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Date May 21, 2018.....

SET HEARING ON THE INTENT TO ACQUIRE PROPERTY FOR PUBLIC IMPROVEMENT PURPOSES AND TO AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS FROM VARIOUS PROPERTY OWNERS FOR THE LITTLE FOUR MILE TRUNK SANITARY SEWER PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN

WHEREAS, the City’s Engineering Department has determined that it is necessary to acquire property interests from various property owners in connection with the Little Four Mile Trunk Sanitary Sewer Project (hereinafter “Project”); and

WHEREAS, under the provisions of Section 6B.2A of the Iowa Code, a governmental body which proposes to acquire property, by eminent domain for public improvement purposes is required to give notice of a proposed resolution, motion, or other document authorizing such acquisition of property to each property owner, contract purchaser of record and any tenant known to be occupying the property (collectively, “Property Owners”) of the meeting at which such proposed authorization will be considered; and

WHEREAS, in accordance with Iowa Code Sections 6B.2A, before the City can proceed with acquisition of property by eminent domain for the aforementioned Project, the City Council must:

- (a) Give affected persons the opportunity to attend the Council meeting and present their views and objections regarding the proposed acquisition of property for public improvement projects by gift, negotiation or eminent domain.
- (b) Adopt a resolution to authorize acquisition of property for the public improvement project by eminent domain.
- (c) Mail notices to all property owners, contract purchasers of record, and any known tenants with any potential for any form of property acquisition activity for the Project within the timeframes set forth in Iowa Code Sections 6B.2A.

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

1. That a public hearing shall be held on June 11, 2018, at 5:00 p.m. in the City Council Chamber, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal to authorize acquisition of private property by gift, negotiation, or eminent domain for public improvement purposes for the Little Four Mile Trunk Sanitary Project.

★ **Roll Call Number**

Agenda Item Number

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Date May 21, 2018

2. That the notices of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, which notices were previously mailed by the City's Engineering Department - Real Estate Division pursuant to the requirements Iowa Code Section 6B.2A, are hereby ratified and confirmed.

3. That the City Clerk is hereby instructed to cause notice to be published as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, said Notice of Intent to be in substantially the same form.

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

 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.

 City Clerk

**NOTICE OF HEARING ON THE INTENT TO ACQUIRE AGRICULTURAL
PROPERTY FOR PUBLIC IMPROVEMENT PURPOSES AND AUTHORIZE
ACQUISITION OF THE NECESSARY PROPERTY INTERESTS THEREOF FROM
VARIOUS PROPERTY OWNERS FOR THE LITTLE FOUR MILE TRUNK
SANITARY SEWER PROJECT BY GIFT, NEGOTIATION OR EMINENT DOMAIN**

TO:

<u>Property Owner</u>	<u>Mailing Address</u>	<u>Location of Affected Property</u>	<u>County</u>
Jeffrey R. and Jamie L. Cole	5916 NE 27 th Avenue Altoona, IA 50009	5916 NE 27 th Avenue Altoona, IA 50009	Polk
River Ridge Farms, L.L.C.	Karen S. Armstrong P.O. Box 496 Altoona, IA 50009	District/Parcel 060/09027-606-017 Altoona, IA 50009	Polk
Bethany New Life Christian Fellowship	P.O. Box 532 Altoona, IA 50009	3565 E. 56 th Street Altoona, IA 50009	Polk
Pamela Luann Wagner, Trustee of the Pamela Luann Wagner Family Trust dated the 26 th day of October 2016	2800 E. 40 th Street Des Moines, IA 50317	3725 E. 56 th Street Altoona, IA 50009	Polk
Brook Landing, L.L.C.	P.O. Box 7502 Urbandale, IA 50323	5567 E. Douglas Ave. and District/Parcel 060/03748-019-001 Des Moines, IA 50317	Polk
R. Michael Knapp 2001 Revocable Trust and Ellyn Patrice Knapp 2001 Revocable Trust	5935 McKinley Avenue Des Moines, IA 50321	District/Parcel 060/09027-103-000 Altoona, IA 50009	Polk
Darlene A. Fini	4425 E. Douglas Avenue Des Moines, IA 50317	District/Parcel 060/09027-606-000 Altoona, IA 50009	Polk
Karla J. Van and Kenton R. Shivers, Co-Trustees of the Shivers Family Farm Trust	6530 NE 27 th Avenue Des Moines, IA 50009	2155 NE 56 th Street Des Moines, IA 50327	Polk
BRE Investments, LLC	1687 NE 56 th Street Pleasant Hill, IA 50327	1687 NE 56 th Street Pleasant Hill, IA 50327	Polk

and other Polk County Property Owners.

