

Date July 23, 2012

**HOLD HEARING FOR VACATION AND CONVEYANCE OF THE NORTH/SOUTH ALLEY  
ADJOINING 815 HIGH STREET TO THE CATHEDRAL CHURCH OF ST. PAUL OF THE  
CITY OF DES MOINES, IOWA FOR \$1,000**

**WHEREAS**, on June 11, 2012, by Roll Call No. 12-0881, the City Council received the recommendation from the Plan and Zoning Commission to vacate the north/south alley adjoining 815 High Street between 8<sup>th</sup> Street and 9<sup>th</sup> Street from High Street to Pleasant Street (“Property”), as more specifically described below, subject to provision of a recorded covenant that requires any interim or permanent use on the requested right-of-way or adjoining properties to be in conformance with a development plan approved by City Council, and further subject to reservation of an easement for utilities currently in place until such time as they are abandoned or relocated at the applicant’s expense; and

**WHEREAS**, on June 25, 2012 by Roll Call No. 12-1041, the City Council held a public hearing at which it approved the vacation and conveyance of the Property to the Cathedral Church of St. Paul of the City of Moines, Iowa for \$1,000, subject to Plan and Zoning Commission recommendations and use restrictions and closing conditions set forth in said Roll Call and in the Offer to Purchase; and

**WHEREAS**, subsequently it was determined that notice of the time and place of the public hearing on June 25, 2012 was not published pursuant to Code of Iowa Sections 364.7 and 362.3, and thus the June 25, 2012 public hearing on the proposed vacation and conveyance was defective and the hearing must be reset and properly noticed; and

**WHEREAS**, The Cathedral Church of St. Paul of the City of Des Moines, Iowa is the owner of the real property locally known as 815 High Street that abuts such Property and has offered to the City of Des Moines the purchase price of \$1,000.00 for the vacation and purchase of the Property as legally described below, for the purpose of developing a pedestrian plaza on the east side of the existing cathedral, which purchase price reflects the restricted use fair market value of the Property as currently estimated by the City’s Real Estate Division; and

**WHEREAS**, The Cathedral Church of St. Paul of the City of Des Moines, Iowa and City staff have negotiated the terms of an offer to purchase the Property, subject to the Plan and Zoning Commission requirements and other terms including proposed deed restrictions that the Property be used for greenspace and public pedestrianway only; that structures and improvements cannot be constructed upon the Property except as shown in a conceptual plan to be provided by the buyer; and requirements in the event of requested future release of the no-build restriction; and further subject to closing being conditional upon receipt by the buyer of an Open Spaces Sacred Places grant to fund construction of the pedestrian plaza and greenspace within the Property, with the Property to be retained and rededicated as public right-of-way by the City in the event that closing does not occur; and

Date July 23, 2012

WHEREAS, there is no known current or future public need or benefit for the Property proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said Property, subject to the use of said Property as a greenspace and public pedestrianway; and

WHEREAS, on July 9, 2012, by Roll Call No. 12- 1084, 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 July 23, 2012, 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 or benefit for the right-of-way proposed to be vacated, subject to the use of said property as a greenspace and public pedestrianway, and the public would not be inconvenienced by reason of the vacation of the north/south alley adjoining 815 High Street between 8th Street and 9th Street from High Street to Pleasant Street, more specifically described as follows:

ALL OF THE NORTH/SOUTH ALLEY IN BLOCK 1 OF HOLCOMBS ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

3. That the sale and conveyance of such right-of-way to the Cathedral Church of St. Paul of the City of Des Moines, Iowa for \$1,000, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the Plan and Zoning Commission recommendations and the use restrictions and closing conditions set forth herein above and in the Offer to Purchase:

ALL OF THE VACATED NORTH/SOUTH ALLEY IN BLOCK 1 OF HOLCOMBS ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

Date July 23, 2012

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 following closing.
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 following closing.
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 will be deposited into the following account: Property Maintenance Fund, SP767, ENG980500.

(Council Communication No.12-394)

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

APPROVED AS TO FORM:

*Glenna K. Frank*  
 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
 Mayor

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