

Date April 22, 2019

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF WEST MARTIN LUTHER KING JR. PARKWAY FROM VACATED SOUTHWEST 4<sup>TH</sup> STREET TO SOUTHWEST 5<sup>TH</sup> STREET AND LEASE TO MIDWEST RADIO, INC. FOR \$500.00**

**WHEREAS**, on April 4, 2019, the City Plan and Zoning Commission voted to recommend approval of a request from MRI 1222, LLC, Rich Eychaner, Member, to vacate a portion of Elm Street, now known as West Martin Luther King Jr. Parkway right-of-way, located between vacated Southwest 4<sup>th</sup> Street and Southwest 5<sup>th</sup> Street and north of and adjoining 313 Southwest 5<sup>th</sup> Street, subject to the reservation of easements for all existing utilities and to approval of an administrative Site Plan for the redevelopment of the area prior to any conveyance of the property; and

**WHEREAS**, the City's Real Estate Division has negotiated a Lease Agreement with Midwest Radio, Inc., Rich Eychaner, President, for lease of the vacated West Martin Luther King Jr. Parkway right-of-way between vacated Southwest 4<sup>th</sup> Street and Southwest 5<sup>th</sup> Street (hereinafter "Leased Premises"), which Agreement will include, among other terms, a five-year lease term, a one-time rent payment of \$500.00, and additional consideration including the following:

- A) Remove the existing curb cut opening and access point from Southwest 5<sup>th</sup> Street that enters into the Leased Premises, and construct a curb and gutter section across said curb cut opening, in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement;
- B) Provide decorative plantings and other beautification efforts as a buffer between West Martin Luther King, Jr. Parkway and the Leased Premises, in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement;
- C) Provide a number of parking spaces on the Leased Premises in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement. Said parking spaces shall remain open to the general public 24 hours a day, 7 days a week, with free parking without validation for the first 30 minutes, and up to 2 hours of free parking with validation from customers and tenants of properties owned by Midwest Radio, Inc. or affiliated companies; and
- D) Eliminate and prohibit illegal off-street parking in the Leased Premises; and

**WHEREAS**, the rental payment combined with the additional consideration to be provided by the lessee reflects 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 for the portion of West Martin Luther King Jr. Parkway right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the portion of Elm Street, now known as West Martin Luther King Jr. Parkway right-of-way, located between vacated Southwest 4<sup>th</sup> Street and Southwest 5<sup>th</sup> Street and north of and adjoining 313 Southwest 5<sup>th</sup> Street, legally described as follows:

That part of West Martin Luther King Jr. Parkway right-of-way in the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of Lot 3 in Factory Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 15°(degrees) 23'(minutes) 14"(seconds) West, 46.50 feet along the northerly extension of SW 5<sup>th</sup> Street; thence North 42°23'29" East, 49.46 feet; thence North 79°58'30" East, 181.00 feet to the Northwest corner of that part of West Martin Luther King Jr. Parkway previously vacated by City of Des Moines Ordinance No. 15,409 and described in that Quit Claim Deed filed in Book 15920 at Page 736 in the Office of the Recorder for Polk County, Iowa; thence South 15°23'34" East, 54.40 feet along the West line of said previously vacated part of West Martin Luther King Jr. Parkway to the Northeast corner of Lot 54 in Railroad Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence South 74°12'41" West, 222.06 feet along the North lines of said Lot 54 in Railroad Addition and Lot 3 in Factory Addition to the point of Beginning.

Containing 13,933 square feet.

2. The City Council of the City of Des Moines, Iowa, further proposes to lease the vacated West Martin Luther King Jr. Parkway right-of-way, located between vacated Southwest 4<sup>th</sup> Street and Southwest 5<sup>th</sup> Street and north of and adjoining 313 Southwest 5<sup>th</sup> Street, as legally described and to the Lessee and for the consideration identified below, subject to reservation of easements therein:

Grantee: Midwest Radio, Inc.

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

Legal Description: That part of vacated West Martin Luther King Jr. Parkway right-of-way in the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of Lot 3 in Factory Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 15°(degrees) 23'(minutes) 14"(seconds) West, 46.50 feet along the northerly extension of SW 5<sup>th</sup> Street; thence North 42°23'29" East, 49.46 feet; thence North 79°58'30" East, 181.00 feet to the Northwest corner of that part of West Martin Luther King Jr. Parkway previously vacated by City of Des Moines Ordinance No. 15,409 and described in that Quit Claim Deed filed in Book 15920 at Page 736 in the Office of the Recorder for Polk County, Iowa; thence South 15°23'34" East, 54.40 feet along the West line of said previously vacated part of West Martin

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Luther King Jr. Parkway to the Northeast corner of Lot 54 in Railroad Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence South 74°12'41" West, 222.06 feet along the North lines of said Lot 54 in Railroad Addition and Lot 3 in Factory Addition to the point of Beginning.

Containing 13,933 square feet.

3. That the meeting of the City Council at which the adoption of said ordinance and the approval of such lease of the vacated right-of-way is to be considered shall be on May 6, 2019, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Glenna K. Frank, 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

