

COUNCIL ACTION FORM

SUBJECT: **APPROVAL OF AGREEMENT WITH MARY GREELEY MEDICAL CENTER FOR TRANSFER OF CONTROL OF VACATED PORTIONS OF AN ALLEY AND 11TH STREET EAST OF KELLOGG**

BACKGROUND:

On the July 12, 2011 agenda is the third reading of an ordinance to vacate portions of 11th Street and the alley east of Kellogg Avenue to help facilitate the expansion of the Mary Greeley Medical Center (MGMC). At the time of first reading, the staff indicated that a policy direction will be required prior to final reading in regards to the amount of payment, if any, the City Council would require to transfer the control of this City-owned property to MGMC.

Since 1992, the City Council has policy for handling this type of transfer of vacated public right-of-way to private individuals. A formula has been established and, for the most part, the City receives compensation for the transfer of land. **What makes this case different is the fact that land will remain under the control of a City entity. Therefore, it can be argued that no exchange of money should occur in this situation.**

However, it should be remembered that the City operates a number of different enterprises, and even though they are all technically City operations, monies are routinely transferred between funds to compensate for services received. Therefore, a counter argument can be made that MGMC should pay for this vacated property in accordance with the City's established policy. The funds received would be deposited into the Street Construction fund to be used to improve our deteriorating street system.

If the standard land reimbursement formula is applied in this situation, it appears that MGMC would owe the City \$52,863.47. Remember this formula establishes the average square foot value of adjacent land times the total square footage of vacated City property reduced by a) the cost to relocate utilities from the purchased right-of-way or 15% of the total value if the City maintains an easement over the purchased right-of-way, b) the cost to demolish or remove City improvements from the purchased right-of-way, and c) 10% of the total value in recognition that the City will not grant the new property owner a warranty deed for the purchased right-of-way.

Prior to the establishment of the policy, when MGMC was seeking to close a portion of 12th Street between Douglas and Duff in 1985 to facilitate the addition of a radiation therapy department, the City Council vacated this street section and transferred management and control to MGMC at no cost. However, in 1994 when MGMC requested portions of 11th Street and Douglas Avenue be vacated to accommodate the

construction of MGMC's parking ramp and other additions, the City Council chose to apply the land reimbursement formula which was adopted in August 1992. However, in this case, the Council determined that since the cost to MGMC to relocate utilities from the vacated property and remove the street surface exceeded the value of the vacated City land, no money was due the City.

ALTERNATIVES:

- 1) The City Council can decide not to apply the established land reimbursement formula to this situation since MGMC is an entity of the City. Under this option, no money would be paid to transfer control of the vacated public right-of-way to MGMC.
- 2) The City Council can decide to apply the established land reimbursement formula to this situation and charge MGMC \$52,863.47 to transfer control of the vacated public right-of-way.
- 3) The City Council can decide to apply the established land reimbursement formula to this situation and charge MGMC \$48,863.47 to transfer control of the vacated public right-of-way.

MANAGER'S RECOMMENDED ACTION:

This situation is unique since the party requesting control of the vacated public property is actually an entity of the City. Therefore, MGMC will not be able to take advantage, like other entities have, of the 10% deduction since no Quit Claim Deed will need to be issued to ourselves.

In addition, the reimbursement formula calls for a further deduction for either the costs to relocate utilities from the purchased properties or 15% if the City maintains the purchased property for a utility easement. In this situation, MGMC intends to install new utilities in the existing City easement, so the 15% price reduction will apply. However, rather than incurring a cost for relocating utilities, MGMC will have additional costs (\$4,000) to adjust the utilities in the easement.

Because MGMC can not take advantage of the 15% deduction like all of the other purchasers of vacated City right-of-way, it would seem advisable that the City Council allow the additional \$4,000 utility work to be deducted from the reimbursement obligation.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative # 3 and approve an agreement with MGMC to transfer control of the vacated portions of the alley and 11th Street for \$48,863.47.