



22-1555

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Date October 3, 2022

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF STREET AND ALLEY RIGHT-OF-WAY LOCATED BETWEEN SOUTHEAST 14<sup>TH</sup> STREET AND SOUTHEAST 18<sup>TH</sup> STREET, SOUTH OF EAST COURT AVENUE AND NORTH OF THE IOWA INTERSTATE RAILROAD AND CONVEYANCE TO ROLL-OFFS OF DES MOINES, INC. FOR \$161,800.00**

**WHEREAS**, on March 25, 2019, by Roll Call No. 19-0464, the City Council of the City of Des Moines, Iowa, received and filed a communication from the Plan and Zoning Commission recommending approval of a request from Roll-Offs of Des Moines, Inc. to vacate the following segments of right-of-way in the vicinity of the 100 block of Southeast 15<sup>th</sup> Street, between Southeast 14<sup>th</sup> Street and Southeast 18<sup>th</sup> Street, and between East Court Avenue on the north and the Iowa Interstate Railway on the south, to allow for assemblage and redevelopment:

- A) Johnson Court from a point 472 feet south of East Vine Street to the Iowa Interstate Railroad.
- B) Southeast 14<sup>th</sup> Court from a point 270 feet south of East Vine Street Avenue to the Iowa Interstate Railroad.
- C) Southeast 15<sup>th</sup> Street from a point 360 feet south of East Vine Street Avenue to the Iowa Interstate Railroad.
- D) Southeast 15<sup>th</sup> Court from a point 360 feet south of East Vine Street to the Iowa Interstate Railroad.
- E) Southeast Astor Street from a point 225 feet south of East Vine Street to the Iowa Interstate Railroad.
- F) Southeast 16<sup>th</sup> Street from a point 180 feet south of East Vine Street to the Iowa Interstate Railroad.
- G) Southeast 16<sup>th</sup> Court from a point 132 feet south of East Vine Street to the Iowa Interstate Railroad.
- H) East Vine Street from Southeast 16<sup>th</sup> Court to East 18<sup>th</sup> Street.
- I) The east/west alley between East Court Avenue and East Vine Street from Southeast 16<sup>th</sup> Court to a point approximately 220 feet to east;

hereinafter collectively “Property”, subject to the following conditions:

- 1. A sufficient portion of requested East Vine Street Right-of-Way (part H) shall be excluded from the vacation given the existing railroad activity, such portion will be approved by the City Engineer.
- 2. Conveyance of any of the requested Right-of-Way shall only occur in accordance with a redevelopment plan that is approved by City Council.
- 3. Easements for any existing utilities shall be provided until such time that they are abandoned or relocated at the applicant’s expense.
- 4. Any development that incorporates the subject Right-of-Way shall comply with all Zoning and Site Plan requirements.
- 5. Any development that incorporates the subject Right-of-Way shall comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42 Article X of the City Code.; and



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**WHEREAS**, Roll-Offs of Des Moines, Inc. further requested the vacation and conveyance of two other small sections of East 15<sup>th</sup> Street and East 15<sup>th</sup> Court right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated and further subject to all conditions contained in Roll Call 19-0464, the Plan and Zoning Commission recommendation to City Council, dated March 25, 2019, 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); and

**WHEREAS**, Roll-Offs of Des Moines, Inc., 20 East 18<sup>th</sup> Street, has offered to the City of Des Moines (“City”) the purchase price of \$161,800.00 for the purchase of the Property, to allow for assemblage with its adjoining property for redevelopment and expansion of its existing business, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the Roll-Offs Des Moines, Inc.’s expense;
- (2) Compliance with the City of Des Moines Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X of the City Code;
- (3) Compliance with all City of Des Moines Zoning and Site Plan requirements; and
- (4) A City of Des Moines City Council approved redevelopment plan;

which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

**WHEREAS**, on September 12, 2022, by Roll Call No. 22-1407, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property 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 Property, was given to all necessary parties 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:



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of street and alley right-of-way in the vicinity of the 100 block of Southeast 15<sup>th</sup> Street, between Southeast 14<sup>th</sup> Street and Southeast 18<sup>th</sup> Street, and between East Court Avenue on the north and the Iowa Interstate Railway on the south, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said right-of-way, legally described as follows, and said vacation is hereby approved:

JOHNSON COURT VACATION DESCRIPTION:

ALL THAT PART OF THE JOHNSON COURT PUBLIC RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 56 IN THE O.P. OF THE WEST ONE-HALF OF LOT 31 IN BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING SOUTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 56 AND NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 56. SAID TRACT OF LAND CONTAINS 710 SQUARE FEET.

SE. 14th COURT VACATION DESCRIPTION:

ALL THAT PART OF THE SE. 14th COURT PUBLIC RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOTS 11, 12, 13 AND 14 IN REES'S SUBDIVISION OF LOT 30 BROOKS & CO'S ADDITION. SAID TRACT OF LAND LYING SOUTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 14 AND NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 11. SAID TRACT OF LAND CONTAINS 9,970 SQUARE FEET.

SE. 15th STREET VACATION DESCRIPTION:

ALL THAT PART OF THE SE. 15th STREET PUBLIC RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOT 9 IN BRANDT & JACOB'S SUBDIVISION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 9 AND NORTH OF THE NORTHERLY RIGHT-OF-WAY LINE OF THE IOWA INTERSTATE RAILROAD AS IS IT PRESENTLY ESTABLISHED. SAID PUBLIC ROAD RIGHT-OF-WAY BEING EXTENDED SOUTH TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID RAILROAD. SAID TRACT OF LAND CONTAINS 10,060 SQUARE FEET.

AND

ALL THAT PART OF SE 15<sup>TH</sup> STREET RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 7 IN D.REE'S SUBDIVISION OF LOT 30 OF BROOKS AND CO'S ADDITION, AN OFFICIAL PLAT, AND LYING NORTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 9 IN BRANDT & JACOBS' SUBDIVISION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4,800 SQUARE FEET.



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SE. 15th COURT VACATION DESCRIPTION:

ALL THAT PART OF THE SE. 15th COURT PUBLIC RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 9 IN BRANDT & JACOB'S SUBDIVISION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING SOUTH OF A LINE BETWEEN THE NORTHEAST CORNER OF SAID LOT 9 AND THE NORTHWEST CORNER OF LOT 10 IN SAID BRANDT & JACOB'S SUBDIVISION. SAID TRACT OF LAND CONTAINS 2,940 SQUARE FEET.

AND

ALL THAT PART OF SE 15<sup>TH</sup> COURT RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 6 IN BRANDT & JACOBS' SUBDIVISION, AN OFFICIAL PLAT, AND LYING NORTH OF A LINE RUNNING BETWEEN THE NORTHEAST CORNER OF LOT 9 IN SAID BRANDT & JACOBS' SUBDIVISION AND THE NORTHWEST CORNER OF LOT 10 IN SAID BRANDT & JACOBS' SUBDIVISION, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 7,293 SQUARE FEET.

SE. ASTOR STREET VACATION DESCRIPTION:

ALL THAT PART OF THE SE. ASTOR STREET PUBLIC ROAD RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 9 AND 10 IN THE O. P. OF BLOCK 28 AND PART OF LOT 27 IN BROOK'S & CO'S ADDITION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 9 AND NORTH OF THE NORTHERLY RIGHT-OF-WAY LINE OF THE IOWA INTERSTATE RAILROAD AS IT IS PRESENTLY ESTABLISHED. SAID PUBLIC ROAD RIGHT-OF-WAY BEING EXTENDED SOUTH TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID RAILROAD. SAID TRACT OF LAND CONTAINS 16,310 SQUARE FEET.

SE. 16th STREET VACATION DESCRIPTION:

ALL THAT PART OF THE SE 16th STREET PUBLIC ROAD RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 9 AND 10 IN THE SOUTH PART OF LOT 27 IN BROOK'S & CO'S ADDITION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING SOUTH OF A LINE BETWEEN THE NORTHWEST CORNER OF SAID LOT 9 IN SAID PART OF LOT 27 IN BROOK'S & CO'S ADDITION AND THE NORTHEAST CORNER OF LOT 12 IN THE O. P. OF BLOCK 28 AND PART OF LOT 27 IN BROOK'S & CO'S ADDITION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, AND NORTH OF THE NORTHERLY RIGHT-OF-WAY LINE OF THE IOWA INTERSTATE RAILROAD AS IT IS PRESENTLY ESTABLISHED. SAID PUBLIC ROAD RIGHT-OF-WAY BEING EXTENDED SOUTH TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID RAILROAD. SAID TRACT OF LAND CONTAINS 14,045 SQUARE FEET.

SE. 16th COURT VACATION DESCRIPTION:

ALL THAT PART OF THE SE 16th COURT PUBLIC ROAD RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOTS 7 AND 11 IN THE SOUTH PART OF LOT 27 IN BROOK'S & CO'S ADDITION, AN



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BLOCK 1, I. N. THOMAS SUBDIVISION ALLEY VACATION DESCRIPTION:

ALL THAT PART OF THE EAST-WEST PUBLIC ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOTS 12 THRU 16 INCLUSIVE IN BLOCK 1, I. N. THOMAS SUBDIVISION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA. SAID TRACT OF LAND LYING WEST OF THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 16 AND EAST OF THE EASTERLY RIGHT-OF-WAY LINE OF SE. 16th COURT AS IT IS PRESENTLY ESTABLISHED. SAID TRACT OF LAND CONTAINS 5,120 SQUARE FEET.

EAST VINE STREET VACATION DESCRIPTION: (PARCEL 2019-115)

AN IRREGULAR SHAPED PORTION OF EAST VINE STREET LYING EAST OF EAST 16th COURT AND WEST OF EAST 18th STREET AS THEY ARE PRESENTLY ESTABLISHED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA DESCRIBED AS;  
BEGINNING AT THE SOUTHEAST CORNER OF LOT 22 IN I. N. THOMAS SUBDIVISION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA; THENCE S67°22'40"W, A DISTANCE OF 208.66 FEET TO THE NORTHEAST CORNER OF PARCEL 2018-130 AS SHOWN IN BOOK 17105 AT PAGE 817 IN THE OFFICE OF THE POLK COUNTY RECORDER; THENCE S89°55'20"W ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID VACATED EAST VINE STREET AND ALONG THE NORTH LINE OF SAID PARCEL 2018-130, A DISTANCE OF 511.30 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 2018-130 AND TO THE EAST RIGHT-OF-WAY LINE OF SAID EAST 16th COURT; THENCE N00°22'30"W ALONG THE EAST RIGHT-OF-WAY LINE OF SAID EAST 16th COURT, A DISTANCE OF 80.00 FEET TO THE SOUTHWEST CORNER OF LOT 12 BLOCK 1 IN SAID I. N. THOMAS SUBDIVISION; THENCE N89°55'20"E ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID VACATED EAST VINE STREET AND ALONG THE SOUTH LINE OF LOTS 12 THRU 22 IN SAID BLOCK 1, INCLUSIVE, A DISTANCE 704.43 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 48,620 SQUARE FEET (1.16 ACRES);

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to the following conditions, is hereby approved:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the Roll-Offs Des Moines, Inc.'s expense;
- (2) Compliance with the City of Des Moines Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X of the City Code;
- (3) Compliance with all City of Des Moines Zoning and Site Plan requirements; and
- (4) A City of Des Moines City Council approved redevelopment plan;

Grantee: Roll-Offs Des Moines, Inc.



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Consideration: \$161,800.00

Legal Description:

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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 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.





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

Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

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

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE         | ✓    |      |      |        |
| BOESEN         | ✓    |      |      |        |
| GATTO          | ✓    |      |      |        |
| MANDELBAUM     | ✓    |      |      |        |
| SHEUMAKER      | ✓    |      |      |        |
| VOSS           | ✓    |      |      |        |
| WESTERGAARD    | ✓    |      |      |        |
| TOTAL          | 7    |      |      |        |

J. M. Franke 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