

Date January 25, 2021

**RESOLUTION TO DISMISS HEARING FOR APPROVAL OF DOCUMENTS FOR
LEASE OF A PORTION OF VACATED EAST MARKET STREET BETWEEN
SOUTHEAST 14TH STREET AND SOUTHEAST 18TH STREET TO DES MOINES
INDUSTRIAL, LLC FOR \$12,500.00**

WHEREAS, on April 20, 2020, by Roll Call No. 20-0660, the City Council of the City of Des Moines, Iowa voted to approve the vacation of East Market Street between Southeast 14th Street and Southeast 18th Street; and

WHEREAS, Des Moines Industrial, LLC, has entered into an Urban Renewal Development Agreement (“Development Agreement”) with the City of Des Moines to acquire the City property that adjoins vacated East Market Street between Southeast 14th Street and Southeast 18th Street for the development, construction and operation of a multi-modal transloading facility and associated site improvements; and

WHEREAS, Des Moines Industrial, LLC wishes to lease from the City of Des Moines a portion of said vacated East Market Street, as described below, (hereinafter “Leased Premises”) for railroad purposes and for parking, driveway, drive aisle and storage of materials directly related to the operation of its multi-modal transloading facility; and

WHEREAS, the City’s Real Estate Division has negotiated a Lease Agreement (“Agreement”) with Des Moines Industrial, LLC, Paul Cownie, Manager, for lease of the Leased Premises, which Agreement will include, among other terms, a twenty-year lease term with an option to renew for two (2) additional twenty-year terms, rent payment of \$12,500.00 for the initial term and each renewal term thereafter, and additional consideration including the following:

- A. Regularly cut or mow any grass growing on the Leased Premises;
- B. Cut and remove any weeds growing on the Leased Premises;
- C. Keep the premises free from nuisances and debris;
- D. Maintain the premises in a clean, safe and attractive condition; and
- E. Remove snow and ice promptly from any public sidewalk abutting the Leased Premises;

which amounts reflect the fair market value of the leased area as determined by the City’s Real Estate Division; and

WHEREAS, on December 21, 2020, by Roll Call No. 20-2113, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed lease of the portion of vacated East Market Street, Des Moines, Iowa be set for hearing on January 11, 2021, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and given Mayor Cownie’s March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s October 16, 2020 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic and telephonic public access to the meeting location; and

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WHEREAS, due notice of said proposal to lease the portion of vacated East Market Street right-of-way was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

WHEREAS, on December 21, 2020, by Roll Call No. 20-2113, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed lease of the portion of vacated East Market Street, Des Moines, Iowa be continued to January 25, 2021; and

WHEREAS, it has been determined by the parties that the Leased Premises will be conveyed in fee title rather than by a lease agreement in accordance with the Development Agreement approved by Roll Call No. 19-2067 on December 16, 2019, and it is therefore appropriate to dismiss this hearing at this time.

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

- 1. Upon due consideration of the ongoing negotiations between the parties to the proposed lease of a portion of vacated East Market Street right-of-way between Southeast 14th Street and Southeast 18th Street, described as follows:

A PORTION OF VACATED EAST MARKET STREET LOCATED IN BROOKS & CO'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 10 IN CAPITAL ADDITION, AN OFFICIAL PLAT; THENCE N89°55'36"W, A DISTANCE OF 746.26 FEET TO THE POINT OF INTERSECTION OF THE EAST LINE OF ASTOR STREET PROJECTED SOUTHERLY TO THE SOUTH LINE OF EAST MARKET STREET, SAID POINT BEING THE POINT OF BEGINNING; THENCE N89°55'36"W ALONG THE SOUTH LINE OF EAST MARKET STREET, A DISTANCE OF 395.96 FEET TO THE NORTHWEST CORNER OF A CERTAIN PARCEL 'A' RECORDED IN BOOK 14883 PAGE 81 WITH THE POLK COUNTY RECORDER; THENCE S89°47'43"W ALONG THE SOUTH LINE OF EAST MARKET STREET, A DISTANCE OF 705.26 FEET TO THE NORTHWEST CORNER OF BLOCK 32 IN SAID BROOKS & CO'S ADDITION TO THE CITY OF DES MOINES; THENCE N00°05'19"E, A DISTANCE OF 19.02 FEET; THENCE N88°49'19"E, A DISTANCE OF 542.37 FEET; THENCE ORTHEASTERLY ALONG A 3,819.83 FOOT RADIUS CURVE CONCAVE NORTHERLY, A DISTANCE OF 393.45 FEET, SAID CURVE HAVING A CHORD BEARING OF N85°52'16"E AND A CHORD LENGTH OF 393.28 FEET; THENCE N82°50'26"E, A DISTANCE OF 187.04 FEET TO THE NORTH LINE OF EAST MARKET STREET; THENCE S 89°55'56"E ALONG THE NORTH LINE OF EAST MARKET STREET, A DISTANCE OF 785.24 FEET; THENCE S88°07'41"W, A DISTANCE OF 804.70 FEET TO THE SOUTHERLY PROJECTION OF THE EAST LINE OF ASTOR STREET; THENCE S00°02'44"W ALONG THE SOUTHERLY PROJECTION OF THE EAST LINE OF ASTOR STREET, A DISTANCE OF 52.58 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 1.15 ACRES (50,173 SQUARE FEET);

SUBJECT TO EASEMENTS, RESTRICTIONS, ORDINANCES INCLUDING BUT NOT LIMITED TO ORDINANCE NOS. 62 AND 216, AND COVENANTS OF RECORD, IF ANY, AND FURTHER SUBJECT TO ALL UTILITIES IN PLACE.

this hearing is hereby dismissed.

★ Roll Call Number

Agenda Item Number

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Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

PCW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. Kay Cmelik, 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

