

Date February 6, 2017

**HOLD HEARING FOR VACATION AND CONVEYANCE OF AN IRREGULAR PORTION OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY AND AN IRREGULAR PORTION OF 5<sup>TH</sup> AVENUE RIGHT-OF-WAY BOTH ADJOINING 921 6<sup>TH</sup> AVENUE TO CATHOLIC HEALTH INITIATIVES – IOWA CORP. FOR \$99,556.00**

**WHEREAS**, on May 9, 2016, by Roll Call No. 16-0755, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission recommending approval of a request for the vacation of an irregular portion of right-of-way from the southeast corner of School Street and 6<sup>th</sup> Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5<sup>th</sup> Avenue, both adjoining 921 6<sup>th</sup> Avenue, (hereinafter “Right-of-Way”) subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, and subject to a no-build easement, and further subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements; and

**WHEREAS**, on June 13, 2016, by Roll Call No. 16-0995, the City Council of the City of Des Moines, Iowa voted to approve the vacation of the Right-of-Way, and convey said Right-of-Way to Catholic Health Initiatives – Iowa Corp.; and

**WHEREAS**, subsequent to the vacation of said Right-of-Way but prior to closing on the conveyance, Catholic Health Initiatives – Iowa Corp.’s title investigation determined that the State of Iowa Department of Transportation had acquired portions of said Right-of-Way for construction of Interstate 235, but title to said Right-of-Way had never been formally transferred to the City of Des Moines (hereinafter “City”) upon completion of the interstate project; and

**WHEREAS**, because the City did not have title to all of the Right-of-Way, the City did not have authority to vacate and convey said Right-of-Way on June 13, 2016; and

**WHEREAS**, on August 22, 2016, by Roll Call No. 16-1395, the City Council of the City of Des Moines, Iowa voted to repeal Ordinance No. 15,483 vacating the City Right-of-Way, and to approve and accept all documents from the State of Iowa Department of Transportation transferring to the City of Des Moines, Iowa all of its fee simple property interests in the Right-of-Way adjoining 921 6<sup>th</sup> Avenue; and

**WHEREAS**, notices have sent out in accordance with Iowa Code Chapter 306 and no competing offers were received by the City; and

**WHEREAS**, Catholic Health Initiatives – Iowa Corp. has offered the City of Des Moines \$99,556.00 for the purchase of the Right-of-Way for incorporation into the adjoining commercial property to allow for expansion of the existing site improvements, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and subject to a no build easement, and further subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements, which price reflects the

Date February 6, 2017

restricted-use fair market value of said portion of street right-of-way as currently estimated by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need 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 property; and

**WHEREAS**, on January 23, 2017, by Roll Call No. 17-0104, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Right-of-Way be set for hearing on February 6, 2017, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate and convey the 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 City Council direction, those interested in the 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of an irregular portion of street right-of-way from the southeast corner of School Street and 6<sup>th</sup> Avenue, and an irregular portion of street right-of-way from the southwest corner of School Street and 5<sup>th</sup> Avenue, both adjoining 921 6<sup>th</sup> Avenue, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular portion of street right-of-way from the southeast corner of School Street and 6<sup>th</sup> Avenue, and an irregular portion of street right-of-way from the southwest corner of School Street and 5<sup>th</sup> Avenue, both adjoining 921 6<sup>th</sup> Avenue, legally described as follows, and said vacation is hereby approved:

That part of Public Right-of-way for 6th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southwesterly corner of said Block "E"; thence on an assumed bearing of N 00°16'10" W, along the Westerly line of said Block "E", 539.00 feet to the Point of Beginning; thence N 00°16'10" W, 29.83 feet; thence N 44°43'50" E, 35.07 feet; thence S 89°25'58" E, 25.20 feet to the Northwesterly line of said Block "E"; thence S 42°23'19" W, along said Northwesterly line, 73.78 feet to the Point of Beginning.

