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DES MOINES ORD 79.00  
PAGE-001 OF 007  
03/29/2016 10:40  
KING COUNTY, WA

**Return Address:**

Des Moines City Clerk  
21630 11<sup>th</sup> Avenue So.  
Des Moines, WA 98198-6398

**WASHINGTON STATE RECORDER'S COVER SHEET**

<b>Document Title(s):</b>	Ordinance No 1641
<b>Reference Number(s) of Documents Assigned or Released:</b> (Add'l. Nbrs. on Page _____)	
<b>Grantor(s):</b> (Last, First, Initials)	City of Des Moines, WA
<b>Grantee(s):</b> (Last, First, Initials)	Port of Seattle
<b>Legal Description:</b> (Abbreviated) Additional Legal is on Page 1-3	Beginning at the Southwest corner of South 214 <sup>th</sup> Street as dedicated on said Short Plat; THENCE North 01° 41' 33" East, 66.00 feet along the West line thereof to the Northwest corner; THENCE South 88° 18' 27" East, 1167.46 feet along the North line of said South 214 <sup>th</sup> Street to the Northeast corner, being a point on a curve, the radius point of which bears North 89° 21' 27" East; THENCE Southerly along the East line, along the arc of a curve concave to the East having a radius of 6049.50 feet, through a central angle of 00° 23' 43" and an arc length of 41.74 feet; THENCE continuing along said line, South 01° 02' 16" East, 24.32 feet to the Southeast corner; THENCE North 88° 18' 27" West, 1170.46 feet along the South line to the Southwest corner and the POINT OF BEGINNING.
<b>Assessor's Property Tax Parcel/ Account Number(s):</b> (If Doc. Has Legal Description)	

**ORDINANCE NO. 1641**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON,** vacating a portion of City right-of-way in an area generally described as Des Moines Creek Business Park (DMCBP) Tract E Right of Way (S. 214<sup>th</sup> Street), located in the City of Des Moines, subject to the applicant's compliance with requirements set forth herein.

**WHEREAS,** DMMC 12.10.060 adopts the street vacation procedures of chapter 35.79 RCW, and

**WHEREAS,** The City has received a petition from the Port of Seattle, to vacate a portion of the public right-of-way commonly known as DMCBP Tract E (S. 214<sup>th</sup> Street), located in the City of Des Moines as shown on Exhibit "A", attached hereto and incorporated by reference, and

**WHEREAS,** the petition was signed by the owners of more than two-thirds of the property abutting the portion of the streets sought to be vacated as required by RCW 35.79.010, and

**WHEREAS,** RCW 35.79.010 requires that the City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1319 fixing the public hearing for January 21, 2016, to be followed by City Council action, and

**WHEREAS,** notice of the public hearing was given in accordance with RCW 35.79.020 and the public hearing was held before the Des Moines City Council on January 21, 2016, and all persons wishing to be heard were heard, and

**WHEREAS,** no objections to the vacation were filed by any abutting property owners prior to the hearing, and the City Council finds that no person has demonstrated special injury due to substantial impairment of access to such person's property; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Findings adopted.** Based on the evidence presented, the City Council adopts the following findings of fact:

(1) The public right-of-way subject to this Ordinance consists of area generally described as Des Moines Creek Business Park (DMCBP) Tract E Right of Way (S. 214<sup>th</sup> Street), further legally described in section 2 of this Ordinance; and

(2) The public right-of-way described in section 2 of this Ordinance was not improved for transportation purposes nor dedicated under the Plat and Subdivision Act of 1969 (chapter 58.17 RCW), its predecessor the Platting and Subdivision Act of 1937 (chapter 58.16 RCW) or under the Laws of 1889-90; and

(3) The public right-of-way which is described in section 2 of this Ordinance is not necessary for present and future use by public utilities or for native growth protection; and

(4) The public right-of-way was recorded as the Panattoni Development Company Short Plat, Recording No. 20141113900004, has never been opened for transportation purposes, and

(6) The right-of-way is not required for the present and future needs of the citizens of the City of Des Moines for vehicular transportation purposes; and

(7) It is in the public interest to vacate this right-of-way; and

(8) The right-of-way is classified as a Class "C" right-of-way since no public funds have were ever expended in its acquisition; and

(9) Vacation of a Class "C" right-of-way requires no compensation.

