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**Date**..... April 7, 2014.....

**HOLD HEARING FOR VACATION AND CONVEYANCE OF WAGNER STREET AND THE NORTH/SOUTH ALLEY RIGHT-OF-WAY ADJOINING 100 5<sup>TH</sup> AVENUE, AND FOR CONVEYANCE OF A PORTION OF VACATED SOUTHWEST 6<sup>TH</sup> STREET, SOUTH OF CHERRY STREET, TO POLK COUNTY IN EXCHANGE FOR POLK COUNTY-OWNED PROPERTY REQUIRED FOR RELOCATED SOUTHWEST 6<sup>TH</sup> STREET**

**WHEREAS**, on October 2, 2012, by Roll Call No. 12-1609, the City Council received a recommendation from the City Plan and Zoning Commission that Wagner Street from the north/south alley to 5<sup>th</sup> Avenue and a 132-foot segment of the north/south alley between 5<sup>th</sup> Avenue and 6<sup>th</sup> Avenue north of Vine Street (“City Right-of-Way”), hereinafter more fully described, be vacated for conveyance to the adjoining property owner, subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated, reservation of an access easement for preservation of the existing access by the Thompson Trust for the off-street parking adjoining the west dead end of Wagner Street, and any development of the property to be approved by the Permit and Development Center under a Site Plan review in accordance with applicable design guidelines; and

**WHEREAS**, on February 7, 1898, the City Council passed Ordinance No. 895 vacating West 6<sup>th</sup> Street, later known as Southwest 6<sup>th</sup> Street, between Cherry Street and Vine Street; and

**WHEREAS**, the City of Des Moines (“City”) is the owner of an excess parcel of such previously vacated Southwest 6<sup>th</sup> Street located along relocated Southwest 6<sup>th</sup> Street, south of Cherry Street (“City-owned Property”), that adjoins property owned by Polk County, Iowa (“Polk County”), locally known as Polk County District/Parcel No. 020/01192-005-000, which City-owned Property would be beneficial to Polk County for assemblage purposes and for parking usage during Polk County Courthouse renovation; and

**WHEREAS**, Polk County is the current titleholder of a portion of such previously vacated Southwest 6<sup>th</sup> Street located south of Cherry Street (“Polk County-owned Property”) that is required by the City for right-of-way purposes as part of relocated Southwest 6<sup>th</sup> Street; and

**WHEREAS**, City staff and Polk County have negotiated an exchange of the Polk County-owned Property for the City-owned Right-of-Way and City-owned Property in accordance with Iowa Code Section 364.7(3) for public purposes; 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; and

**WHEREAS**, there is no known current or anticipated public benefit or need for the City Right-of-Way that is proposed to be vacated and conveyed, or for the City-owned Property proposed to be conveyed, and the City will benefit from acquisition and acceptance of the Polk County-owned Property; and

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**WHEREAS**, on March 24, 2014, by Roll Call No. 14-0477, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-way be set down for hearing on April 7, 2014, 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, any and all 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 Wagner Street from the north/south alley to 5<sup>th</sup> Avenue and a 132-foot segment of the north/south alley between 5<sup>th</sup> Avenue and 6<sup>th</sup> Avenue north of Vine Street, more specifically described as follows:

ALL THAT PART OF WAGNER STREET RIGHT-OF-WAY LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF THE NORTH/SOUTH ALLEY IN BLOCK 15 OF FORT DES MOINES, AN OFFICIAL PLAT, AND LYING WEST OF WEST RIGHT-OF-WAY LINE OF 5<sup>TH</sup> STREET (LOCALLY KNOWN AS 5<sup>TH</sup> AVENUE), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 5 THRU 6 IN BLOCK 15 OF 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 conveyance of such vacated right-of-way, and other excess real property located along relocated Southwest 6<sup>th</sup> Street, south of Cherry Street, all as legally described below and subject to the conditions set forth in the Plan and Zoning Commission recommendation, to Polk County in exchange and as consideration for conveyance by Polk County to the City of a portion of previously vacated Southwest 6<sup>th</sup> Street, all in accordance with Iowa Code Section 364.7(3) for public purposes, be and is hereby approved:

ALL THAT PART OF VACATED WAGNER STREET RIGHT-OF-WAY LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF THE NORTH/SOUTH ALLEY IN BLOCK 15 OF FORT DES MOINES, AN OFFICIAL

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PLAT, AND LYING WEST OF WEST RIGHT-OF-WAY LINE OF 5TH STREET (LOCALLY KNOWN AS 5TH AVENUE), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 5 THRU 6 IN BLOCK 15 OF FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

