

Date September 25, 2017

HOLD HEARING AND APPROVAL OF DOCUMENTS FOR VACATION OF CITY EAST-WEST ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING 322 EAST COURT AVENUE AND CONVEYANCE TO 322 E. COURT, LLC FOR \$1,000.00

WHEREAS, on June 12, 2017, by Roll Call No. 17-0970, the City Council of the City of Des Moines, Iowa voted to accept the recommendation from the City Plan and Zoning Commission that the east-west alley right-of-way adjoining 322 East Court Avenue, hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted; and

WHEREAS, 322 E. Court, LLC, owner of 322 East Court Avenue, has offered to the City of Des Moines (“City”) the purchase price of \$1,000.00 for the vacation and purchase of the east-west alley right-of-way lying north of and adjoining its property at 322 East Court Avenue (herein “City Right-of-Way”), for assemblage with adjoining commercial properties owned by 322 E. Court, LLC, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build easement; subject to a Permanent Easement for Public Vehicular Ingress and Egress, and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, which price reflects the restricted fair market value of the City Right-of-Way as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on September 11, 2017, by Roll Call No. 17-1557, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on September 25, 2017, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate and convey the City 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 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 of the City of Des Moines, Iowa.

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 the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the City 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 lying north of and adjoining 322 East Court Avenue, as legally described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build easement, which easement will be included in the Quit Claim Deed from the City of Des Moines, subject to a Permanent Easement for Public Vehicular Ingress and Egress, which easement will be included in the Quit Claim Deed from the City of Des Moines; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. The proposed sale of such vacated right-of-way, as legally described below, to 322 E. Court, LLC for \$1,000.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build easement, which easement will be included in the Quit Claim Deed from the City of Des Moines, subject to a Permanent Easement for Public Vehicular Ingress and Egress, which easement will be included in the Quit Claim Deed from the City of Des Moines; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:

ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

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

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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 copies of the other documents to the grantees.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

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.

_____ City Clerk