Under the provisions of Chapter 6B.2A of the Iowa Code, a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of its intent to commence the project to all owners and record contract purchasers of such agricultural land whose properties may be

acquired in whole or in part for the project. (See Sections 6A.21(a) and 6B.2A of the Iowa Code.)

1. DESCRIPTION OF THE PROJECT.

NOTICE IS HEREBY GIVEN to the above-identified owners of agricultural land, contract purchasers of record and tenants known to be occupying the property (collectively, "Property Owners") that the Des Moines City Council will consider authorizing acquisition of property by gift, negotiation or eminent domain for the Little Four Mile Trunk Sanitary Sewer Project (the "Project"). This Project will provide sanitary service for the area lying north of the Iowa Interstate Railroad right-of-way, south of Broadway Avenue, west of Highway 65, and generally east of: NE 48th Street on the northern portion and NE 50th Street on the southern portion.

2. PRIVATE AGRICULTURAL PROPERTY MAY BE ACQUIRED BY PURCHASE OR CONDEMNATION.

The Project approved by the City Council will require acquisition of property interests for the Project improvements. Upon review of Polk County property records, it appears that agricultural land owned by the above-identified persons may have to be acquired in whole or in part for the Project. The City of Des Moines will attempt to purchase the required agricultural land by good faith negotiations, and it may condemn those properties that it is unable to purchase. The proposed location of the above-described public improvement is shown on the map on file at the City Clerk's Office, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.

3. CITY OF DES MOINES PROCESS TO DECIDE TO PROCEED WITH THE PROJECT AND TO ACQUIRE AGRICULTURAL PROPERTY BY PURCHASE OR EMINENT DOMAIN; CITY COUNCIL ACTION REQUIRED TO PROCEED WITH PROJECT; OPPORTUNITY FOR PUBLIC INPUT.

In making the decision to proceed with the above-described Project and to authorize the acquisition of property and property interests, the City Council will hold a **public hearing** giving persons interested in the proposed Project the opportunity to present their views and objections regarding the Project and proposed acquisition of agricultural property for the Project by eminent domain. **The public hearing on the Project will be held at 5:00 p.m. during the City Council's regularly scheduled meeting on the 11th day of June, 2018, in the Council Chambers, 400 Robert D. Ray Drive, Des Moines, Iowa, which meeting commences at 4:30 p.m.** Persons receiving this notice have a right to attend the meeting and to provide public input and voice objections regarding the proposed acquisition of the agricultural property.

In addition, in order for the City of Des Moines to proceed with the above-described Project and commence the acquisition of agricultural property for the Project, the City Council will be required to approve the Project and authorize acquisition of private agricultural property for the Project by eminent domain by City Council resolution. The City Council is scheduled to consider adoption of the resolution authorizing the acquisition or property for the Project by gift, negotiation, or eminent domain following the public hearing on June 11, 2018.

If the Project is approved by the City Council, an appraiser retained by the City of Des Moines will determine the compensation to be paid for the property or property interests that are needed for the Project. The City of Des Moines will offer no less than the appraised value and will attempt to purchase the property or property interests needed for the Project by good faith negotiations. If the City of Des Moines is unable to acquire properties needed for the Project by negotiation, the City of Des Moines will acquire those properties or property interests by condemnation.

Please give a copy of this notice to any owner, contract purchaser or tenant on your agricultural land not listed above and provide contact information for said owner, contract purchaser or tenant to the City of Des Moines contact person listed below.

4. CONTACT PERSON.

Emily Hovda has been designated by the City as the person to contact regarding the Project. Persons desiring further information regarding the Project or its impact on the agricultural properties identified above may contact Emily Hovda, by mail at the City of Des Moines, Engineering Department, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309, or by telephone at (515) 283-4933.