AND

Date February 6, 2017

That part of Public Right-of-way for 5th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southeasterly corner of said Block "E"; thence on an assumed bearing of N 00°11'41" W, along the Easterly line of said Block "E", 198.00 feet to the Point of Beginning; thence Northerly 124.92 feet on a non-tangential curve to the left having a radius of 1218.08 feet, a central angle of 05°52'33", and a chord which bears N 06°50'43" W, for 124.86 feet; thence N 11°53'33" W, 88.53 feet; thence Northerly 97.39 feet on a tangential curve to the right having a radius of 850.00 feet, having a central angle of 06°33'54", and a chord which bears N 08°36'36" W, for 97.34 feet; thence N 05°19'39" W, 30.50 feet; thence Northerly 23.42 feet on a tangential curve to the left having a radius of 148.76 feet, a central angle of 09°01'20", and a chord which bears N 09°50'19" W, for 23.40 feet; thence N 43°39'55" W, 50.57 feet; thence N 89°25'58" W, 102.51 feet to the Northeasterly line of said Block "E"; thence along the Northeasterly line of said Block "E" the following courses: S 38°12'23" E, 84.64 feet; thence S 89°25'58" E, 5.00 feet; thence S 24°07'41" E, 39.62 feet; thence S 00°17'20" E, 30.00 feet; thence S 89°25'48" E, 11.00 feet; thence S 20°08'47" E, 141.01 feet; thence S 20°21'35" E 64.18 feet; thence S20°07'14" E, 77.09 feet; thence S 89°25'58" E, 9.83 feet to the Point of Beginning.

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and subject to a no-build easement, and further subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements, and said conveyance is hereby approved:

Grantee: Catholic Health Initiatives – Iowa Corp.  
Consideration: \$99,556.00

That part of Public Right-of-way for 6th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southwesterly corner of said Block "E"; thence on an assumed bearing of N 00°16'10" W, along the Westerly line of said Block "E", 539.00 feet to the Point of Beginning; thence N 00°16'10" W, 29.83 feet; thence N 44°43'50" E, 35.07 feet; thence S 89°25'58" E, 25.20 feet to the Northwesterly line of said Block "E"; thence S 42°23'19" W, along said Northwesterly line, 73.78 feet to the Point of Beginning.

AND

That part of Public Right-of-way for 5th Avenue and School Street adjoining Block "E" of River Hills Plat 1, an Official Plat, now included in and forming a part of the City of Des Moines, Iowa which is more particularly described as follows: Commencing at the Southeasterly corner of said Block "E"; thence on an assumed bearing of N 00°11'41" W, along the Easterly line of said Block "E", 198.00 feet to the Point of Beginning; thence Northerly

Date February 6, 2017

124.92 feet on a non-tangential curve to the left having a radius of 1218.08 feet, a central angle of 05°52'33", and a chord which bears N 06°50'43" W, for 124.86 feet; thence N 11°53'33" W, 88.53 feet; thence Northerly 97.39 feet on a tangential curve to the right having a radius of 850.00 feet, having a central angle of 06°33'54", and a chord which bears N 08°36'36" W, for 97.34 feet; thence N 05°19'39" W, 30.50 feet; thence Northerly 23.42 feet on a tangential curve to the left having a radius of 148.76 feet, a central angle of 09°01'20", and a chord which bears N 09°50'19" W, for 23.40 feet; thence N 43°39'55" W, 50.57 feet; thence N 89°25'58" W, 102.51 feet to the Northeasterly line of said Block "E"; thence along the Northeasterly line of said Block "E" the following courses: S 38°12'23" E, 84.64 feet; thence S 89°25'58" E, 5.00 feet; thence S 24°07'41" E, 39.62 feet; thence S 00°17'20" E, 30.00 feet; thence S 89°25'48" E, 11.00 feet; thence S 20°08'47" E, 141.01 feet; thence S 20°21'35" E 64.18 feet; thence S20°07'14" E, 77.09 feet; thence S 89°25'58" E, 9.83 feet to the Point of Beginning.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. 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 Quit Claim 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 Quit Claim 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 a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

Agenda Item Number

46B

Page 5

Date February 6, 2017

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

APPROVED AS TO FORM:

*Lisa A. Wieland*  
Lisa A. Wieland, Assistant City Attorney

*ptw*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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