

★ Roll Call Number

13-0028

Agenda Item Number

19

Date January 14, 2013

**SET HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF EXCESS SE 18TH STREET
RIGHT-OF-WAY TO AMEND PACKING COMPANY FOR \$5,450**

WHEREAS, on October 25, 2010, by Roll Call No. 10-1786, the City Council of the City of Des Moines authorized the acquisition of the necessary right-of-way for a portion of the Southeast Connector Project; and

WHEREAS, the City, pursuant to the use of eminent domain and settlement, has acquired real property interests needed for the Southeast Connector project from Amend Packing Company, owner of the real property locally known as 410 SE 18th Street; and

WHEREAS, a portion of City-owned SE 18th Street right-of-way immediately east of and adjoining the Amend Packing Company property has been and is currently used by Amend Packing Company for parking and customer access purposes to its property; and

WHEREAS, such portion of City-owned SE 18th Street right-of-way has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of the remaining SE 18th Street right-of-way, to be excess right-of-way, and to be no longer needed for City or public purposes or for the Southeast Connector project improvements; and

WHEREAS, Amend Packing Company has offered to the City of Des Moines the purchase price of \$5,450.00 for the vacation and purchase of a fee simple interest in the excess SE 18th Street right-of-way adjoining 410 SE 18th Street, which excess right-of-way is legally described below, as part of the property acquisition settlement and for the purpose of resolving the existing parking area encroachment, which purchase 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 sold, the City will not be inconvenienced by the vacation and sale of said right-of-way subject to retention by the City of a permanent easement for access to retaining wall and underground utilities north of said right-of-way, and City staff report and recommend that the proposed vacation be approved.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of SE 18th Street right-of-way adjoining the real property locally known as 410 SE 18th Street, which proposed vacation area is more specifically described as follows:

A PORTION OF SOUTHEAST 18TH STREET RIGHT OF WAY ADJOINING LOT 3 OF THE OFFICIAL PLAT OF LOT 45, BROOKS & COS 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 SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH 00°(DEGREES) 08'(MINUTES) 48"(SECONDS) WEST, 183.75 FEET ON THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°34'03" EAST, 37.37 FEET; THENCE SOUTH 00°08'48" EAST, 157.56 FEET; THENCE NORTH 89°37'10" WEST, 25.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES MORE OR LESS.

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2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines further proposes to sell such vacated right-of-way, as specifically described below, to Amend Packing Company for \$5,450.00, subject to retention by the City of a permanent easement for access to retaining wall and underground utilities north of said right-of-way:

A VACATED PORTION OF SOUTHEAST 18TH STREET RIGHT OF WAY ADJOINING LOT 3 OF THE OFFICIAL PLAT OF LOT 45, BROOKS & COS 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 SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH 00°(DEGREES) 08'(MINUTES) 48"(SECONDS) WEST, 183.75 FEET ON THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°34'03" EAST, 37.37 FEET; THENCE SOUTH 00°08'48" EAST, 157.56 FEET; THENCE NORTH 89°37'10" WEST, 25.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES MORE OR LESS; AND THE NORTH 3.35 FEET OF THE ABOVE DESCRIBED PARCEL IS SUBJECT TO A PERMANENT EASEMENT FOR A RETAINING WALL AND UNDERGROUND UTILITIES.

3. That a public hearing will be held on January 28, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposals and any other(s) submitted prior to or during the public hearing.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

5. 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 14th Street to SE 30th Street, STR 249.

Moved by Moore to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

T. M. Franklin Council 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.

Diane Rauh City Clerk