

22-1406

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Date September 12, 2022

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF EAST-WEST ALLEY RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 915 28<sup>TH</sup> STREET AND CONVEYANCE TO NONE YA, LLC FOR \$75.00**

**WHEREAS**, on August 26, 2016, by Roll Call No. 16-1397, the City Council of the City of Des Moines authorized the acquisition of the necessary property interests for the Near West Side Sewer Separation Project (hereinafter “Project”); and

**WHEREAS**, as part of the project, the City acquired a Permanent Easement for Storm Sewer and Surface Water Flowage and a Temporary Easement for Construction and Construction-Related Activities over a portion of the property located at 915 28<sup>th</sup> Street, Des Moines, Iowa from None Ya, LLC, owner of 915 28<sup>th</sup> Street; and

**WHEREAS**, the City’s negotiated settlement for the property interests acquired from None Ya, LLC included the provision that, once the Project was completed, the City would vacate and convey to None Ya, LLC, at fair market value, the portion of alley located south of and adjoining 915 28<sup>th</sup> Street; and

**WHEREAS**, that part of the Project impacting 915 28<sup>th</sup> Street has been completed; and

**WHEREAS**, None Ya, LLC, represented by Austin Pefferman, Manager, has requested the vacation of the east-west alley right-of-way located south of and adjoining his property at 915 28<sup>th</sup> Street, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b), Des Moines, Iowa, subject to the reservation of any necessary easements for all existing utilities in place until abandoned or relocated at the applicant’s expense; and

**WHEREAS**, None Ya, LLC, has further offered to the City of Des Moines (“City”) the purchase price of \$75.00 for the purchase of the vacated alley right-of-way (hereinafter “Property”), for assemblage with its adjoining property, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, which price reflects the fair market value of the City Property as determined by the City’s Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the Property proposed to be sold, and the City will not be inconvenienced by the sale of said Property.

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

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1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating that portion of the east-west alley right-of-way located south of and adjoining 915 28<sup>th</sup> Street, legally described as follows:

ALL THAT PART OF THE ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE WEST HALF (W 1/2) OF LOT 286 IN UNIVERSITY LAND COMPANY'S FIRST ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 948 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated alley right-of-way adjoining 915 28<sup>th</sup> Street, as legally described, to the grantee, and for the consideration identified below, subject to a reservation of easements therein:

Grantee: None Ya, LLC

Consideration: \$75.00

Legal Description:

ALL THAT PART OF THE VACATED ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE WEST HALF (W 1/2) OF LOT 286 IN UNIVERSITY LAND COMPANY'S FIRST ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 948 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on October 3, 2022, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. September 29, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the October 3, 2022 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

4. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

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5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Boesen

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL.

Handwritten signature of J. M. Frankha Cowrie, Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Handwritten signature of Laura Baumgartner

Laura Baumgartner, City Clerk