A PARCEL OF LAND SITUATED IN PART OF VACATED SW 6TH STREET, LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE PARCEL DESCRIBED IN BOOK 6229, PAGE 702, IN THE POLK COUNTY RECORDER'S OFFICE AND LYING WEST OF AND ADJOINING PART OF LOT 1, BLOCK 15 OF FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 1 OF BLOCK 15 OF SAID FORT DES MOINES; THENCE SOUTH 15° (DEGREES) 21'(MINUTES) 58" (SECONDS) EAST, 16.50 FEET TO THE NORTHWESTERLY CORNER OF LOT 3 OF BLOCK 15 OF SAID FORT DES MOINES; THENCE SOUTH 74°12'05" WEST, 18.49 FEET TO THE PRESENT EASTERLY RIGHT-OF-WAY LINE OF SW 6TH STREET; THENCE NORTHERLY ON THE PRESENT EASTERLY RIGHT-OF-WAY LINE OF SW 6TH STREET, BEING A 532.15-FOOT RADIUS CURVE CONCAVE WESTERLY AND HAVING A 28.14-FOOT LONG CHORD BEARING NORTH 00°31'28" EAST, 28.14 FEET (ARC LENGTH) TO THE SOUTHERLY LINE OF THE PARCEL DESCRIBED IN BOOK 6229, PAGE 702, IN THE POLK COUNTY RECORDER'S OFFICE; THENCE NORTH 74°53'26" EAST ON SAID SOUTHERLY LINE, 10.78 FEET TO THE SOUTHWESTERLY LINE OF LOT 1, BLOCK 15 OF SAID FORT DES MOINES; THENCE SOUTH 15°22'05" EAST ON THE SOUTHWESTERLY LINE OF LOT 1, BLOCK 15 OF SAID FORT DES MOINES, 10.37 FEET TO THE POINT OF BEGINNING. THE SOUTHWESTERLY LINE OF LOT 1, BLOCK 15 OF SAID FORT DES MOINES IS ASSUMED TO BEAR SOUTH 15°22'05" EAST FOR THE PURPOSE OF THIS DESCRIPTION. BY SURVEY CONTAINING 398 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Quit Claim Deed and any other necessary real estate documents for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to endorse the approval and acceptance of the City Council upon the conveyance documents to the City, and upon all related real estate documents.

5. Upon final passage of an ordinance vacating said right-of-way, the City Clerk is authorized and directed to forward the original of 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.

★ **Roll Call Number**

Agenda Item Number

**38**

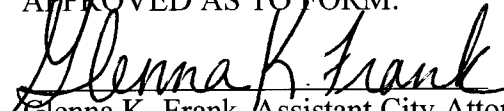
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6. Upon fulfillment by Polk County of the conditions as set forth herein above, the Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit 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 grantee.
8. There will be no proceeds associated with the conveyance of this property.

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

APPROVED AS TO FORM:

  
 Glenna K. Frank, Assistant City Attorney

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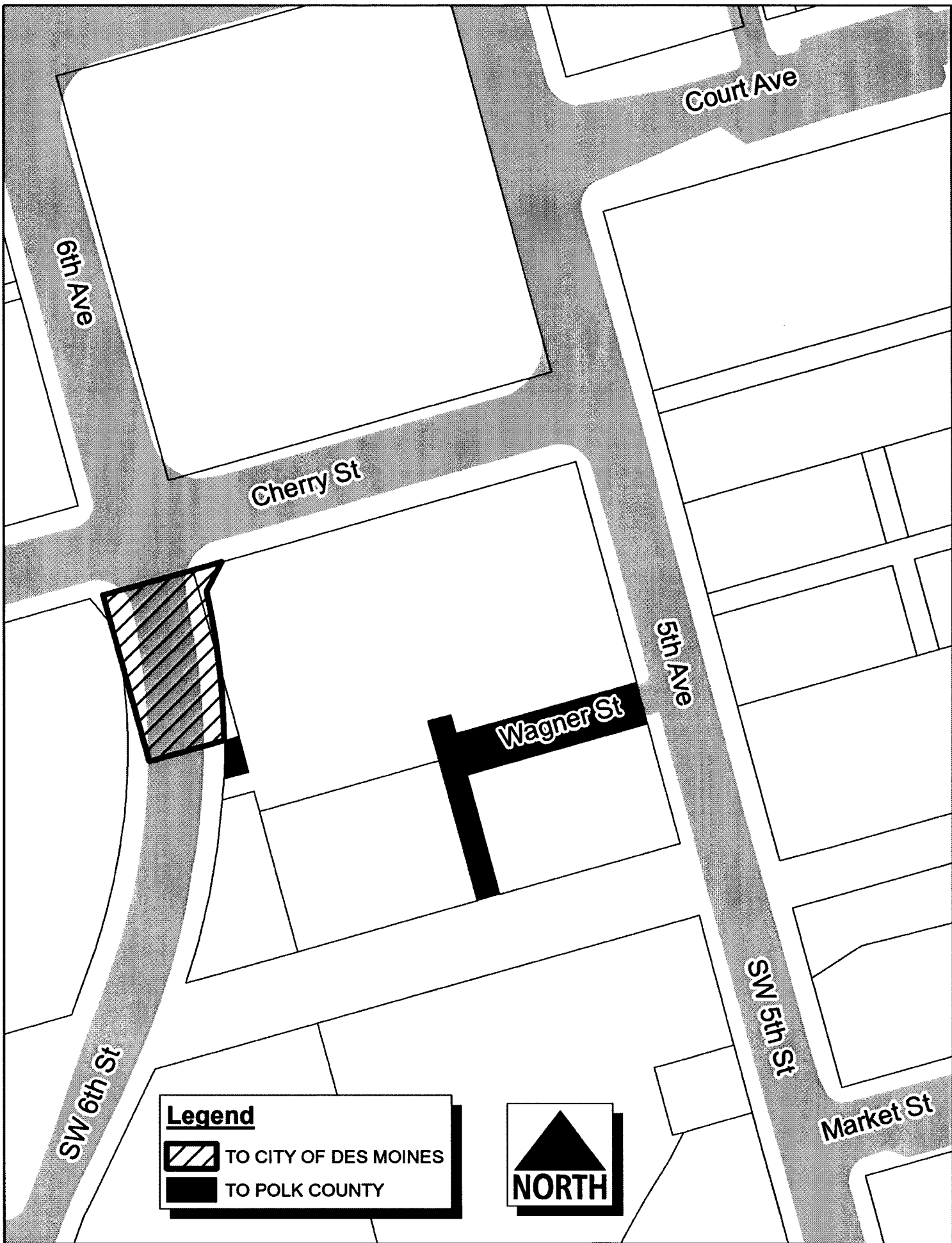
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**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



**Legend**

	TO CITY OF DES MOINES
	TO POLK COUNTY

