

MEMORANDUM

To: Mayor and City Council Members

Cc: Gregg Mandsager, City Administrator
Randy Hill, Director of Public Works
Steven Boka, Director of Planning, Zoning & Building Safety
Jon Lutz, Muscatine City Engineer

From: Jim Rudisill, Planning/CD Coordinator

Date: July 26, 2012

Re: **Harrison Street/Colorado School Drop Off – FBF Rental Acquisition**

INTRODUCTION: The Harrison Street Extension Project is planned to begin and be completed this year. In order to complete the work, temporary and permanent easements, rights of way and other property acquisitions from five property owners were previously acquired by the city. Following those acquisitions, a drop-off lane was proposed at the back of the Colorado Elementary School property. Negotiations with FBF Rental have led to a purchase agreement that will be used to secure title to sufficient land to allow the drop-off driveways to align with driveways on the Muscatine Mall property. Approval by the council of this agreement will allow this acquisition to proceed.

BACKGROUND: There is a considerable amount of vehicle and pedestrian congestion behind the Colorado Elementary School at school start and ending. The construction of a drop-off lane will improve safety for the traveling public, parents, school staff and especially children during this time. While the drop-off lane could be constructed without any additional land acquisition, the entrance and exit would not align with existing driveways on the opposite side of Harrison Street. The acquisition of the additional land from FBF Rentals will allow the intersection to be aligned and greatly improve vehicle movement and safety.

RECOMMENDATION/RATIONALE: Approval of the acquisition agreement is recommended

BACKUP INFORMATION:

1. Purchase Agreement
- 2.
- 3.
- 4.
- 5.

RESOLUTION NO. _____

**RESOLUTION TO ACCEPT ACQUISITION AGREEMENT FOR THE 2012
HARRISON STREET EXTENSION PROJECT**

WHEREAS, the City is undertaking a project to extend, upgrade and improve Harrison Street between Park Avenue and Bandag Drive in 2012; and

WHEREAS, it is necessary for the City to obtain temporary and permanent easements and rights of way from certain property owners in and around the Harrison Street area to begin and complete this project; and

WHEREAS, each property owner has been contacted, discussed and agreed to separate conditions for each of their easements/acquisitions;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA that the attached easements/acquisitions agreements from property owners be accepted by the City under the conditions and for the considerations described in each easement/acquisition.

PASSED, APPROVED AND ADOPTED this 3rd day of August 2012.

**BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA**

Attest:

DeWayne M. Hopkins, Mayor

Gregg Mandsager, City Clerk

PURCHASE AGREEMENT

PARCEL NO. 0825276036 (partial acquisition) COUNTY MUSCATINE

PROJECT NO. 4193.4193 ROAD NO. NA

SELLER: FBF Rentals, an Iowa partnership

THIS AGREEMENT made and entered into this _____ day of _____, 2012, by and between Seller and the City of Muscatine, Buyer.

1. SELLER AGREES to sell and furnish to Buyer a conveyance document, on form(s) furnished by Buyer, and Buyer agrees to buy the following real estate, hereinafter referred to as the premises:

See Attached Plat

County of Muscatine, State of Iowa, including the following buildings, improvements and other property: The premises also includes all estates, rights, title and interests, including all easements, and all advertising devices and the right to erect such devices as are located thereon. SELLER ACKNOWLEDGES receipt of an earnest money payment of \$1,000, with full settlement and payment from Buyer to be paid as described in Paragraph 3 below for all claims per the terms of this agreement, which shall discharge Buyer from liability because of this agreement and the construction of this public improvement project.

2. Possession of the premises is the essence of this agreement and Buyer may enter and assume full use and enjoyment of the premises per the terms of this agreement. SELLER GRANTS Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. SELLER MAY surrender possession of the premises or building or improvement or any part thereof prior to the time at which he has hereinafter agreed to do so, and agrees to give Buyer ten (10) days notice of Seller's intention to do so by calling Buyer collect.
3. Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title and surrender physical possession of the premises as shown on or before the dates listed below.

