

ORDINANCE NO. 15,792

AN ORDINANCE vacating a portion of 8th Street right-of-way located east of and adjoining Enos Avenue.

WHEREAS, all prior requirements of law pertaining to the vacation of public right-of-way have been fully observed; and

WHEREAS, it is desirable that the public right-of-way herein described be vacated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Sec. 1. That a portion of 8th Street right-of-way located east of and adjoining Enos Avenue, more specifically described as follows, be and is hereby vacated:

THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID 8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

Sec. 2. The City of Des Moines hereby reserves an easement upon the property described above for the continued use and maintenance of any utilities now in place, with the right of entry for servicing same.

Sec. 3. The City of Des Moines hereby further reserves a permanent no-build easement upon, over, and within the property described above, which shall prohibit any structure, building, or other improvement over or within the property, except the construction of a sidewalk or parking area and associated improvements so long as such improvements are both above ground and do not interfere in any way with the utilities on the property. This no-build restriction shall be lifted upon the satisfaction of all three (3) of the following requirements:

- (1) payment of \$11,250.00 to the City by Grantee,
- (2) relocation of all utilities off the property at Grantee's sole expense or written verification of abandonment of all utilities, and
- (3) written release of said no-build restriction by the City of Des Moines, Iowa.

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance and proof of publication thereof together with proof of publication of the notice of the public hearing on this matter to be properly filed in the office of the Recorder of Polk County, Iowa.

Sec. 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Lisa A. Wieland, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 19-1262), passed by the City Council of said City at a meeting held August 5, 2019 signed by the Mayor on August 5, 2019 and published and provided by law in the Business Record on August 23, 2019. Authorized by Publication Order No. 10782.

Diane Rauh, City Clerk