

★ Roll Call Number

13-0997

Agenda Item Number

31

Date June 24, 2013

**APPROVING DONATION AGREEMENT WITH WELLS FARGO BANK, N.A. AND  
AUTHORIZING ACQUISITION OF PROPERTY LOCATED AT 1406 21<sup>ST</sup> STREET**

**WHEREAS**, the Wells Fargo Bank, N.A. (“Wells Fargo”) Real Estate Owned (REO) Donation and Discounted Sales program is designed to facilitate the transfer of Wells Fargo owned or serviced real properties to cities and public non-profit organizations that provide sustainable homeownership or rental opportunities to low-to moderate-income (LMI) families; and

**WHEREAS**, Wells Fargo has offered to donate the real property located at 1406 21<sup>st</sup> Street (“Property”) to the City of Des Moines pursuant to a Donation Agreement, which Agreement and Addendum thereto are being negotiated by City staff and includes among other terms the requirement that Wells Fargo demolish the residential structure upon the Property prior to conveyance to the City, that the City accept the Property “as-is, where-is” without warranty as to condition or title, and that the City release Wells Fargo from any claims related to the condition of the Property; and

**WHEREAS**, non-profit corporation Anawim Housing (“Anawim”) has submitted a letter, attached hereto as Exhibit “A”, requesting to purchase the Property from the City immediately upon closing on acquisition thereof by the City from Wells Fargo for use by Anawim for revitalization of the Forest Avenue corridor; and

**WHEREAS**, Wells Fargo will not allow the City to assign its interest in the Donation Agreement to Anawim because Wells Fargo has not yet approved Anawim to participate in the REO Donation and Discounted Sale program; however, Wells Fargo acknowledges and agrees that the City may sell the Property to Anawim immediately following the City’s acquisition of the Property; and

**WHEREAS**, if approved, the conveyance of the Property by the City to Anawim will require payment of the fair market value of the Property as vacant, following demolition of the structure thereon by Wells Fargo, and certain terms and conditions of the Donation Agreement between the City and Wells Fargo, including those stated herein above, will be included in the purchase agreement between the City and Anawim for the conveyance to Anawim of the Property.

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

1. That the Donation Agreement with Wells Fargo Bank, N.A. for property located at 1406 21<sup>st</sup> Street, in substantially the form on file in the office of the City Clerk, and Addendum thereto, be and are hereby approved subject to final negotiation by City staff and approval as to form by the City Legal Department.
2. That the voluntary acquisition of the real property locally known as 1406 21<sup>st</sup> Street, Des Moines, is hereby authorized and approved pursuant to said Donation Agreement and Addendum, subject to (a) compliance by Wells Fargo Bank, N.A. with the terms of said Agreement and addenda including but not limited to Wells Fargo’s demolition of the structure upon 1406 21<sup>st</sup> Street prior to closing, and (b) approval by this Council of the sale of said property to Anawim Housing or another purchaser, with closing on the City’s sale of 1406 21<sup>st</sup> Street to occur immediately following the City’s closing on acquisition of said property.
3. That upon approval as to form by the City Legal Department, the Mayor is authorized and directed to sign the Donation Agreement and Addendum thereto and all necessary real estate documents, and the City Clerk is hereby

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authorized and directed to attest to his signature and to endorse the approval and acceptance of this Council upon all necessary real estate documents associated with this acquisition and is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

4. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Donation Agreement and addenda; to approve and execute documents pertaining to minor or unsubstantial changes to said agreement, following approval of the City's Legal Department as to form; and, if needed, to proceed with and execute documents pertaining to the termination of the Agreement if Wells Fargo Bank, N.A. fails to fulfill the contract terms required therein or in addenda thereto, following approval of the City's Legal Department.

5. That the Real Estate Division Manager is authorized and directed to complete the acquisition pursuant to the Donation Agreement and addenda, in accordance with the conditions set forth herein above, and in accordance with standard real estate practices and state law requirements, and the Finance Director is authorized and directed to issue checks to pay any unforeseen additional closing costs certified by the Legal Department and the Engineering Department.

6. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.

(Council Communication No. 13-328)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin Council 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.

Diane Rauh City Clerk