

Date October 4, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF VACATED NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 4104 AMHERST STREET TO TRUE BIBLE BAPTIST CHURCH FOR \$1.00 AS PART OF THE HAMILTON DRAIN STORM SEWER IMPROVEMENTS PROJECT

WHEREAS, on October 28, 1996, by Roll Call No. 96-3692, the City Council of the City of Des Moines, Iowa voted to pass Ordinance No. 13,389 vacating the north-south alley right-of-way in the block bounded by East Shawnee and East Aurora Avenues and Bowdoin and Amherst Streets; and

WHEREAS, because of an error in the legal description of Ordinance 13,389, on January 6, 1997, by Roll Call No. 97-115, the City Council of the City of Des Moines, Iowa voted to pass Ordinance No. 13,413 repealing Ordinance No. 13,389, and vacating the north-south alley right-of-way in the block bounded by East Shawnee and East Aurora Avenues and Bowdoin and Amherst Streets; and

WHEREAS, on March 25, 2019, by Roll Call No. 19-0459, the City Council of the City of Des Moines, Iowa voted to accept from True Bible Baptist Church a Permanent Easement for Underground Storm Water Detention and Storm Sewer Facilities (“Easement”) under, over, through and across the church property locally known as 4104 Amherst Street as part of the Hamilton Drain Storm Sewer Improvements Project; and

WHEREAS, said Easement was subsequently filed of record with the Recorder of Polk County, Iowa on May 13, 2019 in Book 17323, Page 88; and

WHEREAS, following construction of the basin but prior to restoring the parking lot thereon as required in the Easement, it was determined that additional space was needed in order to fully reconstruct said parking lot in compliance with current site plan requirements; and

WHEREAS, therefore, that portion of the vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street (“Property”) needs to be conveyed to True Bible Baptist Church for incorporation with its adjoining property to complete the parking lot restoration in accordance with current site plan requirements, which will make True Bible Baptist Church whole by fully replacing the same number of parking spaces as existed prior to the Project; and

WHEREAS, in exchange for a settlement of all claims arising from the loss of parking related to the Project, the construction and reconstruction of the parking lot related to the Project, and the restoration requirements related to the parking lot as set forth in the Easement, the City proposes to sell that portion of the vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street to True Bible Baptist Church for \$1.00; and

WHEREAS, there is no known current or future public need or benefit for the City Property proposed to be conveyed, and the City will not be inconvenienced by the conveyance of said Property.

Date October 4, 2021

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. The City Council of the City of Des Moines, Iowa, proposes to convey the portion of vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street, as legally described, to True Bible Baptist Church, for \$1.00, and in consideration of a settlement and release of certain claims associated with the City’s acquisition of a Permanent Easement for Underground Storm Water Detention and Storm Sewer Facilities as part of the Hamilton Drain Storm Sewer Improvements Project, subject to a reservation of easements therein:

Legal Description: ALL OF THE VACATED ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 10, 11 AND 12 IN BLOCK 2 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.06 ACRES (2,400 SQUARE FEET).

2. A public hearing shall be held on October 18, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. October 14, 2021 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the October 18, 2021 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

4. There are no proceeds associated with this conveyance.

 **Roll Call Number**

Agenda Item Number

21

Date October 4, 2021

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

DM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, P. Kay Cmelik, 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

