

★ Roll Call Number

Agenda Item Number

20-2113

27

Date December 21, 2020

**SET 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 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 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, there is no known current or future public need or benefit for the portion of vacated East Market Street proposed to be leased, and the City will not be inconvenienced by the lease of said Property.

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

1. The City Council of the City of Des Moines, Iowa, proposes to lease a portion of vacated East Market Street between Southeast 14th Street and Southeast 18th Street, as legally described, to the lessee, and for the consideration identified below, subject to any and all easements, restrictions, ordinances and covenants of record therein:

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Lessee: Des Moines Industrial, LLC

Consideration: \$12,500.00, plus additional consideration as specified in the Lease Agreement and set forth above

Legal Description: 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.

2. A public hearing shall be held on January 11, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. 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 strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 109 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 further given 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 public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

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Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. https://dmgov-org.zoom.us/j/82610644838?pwd=YUZLRDQ0swVGhjY0tZcGo0V2JHZz09
Passcode: 300692

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 826 1064 4838

International numbers available: https://dmgov-org.zoom.us/j/kenbHwL8aT

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. January 7, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

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

Moved by Boesen to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

Mayor signature: J. M. Franklin Cownie

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 signature: P. Kay Cmelik