

Date April 9, 2012

**HOLD HEARING FOR VACATION AND CONVEYANCE OF PORTIONS OF SE 19<sup>TH</sup> STREET RIGHT-OF-WAY BETWEEN EAST MARKET STREET AND SCOTT AVENUE TO WASTE MANAGEMENT OF IOWA, INC FOR \$43,845 AND KEMIN HOLDINGS, LC FOR \$35,508**

**WHEREAS**, on February 27, 2012, by Roll Call No. 12-0277, following a Council-initiated request, the City Council received the recommendation from the Plan and Zoning Commission to vacate Southeast (SE) 19<sup>th</sup> Street from a point approximately 97 feet south of Raccoon Street to Scott Avenue, and Southeast (SE) 19<sup>th</sup> Street from East Market Street to a point approximately 78 feet north of Raccoon Street, hereinafter more fully described, subject to reservation of easement for all public utilities in place and provision of an access easement for 1900 Scott Avenue (a/k/a 1823 Raccoon Street) until such time that access to Scott Avenue via SE 19<sup>th</sup> Street is not necessary; and

**WHEREAS**, Waste Management of Iowa, Inc. is the owner of the property locally known as 201 SE 18<sup>th</sup> Street that abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$43,845.00 for the vacation and purchase of a portion of such right-of-way as described below for the purpose of redevelopment with its adjoining property, subject to reservation of easement for public utilities, which price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, Kemin Holdings, LC is the owner of the property locally known as GeoParcel 7824-02-452-005 that abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$35,508.00 for the vacation and purchase of a portion of such right-of-way as described below for the purpose of redevelopment with its adjoining property, subject to the Plan and Zoning Commission recommendations, which price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and conveyed, and the City will not be inconvenienced by the vacation and conveyance of said property; and

**WHEREAS**, on March 26, 2012, by Roll Call No. 12-0456, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on April 9, 2012, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said 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, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

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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 Southeast 19th Street from a point approximately 97 feet south of Raccoon Street to Scott Avenue, and Southeast 19th Street from East Market Street to a point approximately 78 feet north of Raccoon Street, more specifically described as follows:

“Parcel A”:

A PORTION OF SE 19TH STREET RIGHT OF WAY ADJOINING AND LYING WEST OF A PORTION OF LOT 38, BROOKS AND CO'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 38; THENCE SOUTH 00° (DEGREES) 05' (MINUTES) 41" (SECONDS) EAST, 448.09 FEET ON THE EAST RIGHT OF WAY LINE OF SE 19TH STREET; THENCE SOUTH 88°20'31" WEST, 80.03 FEET TO THE WEST RIGHT OF WAY LINE OF SE 19TH STREET; THENCE NORTH 00°05'41" WEST, 450.91 FEET ON SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 89°38'16" EAST, 80.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.83 ACRES MORE OR LESS;

AND

“Parcel B”:

A PORTION OF SE 19TH STREET RIGHT-OF-WAY AS PRESENTLY ESTABLISHED AND LYING EAST OF AND ADJOINING LOTS 45 THROUGH 53, CHARTER OAK ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND THE FORMER CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF LOT 53, SAID CHARTER OAK ADDITION, SAID POINT ALSO ON THE WEST R.O.W. LINE OF SE 19TH STREET AS PRESENTLY ESTABLISHED; THENCE N.00°05'02"W., A DISTANCE OF 340.05 FEET ALONG SAID WEST R.O.W. OF SE 19TH STREET TO THE NORTH FORMER R.O.W. LINE OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD; THENCE N.00°10'58"W., A DISTANCE OF 120.09 FEET ALONG SAID WEST R.O.W. OF SE 19TH STREET; THENCE S.87°20'20"E., A DISTANCE OF 80.05 FEET TO A POINT ON THE EAST R.O.W. OF SE 19TH STREET; THENCE S.00°05'02"E., A DISTANCE OF 456.63 FEET ALONG SAID EAST R.O.W. LINE OF SE 19TH STREET TO THE NORTH R.O.W. LINE OF SCOTT STREET (AVENUE); THENCE N89°51'12"W., A DISTANCE OF 79.76 FEET ALONG SAID NORTH R.O.W. LINE OF SCOTT STREET (AVENUE) TO THE POINT OF BEGINNING. CONTAINING 36606 SQUARE FEET OR 0.840 ACRES MORE OR LESS AND SUBJECT TO ALL EASEMENTS OF RECORD.

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3. The proposed sale of the vacated portion thereof described above as "Parcel A" by Quit Claim Deed to Waste Management of Iowa, Inc., for \$43,845.00, and the vacated portion thereof described above as "Parcel B" by Quit Claim Deed to Kemin Holdings, LC, for \$35,508.00, subject to the Plan and Zoning Commission recommendations, is hereby approved and more specifically described as follows:

TO: Waste Management of Iowa, Inc., for \$43,845.00

A VACATED PORTION OF SE 19TH STREET RIGHT OF WAY ADJOINING AND LYING WEST OF A PORTION OF LOT 38, BROOKS AND CO'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 38; THENCE SOUTH 00° (DEGREES) 05' (MINUTES) 41" (SECONDS) EAST, 448.09 FEET ON THE EAST RIGHT OF WAY LINE OF SE 19TH STREET; THENCE SOUTH 88°20'31" WEST, 80.03 FEET TO THE WEST RIGHT OF WAY LINE OF SE 19TH STREET; THENCE NORTH 00°05'41" WEST, 450.91 FEET ON SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 89°38'16" EAST, 80.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.83 ACRES MORE OR LESS;

TO: Kemin Holdings, LC, for \$35,508.00

A VACATED PORTION OF SE 19TH STREET RIGHT-OF-WAY AS PRESENTLY ESTABLISHED AND LYING EAST OF AND ADJOINING LOTS 45 THROUGH 53, CHARTER OAK ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND THE FORMER CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF LOT 53, SAID CHARTER OAK ADDITION, SAID POINT ALSO ON THE WEST R.O.W. LINE OF SE 19TH STREET AS PRESENTLY ESTABLISHED; THENCE N.00°05'02"W., A DISTANCE OF 340.05 FEET ALONG SAID WEST R.O.W. OF SE 19TH STREET TO THE NORTH FORMER R.O.W. LINE OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD; THENCE N.00°10'58"W., A DISTANCE OF 120.09 FEET ALONG SAID WEST R.O.W. OF SE 19TH STREET; THENCE S.87°20'20"E., A DISTANCE OF 80.05 FEET TO A POINT ON THE EAST R.O.W. OF SE 19TH STREET; THENCE S.00°05'02"E., A DISTANCE OF 456.63 FEET ALONG SAID EAST R.O.W. LINE OF SE 19TH STREET TO THE NORTH R.O.W. LINE OF SCOTT STREET (AVENUE); THENCE N89°51'12"W., A DISTANCE OF 79.76 FEET ALONG SAID NORTH R.O.W. LINE OF SCOTT STREET (AVENUE) TO THE POINT OF BEGINNING. CONTAINING 36606 SQUARE FEET OR 0.840 ACRES MORE OR LESS AND SUBJECT TO ALL EASEMENTS OF RECORD.

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4. Following approval as to form by the Legal Department, the Mayor is authorized and directed to sign the Offers to Purchase and the Deeds for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and 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 said Deeds, 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.

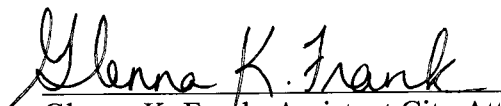
6. The Real Estate Division Manager is authorized and directed to forward the original of the Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to 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 Deeds and copies of the other documents to the grantees.

8. The proceeds from the sale of this property shall be deposited into the following account: 2012-13 CIP, Street Improvements - Page 36, SE Connector – SE 14<sup>th</sup> Street to SE 30<sup>th</sup> Street, STR 249.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
Glenna K. Frank, Assistant City Attorney

*pjw*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				

**CERTIFICATE**

I, DIANE RAUH, 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.

MOTION CARRIED APPROVED  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk