

Date February 25, 2013

**HOLD HEARING FOR THE VACATION AND CONVEYANCE OF THE EAST 12 FEET OF EAST 33<sup>RD</sup> STREET RIGHT OF WAY FROM VACATED THOMPSON AVENUE TO A POINT 282 FEET TO THE NORTH, TO ST. JOSEPH'S CHURCH OF DES MOINES, POLK COUNTY, IOWA FOR \$350**

**WHEREAS**, on December 3, 2012, by Roll Call No. 12-1832, the City Council received a recommendation from the City Plan and Zoning Commission that the east 12 feet of East 33<sup>rd</sup> Street west of vacated Thompson Avenue to a point 282 feet north of said vacated Thompson Avenue, hereinafter more fully described, be vacated; and

**WHEREAS**, St. Joseph's Church of Des Moines, Polk County, Iowa, is the owner of the real property abutting such right-of-way, and has offered to the City of Des Moines the purchase price of \$350.00 for the vacation and purchase of the fee simple interest in such excess right-of-way as legally described below, for expansion and construction of a parking lot, which purchase price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said excess right-of-way; and

**WHEREAS**, on February 11, 2013, by Roll Call No. 13-0205, it was duly resolved by the City Council that the proposed vacation and conveyance of such excess right-of-way be set down for hearing on February 25, 2013, 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, and the public would not be inconvenienced by reason of the vacation of the east 12 feet of East 33<sup>rd</sup> Street from vacated Thompson Avenue to a point 282 feet to the north, more specifically described as follows:

THE EAST 12 FEET OF EAST 33<sup>RD</sup> STREET RIGHT OF WAY LYING WEST OF AND ADJOINING VACATED THOMPSON AVENUE AND LYING WEST OF AND ADJOINING LOTS 1074-1077 IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APROXIMATELY 3855 SQUARE FEET.

3. That the sale and conveyance of such right-of-way, as vacated and as described below, to St. Joseph's Church of Des Moines, Polk County, Iowa for \$350.00, subject to retention by the City of a permanent easement for existing utilities and a permanent easement for public ingress and egress over a portion of the vacated right-of-way, be and is hereby approved:

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ALL THAT PART OF THE VACATED EAST 12 FEET OF EAST 33<sup>RD</sup> STREET RIGHT OF WAY LYING WEST OF AND ADJOINING VACATED THOMPSON AVENUE AND LYING WEST OF AND ADJOINING LOTS 1074-1077 IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APROXIMATELY 3855 SQUARE FEET.

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

(Council Communication No. 13-079)

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				
MOTION CARRIED			APPROVED	

**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.

\_\_\_\_\_  
 Mayor

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