**Sec. 2. Right-of-way vacation.** Subject to the requirement set forth in section 3 this Ordinance, the following legally described public right-of-way as depicted on the attached map (incorporated herein by this reference) entitled Exhibit "A" is vacated and the property within the right-of-way so vacated shall belong to the respective abutting property owners, one-half to each as required by RCW 35.79.040:

BEGINNING at the Southwest corner of South 214th Street as dedicated on said Short Plat; THENCE North  $01^{\circ} 41' 33''$  East, 66.00 feet along the West line thereof to the Northwest corner; THENCE South  $88^{\circ} 18' 27''$  East, 1167.46 feet along the North line of said South 214th Street to the Northeast corner, being a point on a curve, the radius point of which bears North  $89^{\circ} 21' 27''$  East; THENCE Southerly along the East line, along the arc of a curve concave to the East having a radius of 6049.50 feet, through a central angle of  $00^{\circ} 23' 43''$  and an arc length of 41.74 feet; THENCE continuing along said line, South  $01^{\circ} 02' 16''$  East, 24.32 feet to the Southeast corner; THENCE North  $88^{\circ} 18' 27''$  West, 1170.46 feet along the South line to the Southwest corner and the POINT OF BEGINNING.

**Sec. 3. Conditions of right-of-way vacation.** The right-of-way subject to vacation under this Ordinance shall be subject to the following conditions:

(1) The abutting property owners shall not be required to pay the City of Des Moines compensation for vacation of this Class C right-of-way, pursuant to DMMC 12.10.070(2)(c).

(2) The abutting property owner recognizes that the City of Des Moines retains a twenty (20) foot easement for the purpose of a multi-use trail.

(3) Petitioner, Port of Seattle, shall be responsible for obtaining and recording the easement referenced herein, and provide recorded copies of such easement to the City of Des Moines. If the easement is not obtained and recorded, and proof of such provided to the City of Des Moines, within 90 days of the signing of this Ordinance, this Ordinance shall be repealed and the street vacation shall be null and void.

**Sec. 4. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

**Sec. 5. Recordation.** The City Clerk shall cause a certified copy of this Ordinance to be recorded in the records of the King County Recorder.

**Sec. 6. Effective date.** This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 21st day of January, 2016 and signed in authentication thereof this 21st day of January, 2016.

  
M A Y O R

APPROVED AS TO FORM:

