

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.

- 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 \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K Brown*

Roger K. Brown

Assistant City Attorney

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

**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 APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# DMACC

DES MOINES AREA  
COMMUNITY COLLEGE

Office of the Executive Vice President, Academic Affairs  
2006 South Ankeny Boulevard, Borgen Administration Center  
Ankeny, Iowa 50023-3993

Mayor and City Council  
City of Des Moines, Iowa  
400 Robert D. Ray Drive  
Des Moines, IA 50309

July 1, 2013

Re: 1300 Des Moines Street

Dear Mayor and Council Members:

Des Moines Area Community College (the "College") is interested in acquiring the property located at 1300 Des Moines Street in Des Moines (the "Property"). The College will use the Property for classroom space to offer high demand educational programming and classes, primarily nursing, but also other programs, and for related office and lab space. The College previously offered these classes in the former Des Moines General Hospital building but that property is owned by the State of Iowa and they required that we vacate the space in May, 2013. We currently lease the second floor of the Property, but will need more space over time to expand programming. Acquiring the Property will allow the College to continue our existing class offerings as well as additional classes, thereby making classes more accessible for residents of the community and improving overall educational opportunities for the citizens of Des Moines and surrounding areas.


The Property includes a portion of a vacated alley that was vacated and sold by the City to Des Moines General Hospital for use as a medical clinic. In a subsequent Quit Claim Deed filed, a prior titleholder was granted the development rights over the Vacated Alley, subject to covenants that (1) a portion of the Vacated Alley, along with adjoining real estate owned by the prior titleholder be improved with a medical building having not less than 20,000 square feet of space; and (2) that the medical office building and underlying ground shall never be tax exempt (except an abatement pursuant to any applicable urban revitalization tax exemption under Iowa Code Chapter 404), among other covenants. The Quit Claim Deed further provided that, in the event the building or underlying ground obtained tax exempt status, the prior titleholder, or its successors and assigns, would pay the City of Des Moines, as liquidated damages, 100% of the total amount of taxes that the City of Des Moines would have levied against the building and underlying ground.

This provision would not make it feasible for the College to acquire the Property. As a result, the College would like to request that the City release the restrictive covenant to allow Des Moines Area Community College to acquire and use the property without the payment of real estate taxes.

Please feel free to contact me with any questions concerning this matter or if you need additional information. We very much appreciate your consideration of this request.

Very truly yours,

DES MOINES AREA COMMUNITY COLLEGE

by   
Robert J. Denson, President

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2006 S. Ankeny Blvd.  
Ankeny, IA 50023-3993  
515-964-6266

Boone Campus  
1125 Hancock Dr.  
Boone, IA 50036-5399  
515-432-7203

Carroll Campus  
906 N. Grant Rd.  
Carroll, IA 51401-2525  
712-792-1755

Newton  
Polytechnic Campus  
600 N. 2nd Ave. W.  
Newton, IA 50208-3049  
641-791-3622

Urban Campus  
1100 7th St.  
Des Moines, IA 50314-2597  
515-244-4226

West Campus  
5959 Grand Ave.  
WDM, IA 50266-5302  
515-633-2407