

.....22-1552.....

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Date ..October 3, 2022.....

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF EAST-WEST ALLEY RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 915 28TH 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 28th Street, Des Moines, Iowa from None Ya, LLC, owner of 915 28th 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 28th Street; and

WHEREAS, that part of the Project impacting 915 28th 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 28th 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 for the alley 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 September 12, 2022, by Roll Call No. 22-1406, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the alley right-of-way be set for hearing on October 3, 2022, 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 alley right-of-way was given as



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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 alley right-of-way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east-west alley right-of-way located south of and adjoining 915 28th Street, legally described as follows, and said vacation is hereby approved:

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.

3. The proposed sale of such vacated alley right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

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.

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.
5. 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

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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.

6. 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.

7. 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.

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

Moved by Mandelbaum to adopt. Second by Sheumaker

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 (7 yeas).

MOTION CARRIED APPROVED
J. M. Franklin Cownie 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.

Laura Baumgartner

Laura Baumgartner, City Clerk