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**Date** August 9, 2021

**HOLD HEARING FOR VACATION OF A PORTION OF SOUTHWEST MCKINLEY AVENUE LOCATED NORTH OF AND ADJOINING 6020 SOUTHWEST MCKINLEY AVENUE AND CONVEYANCE TO NICKOLAS VAN PATTEN FOR \$250.00**

**WHEREAS**, on May 10, 2021, by Roll Call No. 21-0691, the City Council of the City of Des Moines, Iowa, voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request to vacate a 48.76-foot wide irregularly-shaped segment of Southwest McKinley Avenue right-of-way adjoining 6020 Southwest McKinley Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

**WHEREAS**, Nickolas G. Van Patten, the owner of 6020 Southwest McKinley Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$250.00 for the purchase of the 48.76-foot wide irregularly-shaped segment of Southwest McKinley Avenue right-of-way adjoining his property for assemblage with his adjoining property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to the reservation of a Permanent Easement for Street Turnaround under, over, through and across the west ten (10) feet of the below-described property, which easement will be included in the Quit Claim Deed from City to Buyer, which price reflects the fair market value of the street right-of-way as determined by the City’s Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

**WHEREAS**, on July 19, 2021, by Roll Call No. 21-1102, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on August 9, 2021, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate and convey the street right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of a 48.76-foot wide irregularly-shaped segment of Southwest McKinley Avenue right-of-way adjoining 6020 Southwest McKinley Avenue, as described herein, are hereby overruled and the hearing is closed.

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2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a 48.76-foot wide irregularly-shaped segment of Southwest McKinley Avenue right-of-way adjoining 6020 Southwest McKinley Avenue, legally described as follows, and said vacation is hereby approved:

AN IRREGULAR SHAPED PORTION OF THE SW MCKINLEY AVENUE RIGHT OF WAY NORTH OF AND ADJACENT TO LOT 2 OF GREEN HILLS PLAT 1, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE N89°39'25"W ALONG THE NORTH LINE OF SAID LOT 2 AND THE SOUTH RIGHT OF WAY LINE OF MCKINLEY AVENUE, A DISTANCE OF 204.82 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE N00°12'03"W, A DISTANCE OF 48.76 FEET; THENCE S89°39'25"E, A DISTANCE OF 136.75 FEET; THENCE SOUTHEASTERLY ALONG A 451.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A DISTANCE OF 72.61 FEET, SAID CURVE HAVING A CHORD BEARING OF S70°00'41"E AND A CHORD LENGTH OF 72.53 FEET; THENCE S00°10'30"E, A DISTANCE OF 24.37 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 9,085 SQUARE FEET.

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and further subject to the reservation of a Permanent Easement for Street Turnaround under, over, through and across the west ten (10) feet of the above-described property, and said conveyance is hereby approved:

Grantee: Nickolas G. Van Patten  
Consideration: \$250.00  
Legal Description:

AN IRREGULAR SHAPED PORTION OF THE VACATED SW MCKINLEY AVENUE RIGHT OF WAY NORTH OF AND ADJACENT TO LOT 2 OF GREEN HILLS PLAT 1, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE N89°39'25"W ALONG THE NORTH LINE OF SAID LOT 2 AND THE SOUTH RIGHT OF WAY LINE OF MCKINLEY AVENUE, A DISTANCE OF 204.82 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE N00°12'03"W, A DISTANCE OF 48.76 FEET; THENCE S89°39'25"E, A DISTANCE OF 136.75 FEET; THENCE SOUTHEASTERLY ALONG A 451.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A DISTANCE OF 72.61 FEET, SAID CURVE HAVING A CHORD BEARING OF S70°00'41"E AND A CHORD LENGTH OF 72.53 FEET; THENCE S00°10'30"E, A DISTANCE OF 24.37 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 9,085 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.



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5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
6. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and a copy of the other documents to the grantee.
9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland  
 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, P. Kay Cmelik, 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.

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