

★ Roll Call Number
09-335

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Date February 23, 2009

APPROVAL OF CONVEYANCE OF 13TH STREET FROM KEOSAUQUA WAY TO SCHOOL STREET (EXCEPT THE NORTH 26 FEET) AND THE NORTH/SOUTH ALLEY WEST OF 13TH STREET, FROM SCHOOL STREET TO KEOSAUQUA WAY (EXCEPT THE NORTH 26 FEET), TO CENTRAL IOWA SHELTER AND SERVICES FOR \$1000.00

WHEREAS, on December 22, 2008, by Roll Call No. 08-2219, the City Council referred to the Plan and Zoning Commission the vacation of former 13th Street and alley right-of-way located off of Keosauqua Way south of I-235; and

WHEREAS, on January 26, 2009, by Roll Call No. 09-088, the City Council received a recommendation from the City Plan and Zoning Commission that 13th Street right-of-way from Keosauqua Way to School Street (except the north 26 feet) and the North/South alley west of 13th Street, from School Street to Keosauqua Way (except the north 26 feet), hereinafter more fully described ("City right-of-way"), be vacated; and

WHEREAS, Central Iowa Shelter and Services wishes to purchase property adjoining the City right-of-way for construction of a new homeless shelter facility, which will allow relocation and expansion of the current services provided by CISS to the City's homeless population; and

WHEREAS, in order to develop the shelter facility, CISS has offered to the City of Des Moines the purchase price identified below, as well as additional consideration in the form of acquisition of property adjoining the City right-of-way and construction, operation and maintenance of the shelter facility pursuant to minimum development standards and other covenants and obligations required by the City, for the vacation and purchase of such City right-of-way by Real Estate Purchase Contract for a term of three (3) years, which contract is on file in the office of the City Clerk and by which equitable title will transfer to CISS upon execution and the City will retain a security interest and ability to forfeit the contract if necessary during the contract term; and

WHEREAS, conveyance of the City right-of-way to CISS for development of the shelter facility to serve the needs of the homeless and impoverished population shall further the public purposes of the City to preserve and improve the peace, safety, health, welfare, comfort and convenience of the City's residents; and

WHEREAS, the existing CISS shelter and the City right-of-way and adjoining property are located within the Metro Center Urban Renewal Area and relocation of the existing shelter shall cause such property to be available for compatible commercial uses identified in the Metro Center Urban Renewal Plan that are supportive and serve the needs of the downtown core; and

WHEREAS, relocation of the existing CISS shelter from its current location to a newly constructed shelter on the City right-of-way and adjoining property furthers the public purposes of urban renewal and economic development and specifically furthers the objectives of the Metro Center Urban Renewal Plan, including providing for orderly expansion of downtown Des Moines as a retail, financial, business,

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administrative and cultural center of the metropolitan area, encouraging and supporting development which will enhance and make the best possible use of public facilities, resources and investments in the downtown area, assuring the availability of sites to accommodate the construction of institutional and related support facilities in an attractive environment within walking distance of the downtown core, assuring the availability of sites to accommodate the construction of new support commercial/service uses and light industrial uses within walking distance of the downtown core, and preserving and creating an environment that will protect the health, safety and general welfare of City residents and maintain and expand taxable values of property within the urban renewal area; and

WHEREAS, the purchase price offered by CISS for the City right-of-way is reasonable and representative of fair market value in accordance with CISS' additional consideration obligations and the terms of the proposed Real Estate Purchase Contract between the City and CISS, and taking into account the use restrictions and development requirements to be placed upon the City right-of-way and the covenants, conditions and obligations assumed by CISS for construction and continued operation and maintenance of the shelter facility, and the City's right and intent to place a ten (10) year forgivable property lien in favor of the City in the amount of \$116,000.00 upon the City right-of-way following CISS' fulfillment of the real estate contract to further ensure that the City right-of-way is operated and maintained in accordance with the development requirements, which lien is on file in the office of the City Clerk; and

WHEREAS, the City believes that the development of the City right-of-way and adjoining property pursuant to the terms of the Real Estate Purchase Contract is in the vital and best interests of the City and the health, safety and general welfare of the City's residents; and

WHEREAS, on January 26, 2009, by Roll Call No. 09-087, it was duly resolved by the City Council that the proposed conveyance of the City right-of-way be set down for hearing on February 9, 2009, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to convey the City right-of-way by real estate contract was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, on February 9, 2009, by Roll Call No. 09-212, Council opened the public hearing, received comments and continued the public hearing to February 23, 2009, at 5:00 p.m., in the Council Chamber; and

WHEREAS, in accordance with said notice, those interested in said proposed 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 conveyance of the City right-of-way, as described below, are hereby overruled and the hearing is closed.
2. That the sale and conveyance by real estate contract of the City right-of-way, described below, to Central Iowa Shelter and Services for \$1000.00 and additional consideration as set forth in the Real Estate Purchase Contract, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

ALL THAT PART OF VACATED 13TH STREET RIGHT-OF-WAY, AS IT NOW EXISTS, LYING WEST OF AND ADJOINING LOTS 11, 12, 13 AND 14, JONES SUBDIVISION, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING THE SOUTH 26.0 FEET OF LOT 10, OF SAID JONES SUBDIVISION.

AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY, AS IT NOW EXISTS, LYING WEST OF AND ADJOINING THE SOUTH 26.0 FEET OF LOT 1, JONES SUBDIVISION, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING LOT 82, KEOSAUQUA WAY PLAT 3, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING THE NORTH 8.0 FEET OF LOT 81, OF SAID KEOSAUQUA WAY PLAT 3, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

DESCRIPTION REVIEWED
Amundt
2/27/2009

4. The Mayor is authorized and directed to sign the Real Estate Purchase Contract 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 and to execute the acceptance of the Property Lien on behalf of the City.
5. Upon final passage of an ordinance vacating the City right-of-way and upon proof of payment of the purchase price plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Real Estate Purchase Contract, 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, and the Real Estate Division Manager is authorized and directed to forward the said documents to the Polk County Recorder for recording.
6. The City Clerk is authorized and directed to forward the original of the Quit Claim Deed and Property Lien to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be held in escrow for the duration of the contract term, and until fulfillment of all contract obligations and additional consideration requirements by CISS, as determined by the City Manager and the City Legal

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Department; upon fulfillment of the contract term and requirements, the Real Estate Division Manager is authorized and directed to forward the Deed and Lien to the Polk County Recorder for recording.

7. The City Manager and/or his designee is hereby authorized and directed to administer and monitor the Real Estate Purchase Contract; to approve and execute documents pertaining to any minor or unsubstantial changes to said Contract, following approval of the City Legal Department as to form; if needed, to approve, proceed with and execute documents pertaining to forfeiture of the Contract if CISS fails to fulfill the contract terms and additional consideration required, following approval of the City Legal Department; and to administer, monitor and execute documents pertaining to the Property Lien upon its recording, following approval of the City Legal Department.

8. The proceeds from the sale of this property will be deposited into the following account: CDM Index: 950287, Fund: SP767, ORG: ENG980500, Fund Description: Property Maintenance Fund.

(Council Communication No. 09-112)

Moved by Coleman to continue to the 03-09-09 Council meeting at 5:00 P.M.

APPROVED AS TO FORM:

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

RW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS		✓		
TOTAL	5	2		

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.

MOTION CARRIED 5-2 APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk