

★ Roll Call Number  
14-0040

Agenda Item Number  
19

Date January 13, 2014

**APPROVING DONATION AGREEMENTS WITH WELLS FARGO BANK, N.A. AND  
AUTHORIZING ACQUISITION OF PROPERTIES LOCATED AT  
1302 4<sup>TH</sup> STREET AND 2820 EAST 38<sup>TH</sup> STREET**

**WHEREAS**, 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 properties located at 1302 4<sup>th</sup> Street and 2820 East 38<sup>th</sup> Street (“Properties”) to the City of Des Moines pursuant to Donation Agreements, which Agreements and Addenda thereto include, among other terms, the requirement that Wells Fargo demolish the residential structure upon the Property located at 2820 East 38<sup>th</sup> Street prior to conveyance to the City, that the City accept the Properties “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 Properties; and

**WHEREAS**, the City Neighborhood Conservation Services Division of the Community Development Department (“NCS”) distributed a Request for Proposal (“RFP”) to developers certified with the City’s Neighborhood Stabilization Program for the sale and redevelopment of the Properties, with Greater Des Moines Habitat for Humanity (“Habitat”) being the only respondent; and

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

**WHEREAS**, if approved, the City’s acceptance of and closing on the Properties will be subject to the following: (1) demolition of the structure located upon 2820 East 38<sup>th</sup> Street by Wells Fargo prior to closing; (2) closing with Habitat or other selected developer will occur immediately upon and following the closing with Wells Fargo; and (3) certain terms and conditions of the Donation Agreements between the City and Wells Fargo, including those stated herein above, will be included in the purchase agreement with Habitat or other selected developer for the conveyance of the Properties.

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

1. That the Donation Agreements with Wells Fargo Bank, N.A. for properties located at 1302 4<sup>th</sup> Street and 2820 East 38<sup>th</sup> Street, Des Moines, in substantially the form on file in the office of the City Clerk, and Addenda thereto, be and are hereby approved, subject to approval as to form by the City Legal Department.
2. That the voluntary acquisition of the real properties locally known as 1302 4<sup>th</sup> Street and 2820 E 38<sup>th</sup> Street, Des Moines, are hereby authorized and approved pursuant to said Donation Agreements and Addenda, 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 2820 East 38<sup>th</sup> Street prior to closing, and (b) approval by this Council of

★ Roll Call Number

14-0040

Agenda Item Number

19

Date January 13, 2014

the sale of said properties to Habitat or another purchaser, with closing on the City's sale of 1302 4<sup>th</sup> Street and 2820 East 38<sup>th</sup> Street to occur immediately following the City's closing on acquisition of said properties.

3. That upon approval as to form by the City Legal Department, the Mayor is authorized and directed to sign the Donation Agreements and addenda thereto and all necessary real estate documents, and the City Clerk is hereby 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, are hereby authorized and directed to administer and monitor the Donation Agreements and addenda thereto; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreements, 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 Agreements 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 acquisitions pursuant to the Donation Agreements and addenda thereto, 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. 14-014 ) Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

psw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
VOSS	✓			
MOORE	✓			
TOTAL	7			

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