

★ Roll Call Number

13-1083

Agenda Item Number

12

Date July 15, 2013

RESOLUTION RELEASING RESTRICTIVE COVENANTS RESERVED IN
THE PRIOR CONVEYANCE OF A SEGMENT OF VACATED ALLEY WITHIN
PROPERTY AT 1300 DES MOINES STREET NOW PROPOSED TO BE ACQUIRED
BY DES MOINES AREA COMMUNITY COLLEGE

WHEREAS, on December 6, 1993, by Roll Call No. 93-4471, the City Council approved the sale to Des Moines General Hospital Company of a segment of vacated alley, including that segment in the vicinity of 1300 Des Moines Street more specifically described as follows:

The westerly 271.72 feet of the vacated East/West alley right-of-way lying South of and adjoining Lots 23 through 28, Block 25, in Stewart's Addition to the City of Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. (Vacated by Ordinance No. 9,993, passed August 17, 1981.)

subject to the reservation of the restrictive covenants reserved in the Quit Claim Deed recorded on February 1, 1994, in Book 6956 at Page 671; and,

WHEREAS, a taxable medical office building was subsequently constructed at 1300 Des Moines Street over the vacated alley as required by the restrictive covenants; and,

WHEREAS, the restrictive covenants further provide that the building and underlying ground should remain taxable, and if such property obtains tax exempt status the owners shall pay to the City as liquidated damages an annual payment in lieu of taxes equal to 100% of the property taxes that would have been levied upon the building and underlying land if it had not obtained tax exempt status; and,

WHEREAS, Des Moines Area Community College seeks to purchase the building and property at 1300 Des Moines Street, including the segment of vacated alley described above, for classroom and office space in support of its educational purposes and has requested that the City release and abandon the restrictive covenants identified above as applied to such property.

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

1. The City Council hereby finds that the use of the building and property described above for college classroom and office space by Des Moines Area Community College will provide a valuable service to the community, will serve a compelling public purpose, and is consistent with the City's Comprehensive Plan which designates the area for public/semi-public uses such as government facilities, schools, and hospitals.
2. The segment of vacated alley in the vicinity of 1300 Des Moines Street more specifically described above is hereby released from the restrictive covenants set forth in that Quit

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Claim Deed recorded on February 1, 1994, in Book 6956 at Page 671, effect upon the acquisition of such segment of vacated alley and the adjoining land to the north and south by Des Moines Area Community College.

- 3. The City Clerk shall forward a certified copy of this resolution to the Legal Department for release to and recording by Des Moines Area Community College at closing upon its acquisition of the building and property at 1300 Des Moines Street.

(Council Communication No. 13- 360)

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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RM

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

MOTION CARRIED APPROVED
T. M. Franklin 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