CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: **September 16, 2019**

ITEM: **Ordinance –** Public Hearing - Approval of the first reading for the vacation of a portion of Booneville Road right of way.

Resolution – Opening and closing public hearing and approving termination of public roadway easements and conveyance of a portion of vacated Booneville Road to underlying fee title owners and approval and acceptance of conveyance of property interests reflecting the as-built location of Booneville Road.

FINANCIAL IMPACT: None

SYNOPSIS: Roadway easements recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) for the construction of Booneville Road contained inaccurate legal descriptions and do not encompass Boonville Road as-built. The appropriate City staff have determined the original, inaccurate easements to be unnecessary surplus property that should be vacated and terminated to clear title for the affected property owners. New Warranty Deeds reflecting the as-built location of Booneville Road have been provided by the property owners shown on **Exhibit "A"**.

The attached ordinance vacates that portion of the right of way no longer needed for Booneville Road. The attached resolution terminates the roadway easements and conveys the vacated right of way to the underlying fee title property owners and approves and accepts the conveyance of property interests reflecting the as-built location of Booneville Road to the City of West Des Moines.

RECOMMENDATION:

Approve - First reading of the Ordinance vacating a portion of Booneville Road right of way.

Approve - Resolution opening and closing public hearing and approving termination of public roadway easements and conveyance of a portion of vacated Booneville Road to underlying fee title holders and approving and accepting conveyance of property interests reflecting the as-built location of Booneville Road to the City of West Des Moines.

Lead Staff Member: Richard J. Scieszinski, City Attorney RJS

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Dates(s) Published	09/11/2019

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation			

ATTACHMENTS:

Exhibit I – Ordinance
Exhibit II – Resolution
Exhibit A
Exhibit III – Location Map

ORDINANCE

(Type of Document)

Preparer Information:	**Greta Truman, Assistant City Attorney** **4200 Mills Civic Parkway** **PO Box 65320** **West Des Moines, IA 50265** **515-222-3676**
Taxpayer Information:	**N/A**
Return Document To:	**City Clerk** **City of West Des Moines** **PO Box 65320** **West Des Moines IA 50265** **515-222-3603**
Grantors:	**N/A**
Grantees:	**N/A**
Legal Description:	**as shown on the attached**
Related documents:	**Easement recorded August 19, 1977 at Book 547, Page 47; Easement recorded August 19, 1977 at Book 547, Page 51; Easement recorded October 4, 1977 at Book 547, Page 182; Resolution Approving Termination of Public Roadway Easement and Conveyance of a portion of Booneville Road recorded in Book 2019 Page _____.**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST DES MOINES, IOWA VACATING A PORTION OF THE BOONEVILLE ROAD RIGHT OF WAY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. Pursuant to Title 7, Chapter 1, Section 10 of the West Des Moines Code of Ordinances, "VACATION AND DISPOSAL," it has been determined that the following City right-of-way is no longer necessary for public use and that vacation of the right-of-way will not deny access to abutting property:

That portion of Booneville Road, West Des Moines, Dallas County, Iowa, legally described as follows:

> Book 547, Page 47: Commencing at the E¼ corner of Sec. 22, T78N, R26W of the 5th PM Dallas County Iowa, thence S84°17'W 846.8 ft. to the point of beginning, thence S5°43'E 33.0 ft. thence S79°26'W 200.2 ft., thence S70°30½'W 102.0 ft., thence S84°17'W 174.0 ft., thence S84°22'W 224.2 ft., thence S58°37'W 76.1 ft., thence N86°31½'W 197.7 ft., thence N54°3'W 50.0 ft., thence N84°17'E 963.8 ft to the pint of beginning containing 0.65 acres, more or less, exclusive of present established highways.
>
> Book 547, Page 51: Commencing at the E¼ corner of Sec. 22, T78N, R26W of the 5th PM Dallas County Iowa, thence S84°17'W 1080.6 ft., thence S81°49'W 2141.3 ft., thence S61°24'W 703.5 ft., thence South 38.8 ft to the point of beginning, thence South 29.5 ft., thence S61°24'W 954.5 ft., thence S65°54'W 130.7 ft. thence S69°01'W 417.0 ft., thence S78°40'W 101.4 ft, thence N20°59'W 33.0 ft., thence S69°01'W 500.3 ft., thence S62°28'W 400.0 ft., thence S27°32'E 50.0 ft., thence S62°28'W 365.1 ft., thence North 56.4 ft., thence N62°28'E 739.0 ft., thence N69°01'E 1017.3 ft., thence N58°11½'E 857.5 ft., thence N54°04'E 109.3 ft. to the point of beginning containing 0.59 acres, more or less, exclusive of present established highways.
>
> Book 547, Page 182: Commencing at the E¼ corner of Sec. 22, T78N, R26W of the 5th PM Dallas County Iowa, thence S84°17'W 1080.6 ft., thence S81°49'W 2141.3 ft., thence S61°24'W 703.5 ft to the point of beginning, thence North 79.7 ft., thence S59°22'W 665.2 ft., thence S61°24'W 356.2 ft., thence S65°12½'W 247.0 ft., thence S69°01'E 167.9 ft, thence S70°48'W 320.2 ft., thence S70°27'W 200.1 ft, thence N89°11'W 107.7 ft, thence S68°26'W 212.5 ft. thence S52°05'W 305.0 ft, thence S60°38'W 313.1 ft, thence South 56.4 ft., thence N62°28'E 739.0 ft, thence N69°01'E 1017.3 ft, thence N58°11½'E 857.5 ft, thence N54°04'E 109.3 ft, thence North 38.3 ft, to the point of beginning containing 2.41 acres, more or less, exclusive of present established highways.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid, or unconstitutional.

