN LOT 'C', AIRPORT BUSINESS PARK PLAT NO. 2, AN OFFICIAL PLAT, RECORDED IN BOOK 9434, PAGES 630-659 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

( continued)

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BEGINNING AT THE EASTERLY MOST CORNER OF SAID LOT 'C'; THENCE S46°44'31"W, 7.26 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 'C' TO A POINT OF CURVATURE; THENCE WESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 835.00 FEET, A CHORD BEARING OF S68°28'32"W; AN ARC LENGTH OF 633.47 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 'C' TO A POINT; THENCE N00°21'12"E, 70.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 'C'; THENCE EASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 765.00 FEET, A CHORD BEARING OF N68°28'09"E; AN ARC LENGTH OF 580.19 FEET ALONG THE NORTHERLY LINE OF SAID LOT 'C' TO A POINT OF TANGENCY; THENCE N46°44'31"E, 7.26 FEET ALONG SAID NORTHERLY LINE TO A POINT; THENCE S43°15'29"E, 70.00 FEET ALONG THE EASTERLY LINE OF SAID LOT 'C' TO THE POINT OF BEGINNING AND CONTAINING 42,986 SQUARE FEET MORE OR LESS.

**SW 34th Street right-of-way described as follows:**

A PARCEL OF LAND WITHIN LOT 'B', AIRPORT BUSINESS PARK PLAT No. 2, AN OFFICIAL PLAT, RECORDED IN BOOK 9434, PAGES 630-659 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 'B'; THENCE N00°21'12"E, 146.72 FEET ALONG THE WESTERLY LINE OF SAID LOT 'B' TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 535.00 FEET, A CHORD BEARING OF N15°49'56"E; AN ARC LENGTH OF 289.07 FEET ALONG SAID WESTERLY LINE TO A POINT OF REVERSE CURVATURE; THENCE NORTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 465.00 FEET, A CHORD BEARING OF N15°49'56"E, AN ARC LENGTH OF 251.25 FEET ALONG SAID WESTERLY LINE TO A POINT; THENCE S89°38'48"E, 70.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 'B'; THENCE SOUTHERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 535.00 FEET, A CHORD BEARING OF S15°49'56"W, AN ARC LENGTH OF 289.07 FEET ALONG SAID EASTERLY LINE TO A POINT OF REVERSE CURVATURE; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 465.00 FEET, A CHORD BEARING OF S15°49'56"W, AN ARC LENGTH OF 251.25 FEET ALONG SAID EASTERLY LINE TO A POINT OF TANGENCY; THENCE S00°21'12"W, 146.72 FEET ALONG SAID EASTERLY LINE TO A POINT; THENCE WESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 765.00 FEET, A CHORD BEARING OF N89°43'31"W, AN ARC LENGTH OF 2.10 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 'B' TO A POINT OF TANGENCY; THENCE N89°38'48"W, 67.90 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING AND CONTAINING 1.104 ACRES MORE OR LESS.

3. That the proposed Agreement with Opus Development Corporation for the sale and conveyance of such vacated rights-of-way to Opus in consideration of the undertaking by Opus to redevelop the site as summarized below and more specifically described in the Agreement, be and is hereby approved.

( continued )

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- a) Opus shall cause a building containing at least 275,000 square feet of interior space to be constructed on the site by December 31, 2012, for occupancy by Hewlett-Packard Corporation in substantial compliance with the approved "PUD" Conceptual Plan for such property approved by the City Council of City concurrently with its approval of this resolution.
- b) Opus shall cause the site to be replatted by a subdivision plat approved by the City pursuant to Iowa Code §354.8 by December 31, 2012. It is hereby understood and agreed that such subdivision plat shall provide for the dedication and improvement of the segment of Gannett Avenue extending from the western terminus of the existing Gannett Avenue in Airport Commerce Park South Plat 2 westerly to SW 34th Street.

4. Subject to final passage of the ordinance vacating the rights-of-way described above, the Mayor is authorized and directed to sign the Agreement and the Quit Claim Deed for the conveyance of such rights-of-way as provided above, and the City Clerk is authorized and directed to attest to the Mayor's signature on such documents

5. The City Clerk is authorized and directed to forward the original of the said Quit Claim Deed, together with certified copies of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division for closing in accordance with the terms of the Agreement.

( Council Communication No. 11- 104 )

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K. Brown*  
 Roger K. Brown  
 Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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