



Roll Call Number

16-1395

Agenda Item Number

18

Date August 22, 2016

ACCEPTANCE OF STREET RIGHT-OF-WAY TRANSFER FROM THE STATE OF IOWA FOR RIGHT-OF-WAY ADJOINING 921 6TH AVENUE AND APPROVAL FOR CITY STAFF TO PROCEED WITH THE DISPOSITION PROCESS OF SUCH RIGHT-OF-WAY IN COMPLIANCE WITH STATE REQUIREMENTS

WHEREAS, Catholic Health Initiatives – Iowa Corporation, an affiliate of Mercy Properties, the owner of 921 6th Avenue, wishes to purchase an irregular portion of street right-of-way adjoining 921 6th Avenue, (hereinafter “Right-of-Way”) for incorporation into their adjoining commercial property to allow for expansion of the existing site improvements; and

WHEREAS, on June 13, 2016, by Roll Call No. 16-0995, the City Council of the City of Des Moines approved Ordinance No. 15,483 entitled “AN ORDINANCE vacating an irregular portion of right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5th Avenue, all adjoining 921 6th Avenue” and further approved the conveyance of said Right-of-Way to Catholic Health Initiatives – Iowa Corporation, subject to the reservation of easements for all existing utilities in place, and further subject to review and approval of a Site Plan by the City of Des Moines Plan and Zoning Commission for all related site and landscaping improvements; and

WHEREAS, subsequent to the vacation of said Right-of-Way but prior to closing on the conveyance, Catholic Health Initiatives – Iowa Corporation’s title investigation determined that the State of Iowa Department of Transportation had acquired portions of said Right-of-Way for construction of Interstate 235, but title to said Right-of-Way had never been formally transferred to the City of Des Moines (hereinafter “City”) upon completion of the interstate project; and

WHEREAS, because the City did not have title to all of the Right-of-Way, the City did not have authority to vacate and convey said Right-of-Way on June 13, 2016; and

WHEREAS, the State of Iowa Department of Transportation has agreed to transfer its title interests in its portion of the Right-of-Way to the City after completion of all necessary and required legal, environmental and cultural investigations.

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

1. Ordinance No. 15, 483 entitled “AN ORDINANCE vacating an irregular portion of right-of-way from the southeast corner of School Street and 6th Avenue, and an irregular portion of right-of-way from the southwest corner of School Street and 5th Avenue, all adjoining 921 6th Avenue” is hereby acknowledged to be of no force or effect.
2. The City Clerk is hereby authorized and directed to forward a certified copy of this resolution to the Polk County Recorder’s Office for the purpose of causing said document to be recorded.



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3. That all documents from the State of Iowa Department of Transportation transferring to the City of Des Moines, Iowa all of its fee simple property interests in the irregular portion of street right-of-way adjoining 921 6th Avenue, legally described as follows, be and are hereby approved and accepted:

THAT PART OF PUBLIC RIGHT-OF-WAY FOR 5TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°11'41" W, ALONG THE EASTERLY LINE OF SAID BLOCK "E"; 198.00 FEET TO THE POINT OF BEGINNING; THENCE NORTHERLY 124.92 ON A NON-TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 1218.08 FEET, A CENTRAL ANGLE OF 05°52'33", AND A CHORD WHICH BEARS N 06°50'43" W, FOR 124.86 FEET; THENCE N 11°53'33" W, 88.53 FEET; THENCE NORTHERLY 97.39 ON A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 850.00 FEET, HAVING A CENTRAL ANGLE OF 06°33'54", AND A CHORD WHICH BEARS N 08°36'36" W, FOR 97.34 FEET; THENCE N 05°19'39" W, 30.50 FEET; THENCE NORTHERLY 23.42 ON A TANGENTIAL CURVE TO THE LEFT HAVING A RADIUS OF 148.76 FEET, A CENTRAL ANGLE OF 09°01'20", AND A CHORD WHICH BEARS N 09°50'19" W, FOR 23.40 FEET; THENCE N 43°39'55" W, 50.57 FEET; THENCE N 89°25'58" W, 102.51 FEET TO THE NORTHEASTERLY LINE OF SAID BLOCK "E"; THENCE ALONG THE NORTHEASTERLY LINE OF SAID BLOCK "E" THE FOLLOWING COURSES; S 38°12'23" E, 84.64 FEET; THENCE S 89°25'58" E, 5.00 FEET; THENCE S 24°07'41" E, 39.62 FEET; THENCE S 00°17'20" E, 30.00 FEET; THENCE S 89°25'48" E, 11.00 FEET; THENCE S 20°08'47" E, 141.01 FEET; THENCE S 20°21'35" E, 64.18 FEET; THENCE S 20°07'14" E, 77.09 FEET; THENCE S 89°25'58" E, 9.83 FEET TO THE POINT OF BEGINNING. CONTAINING 22,362 SQUARE FEET OR 0.51 ACRES.

AND

THAT PART OF PUBLIC RIGHT-OF-WAY FOR 6TH AVENUE AND SCHOOL STREET ADJOINING BLOCK "E" OF RIVER HILLS, PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID BLOCK "E"; THENCE ON AN ASSUMED BEARING OF N 00°16'10" W, ALONG THE WESTERLY LINE OF SAID BLOCK "E", 539.00 FEET TO THE POINT OF BEGINNING; THENCE N 00°16'10" W, 29.83 FEET; THENCE N 44°43'50" E, 35.07 FEET; THENCE S 89°25'58" E, 25.20 FEET TO THE NORTHWESTERLY LINE OF SAID BLOCK "E"; THENCE S 42°23'19" W, ALONG SAID NORTHWESTERLY LINE, 73.78 FEET TO THE POINT OF BEGINNING. CONTAINING 1,063 SQUARE FEET OR 0.02 ACRES.

4. 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.

5. That the City Clerk is hereby authorized and directed to endorse upon the Deed from the State of Iowa the approval and acceptance of this Council; and the City Clerk is further authorized and directed to deliver



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the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

6. There are no costs associated with this transaction.

7. That the Real Estate Division of the Engineering Department is authorized and directed to proceed with the disposition of the Right-of-Way, legally described above, in accordance and compliance with all pertinent state regulations.

Moved by Moore to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY				✓
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6			1

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

MOTION CARRIED APPROVED Mayor