SECTION 4. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED AND APPROVED by this _____ day of September, 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

I certify that the foregoing was published as Ordinance No._____ on the _____day of September, 2019.

_____
Ryan T. Jacobson, City Clerk

RESOLUTION NO. _____

RESOLUTION OPENING AND CLOSING PUBLIC HEARING, APPROVING TERMINATION OF PUBLIC ROADWAY EASEMENT AND CONVEYANCE OF A PORTION OF VACATED BOONEVILLE ROAD

WHEREAS, the City of West Des Moines, Iowa has vacated as public right-of-way, Easements recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) due to inaccurate legal descriptions; and

WHEREAS, the Property is no longer needed by the City; and

WHEREAS, by operation of law, upon vacation of the public easements for use as roadway, the easements shall terminate, and all rights shall revert to the underlying fee owner; and

WHEREAS, pursuant to the Code of Iowa Sections 362.3 and 364.7, publication of notice regarding termination of the easements and conveyance of the property has been made; and

WHEREAS, this being the time and place for a public hearing regarding conveyance of the Property and termination of the Easements; and

WHEREAS, the City Council of the City of West Des Moines, Iowa finds that the conveyance of the easements recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) and termination of the public roadway easement pertaining to above property is in the best interest of the City of West Des Moines, Iowa.

WHEREAS, the City Council of the City of West Des Moines, Iowa finds that termination of the public roadway easements recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) is in the best interest of the City of West Des Moines, Iowa.

WHEREAS, the City of West Des Moines has obtained Warranty Deeds, at no cost to the City, provided by the property owners shown on **Exhibit "A"** reflecting the as-built location of Booneville Road; and

WHEREAS, it is the policy of the City of West Des Moines, Iowa, to approve the conveyance of all property interests to the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:

1. Pursuant to Code of Iowa Section 364.7, publication of notice regarding termination of the public roadway easements recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) has been properly made.

2. The public hearing regarding conveyance of the above legally described property is closed and conveyance of the property recorded on August 19, 1977 (Book 547, Pages 47 and 51) and October 4, 1977 (Book 547, Page 182) to the underlying fee title holders is hereby approved contingent upon adoption of the Ordinance of the City of West Des Moines, Iowa Vacating a Portion of the Boonville Road Right of Way.

3. The new Warranty Deeds obtained reflecting the as-built location of Booneville Road to the City of West Des Moines, Iowa, provided by the property owners shown on **Exhibit "A"** are hereby approved and accepted contingent upon adoption of the Ordinance of the City of West Des Moines, Iowa Vacating a Portion of the Boonville Road Right of Way.

4. The City Clerk is directed to certify the Council's approval and acceptance.

5. The documents shall be recorded with the County Recorder as appropriate.

PASSED AND APPROVED this 16th day of September, 2019.

Steven K. Gaer, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

Exhibit "A"

BOONEVILLE ROAD RECONSTRUCTION
SOUTH 88TH STREET TO WEST OF SOUTH 100TH STREET
RIGHT-OF-WAY RETRACEMENT SURVEY
PROJECT NO. 0510-006-2017

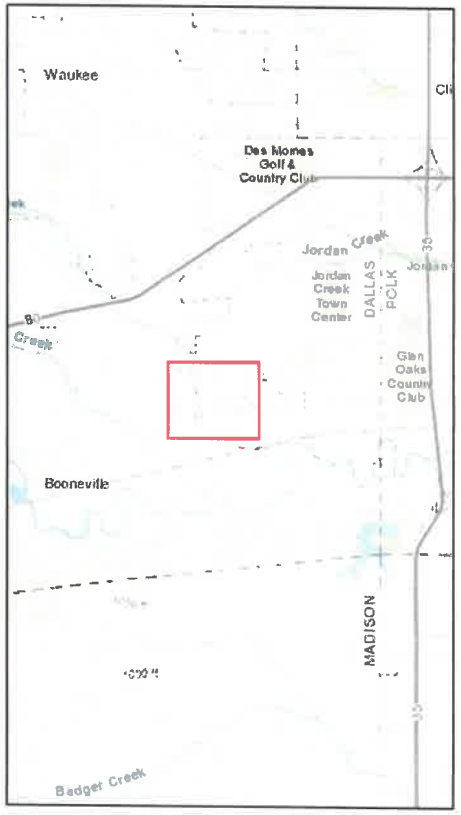
PARCEL	PROPERTY OWNER	EXHIBIT NO.
40	Midwest Rock Products, Inc. Parcel ID Nos. 1622400004 1622400003	40/41
45	Universal Investment Property, LLC Parcel ID No. 1622300002 Southwest corner of S 95th Street and Booneville Road	45

Created by: BN Date: 7/12/2019

Sources: Dallas County Iowa, ESRI, Bing, DeLorme, IA DNR

WEST DES MOINES

Booneville Rd

Page 2 of 2

Road Easement
Parcels
Section