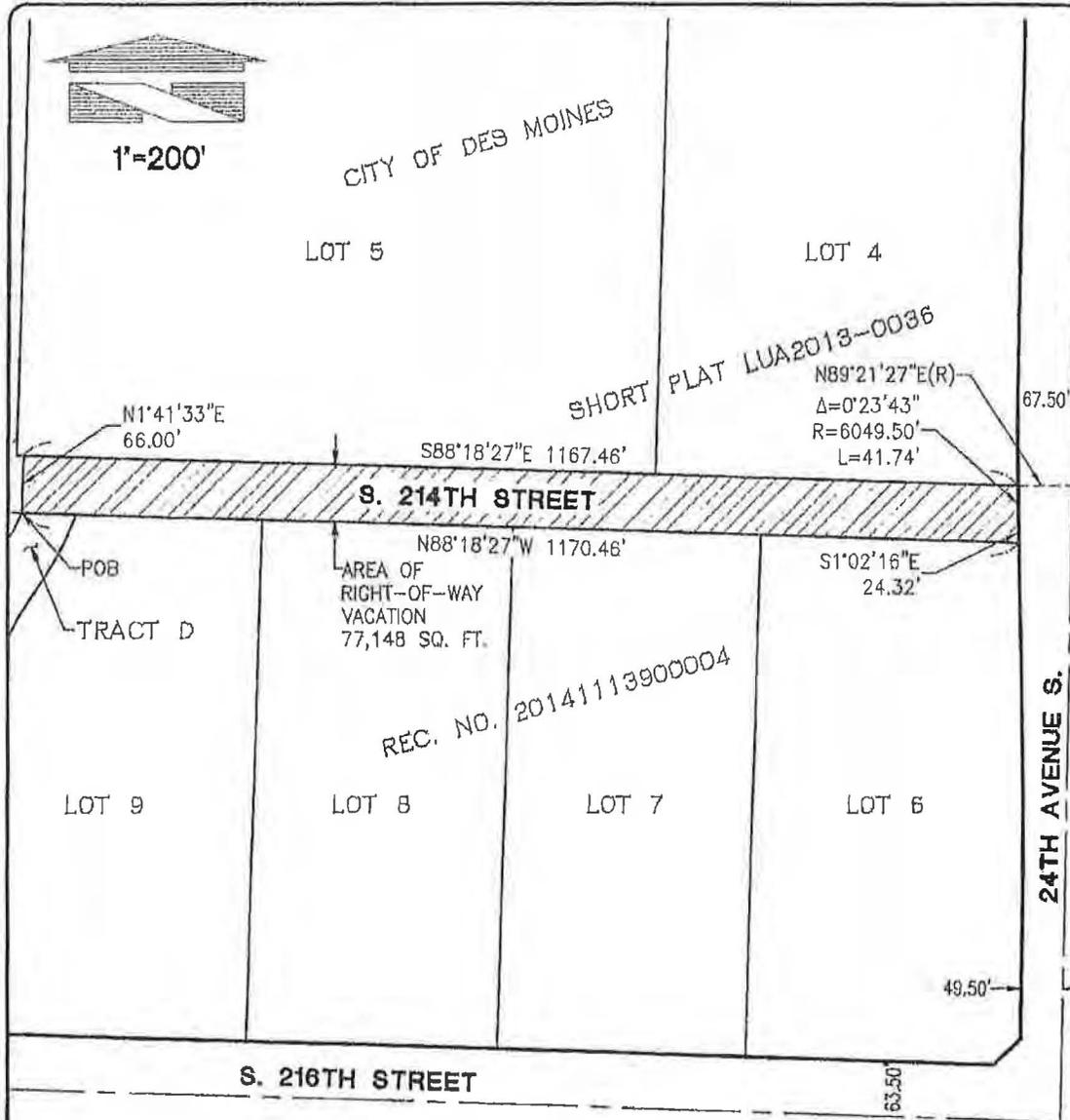
  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

Publication: January 26, 2016

Effective Date: February 20, 2016



File:P:\16000s\16512\survey\16512EXH10--vacation.dwg Date/Time:12/10/2015 3:34 PM KIM ANDERSON

SCALE: HORIZONTAL 1"=200' VERTICAL N/A		<b>For:</b> CITY OF DES MOINES	<b>JOB NUMBER</b> 16512
 18215 72ND AVENUE SOUTH KENT, WA 98032 (425)251-6222 (425)251-8782 FAX CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES			16512L.010.doc
		<b>Title:</b> RIGHT-OF-WAY VACATION	SHEET 1 of 1
DESIGNED	DRAWN KMA	CHECKED DJS	APPROVED DJS DATE 10/14/15

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1641, Adopted January 21, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the vacation a portion of City right-of-way in an area generally described as Des Moines Creek Business Park (DMCBP) Tract E Right of Way (S. 214<sup>th</sup> Street), located in the City of Des Moines, subject to the applicant's compliance with requirements set forth herein.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins  
City Clerk

Published: January 26, 2016

**I, Bonnie Wilkins, City Clerk, do hereby  
certify that the foregoing is a true and  
correct copy of the original instrument  
on file and of record in my office in  
Des Moines, Washington 98198**

*BW*