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Date March 25, 2013

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF THE NORTH/SOUTH
AND EAST/WEST ALLEY RIGHT-OF-WAY SOUTH OF
UNIVERSITY AVENUE BETWEEN 6TH AVENUE AND 7TH STREET
TO QUIKTRIP CORPORATION FOR \$700**

WHEREAS, QuikTrip Corporation (“QuikTrip”) is the purchaser of the real properties locally known as 614 University Avenue, 630 University Avenue, 1190 6th Avenue and 1188 6th Avenue (“QuikTrip parcels”), which parcels are being purchased by Quik Trip for redevelopment purposes; and

WHEREAS, on March 11, 2013, by Roll Call No. 13-0394, the City Council received a recommendation from the City Plan and Zoning Commission that the north/south and east/west alley right-of-way south of University Avenue between 6th Avenue and 7th Street (“City parcel”), hereinafter more fully described, be vacated as requested by QuikTrip for redevelopment, subject to conditions set forth in the recommendation including provision of necessary easements for existing public storm and sanitary sewers within the alley and dedication of certain property to the City for right-of-way purposes; and

WHEREAS, the City of Des Moines needs to acquire additional property for right-of-way purposes upon a portion of the QuikTrip parcels; and

WHEREAS, City staff and QuikTrip have negotiated a land exchange by which QuikTrip will pay to the City of Des Moines the purchase price of \$700 and will convey to the City a portion of the QuikTrip parcels as identified on the site plan for said parcels and needed for right-of-way purposes, and will further convey to the City a permanent easement adjoining a portion of the City parcel as needed for storm and sanitary sewer purposes, in exchange and as consideration for the City’s vacation and conveyance to QuikTrip of the City parcel, subject to Plan and Zoning Commission recommendations and with closing further subject to the condition that QuikTrip close on the purchase of, and demonstrate ownership of, the QuikTrip parcels; and

WHEREAS, the properties to be exchanged have been determined by the City’s Real Estate Division to be comparable in value, condition, and use, given the additional consideration to be paid by QuikTrip in the form of the \$700 purchase price; and

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

WHEREAS, on March 11, 2013, by Roll Call No. 13-0393, 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 March 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.

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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 a portion of the north/south and east/west alley right-of-way south of University Avenue between 6th Avenue and 7th Street, more specifically described as follows:

THE 15.00 FOOT NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING BETWEEN LOTS 1 AND 2 AND 45 AND 46 OF GRAND PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE NORTH 4.50 FEET THEREOF.

AND

THE 10.00 FOOT EAST/WEST ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOTS 12, 13 AND 14 OF SAUCERMAN'S SUBDIVISION OF THE NORTH 2 ACRES OF LOT 1 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND OF LOT 7 ULRICH'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE EAST 15.85 FEET THEREOF. (CONTAINING 2924 SQUARE FEET, MORE OR LESS)

3. That the sale and conveyance of such vacated right-of-way legally described below to QuikTrip Corporation, subject to the conditions set forth above and the Plan and Zoning Commission recommendations, in exchange and as consideration for conveyance by QuikTrip Corporation to the City of a portion of the QuikTrip parcels and easement interest and for the additional consideration of \$700 to be paid by QuikTrip to the City, together with payment by QuikTrip of the estimated publication and recording costs for this transaction, be and is hereby approved:

THE VACATED 15.00 FOOT NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING BETWEEN LOTS 1 AND 2 AND 45 AND 46 OF GRAND PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE NORTH 4.50 FEET THEREOF.

AND

THE VACATED 10.00 FOOT EAST/WEST ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOTS 12, 13 AND 14 OF SAUCERMAN'S SUBDIVISION OF THE NORTH 2 ACRES OF LOT 1 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND OF LOT 7 ULRICH'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE EAST 15.85 FEET THEREOF. (CONTAINING 2924 SQUARE FEET, MORE OR LESS)

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed, and all related real estate documents for the conveyance to QuikTrip Corporation, as identified above, and the City Clerk is authorized

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and directed to attest to the Mayor's signature and to endorse upon the conveyance documents to the City from QuikTrip Corporation, and upon all related real estate documents, the approval and acceptance of the City Council.

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. Upon fulfillment by QuikTrip of the closing conditions, the Real Estate Division Manager is authorized and directed to proceed to closing on the land exchange and conveyance, and 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 grantee.

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

(Council Communication No.13- 138)

Moved by _____ to adopt.

APPROVED AS TO FORM:

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

FW

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