<u>PAYMENT AMOUNT</u>	<u>AGREED PERFORMANCE</u>	<u>DATE OF PERFORMANCE</u>
\$ 1,000.00	Earnest Money Payment	on execution of this Agreement
\$ 6,000.00	on possession and conveyance	60 days after Buyer approval
\$ 7,000.00	TOTAL LUMP SUM	

4. SELLER WARRANTS that there are no tenants on the premises holding under lease except:

NONE

5. This agreement shall apply to and bind the legal successors in interest of the Seller and SELLER AGREES to pay all liens and assessments against the premises, including all taxes and special assessments payable until surrender of possession as required by the Code of Iowa; and agrees to warrant good and sufficient title. Names and addresses of lienholders are:

NONE

6. Buyer may include mortgagees, lienholders, encumbrancers and taxing authorities as payees on warrants issued in payment of this agreement. SELLER WILL deliver to the Buyer an abstract of title to the

premises. Seller and Buyer agree to equally share the cost of abstract creation/continuation. SELLER AGREES to provide such documents as may be required by Iowa Land Title Standards to convey merchantable title to the Buyer. SELLER ALSO AGREES to obtain court approval of this agreement, if requested by Buyer, in the event title to the premises becomes an asset of any estate, trust, conservatorship or guardianship. Buyer agrees to pay court approval costs and all other costs necessary to transfer the premises to Buyer, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or signed bills.

7. If Seller holds title to the premises in joint tenancy with full rights of survivorship and not as tenants in common at the time of this agreement, Buyer will pay any remaining proceeds to the survivor of that joint tenancy and will accept title solely from that survivor, provided the joint tenancy has not been destroyed by operation of law or acts of Seller.
8. These premises are being acquired for a public purposes and this transfer is exempt from the requirements for the filing of a Declaration of Value by the Code of Iowa. Buyer acknowledges that Seller shall not be required to subdivide the premises. Buyer agrees to cooperate with Seller, or a subsequent owner of the premises, in any future subdividing/development of Seller's adjoining parcel.
9. This written agreement constitutes the entire agreement between Buyer and Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein.
10. Seller states and warrants that, to the best of Seller's knowledge, there is no burial site, well, solid waste disposal site, hazardous substance, nor underground storage tank on the premises described and sought herein except .

NONE

SELLER'S SIGNATURE AND CLAIMANT'S CERTIFICATION: Upon due approval and execution by the Buyer, we the undersigned claimants certify the Total Lump Sum payment shown herein is just and unpaid.

X _____

X _____

(Mailing Address)

(NOTARY PUBLIC: PLEASE COMPLETE LEFT AND RIGHT SIDES)
SELLER'S ALL-PURPOSE ACKNOWLEDGMENT

STATE OF IOWA _____ }
COUNTY OF MUSCATINE _____ } ss:
On this _____ day of _____, A.D. 2012, before me,
The undersigned, a Notary Public in and for said State, personally
appeared, _____ to me
personally known or proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf
of which the person(s) acted, executed the instrument.

(Sign in Ink)

(Print/Type Name)

Notary Public in and for the State of Iowa
My Commission expires _____

(NOTARIAL SEAL)

CAPACITY CLAIMED BY SIGNER:

- ☐ INDIVIDUAL
☐ CORPORATE
☐ Title(s) of Corporate Officer(s): _____
☐ Corporate Seal is affixed
☐ No Corporate Seal procured
☐ PARTNER(s):
 ☐ Limited Partnership
 ☐ General Partnership
☐ ATTORNEY-IN-FACT
☐ EXECUTOR(s) or TRUSTEE(s)
☐ GUARDIAN(s) or CONSERVATOR(s)
☐ OTHER: _____

SIGNER IS REPRESENTING:

List name(s) of entity (ies) or person(s)

BUYER'S ACKNOWLEDGMENT

STATE OF IOWA: ss On this _____ day of _____ 2012, before me, the undersigned,
personally appeared, _____
known to me to be the _____ of Buyer and who did say that said instrument was
signed on behalf of Buyer by its authority duly recorded in its minutes, and said _____
acknowledged the execution of said instrument, which signature appears hereon, to be the voluntary act and deed of
Buyer and by it voluntarily executed.

Notary Public in and for the State of Iowa

BUYER'S APPROVAL

Recommended by: _____ (Date)

Approved by: _____ (Date)

