

Date August 17, 2020

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF EXCESS
PARKLAND LOCATED EAST OF AND ADJOINING 101 LOCUST STREET AND
CONVEYANCE TO THE UNITED STATES OF AMERICA, BY AND THROUGH THE
GENERAL SERVICES ADMINISTRATION, IN CONSIDERATION OF CONVEYANCE OF
A PERMANENT STORM SEWER EASEMENT WITHIN 101 LOCUST STREET**

WHEREAS, the City of Des Moines, Iowa is owner of an approximately 25-foot-wide by 270-foot-long strip of dedicated parkland located between the Principal Riverwalk and 101 Locust Street, Des Moines, Iowa (hereinafter “City Property”); and

WHEREAS, the United States of America, acting by and through the General Services Administration (“GSA”) is the owner of the property locally known as 101 Locust Street (hereinafter “GSA Property”) upon which it plans to construct a new federal courthouse; and

WHEREAS, on August 19, 2019 by Roll Call No. 19-1327, The City Council of the City of Des Moines approved a Memorandum of Agreement with GSA, which memorandum committed GSA to convey a 30-foot-wide storm sewer easement within the GSA Property to the City at no cost, in consideration of the City vacating and conveying the City Property, subject to the following conditions:

1. The City Property shall be open for public use during the hours that the Principal Riverwalk is open to the public.
2. The design and development of the Property to be conveyed shall take into consideration the comments and concerns of the City Manager.
3. Reservation of an easement within the City Property for all existing utilities in place until such time that they are abandoned or relocated at no cost to the City.
4. Reservation of a Permanent Access Easement over the City Property for all activities related to the purpose of the City constructing, reconstructing, repairing, enlarging, and maintaining, including snow storage, the adjoining Principal Riverwalk improvements.
5. The final terms of the offer to purchase, quit claim deed, and easement shall be subject to the review and approval of both the GSA and City legal departments.
6. The conveyance of the City Property and the acceptance of the easement are subject to City Council approval as well as all statutory requirements for the City to vacate and convey real estate.

WHEREAS, the City has no known current or anticipated public need for the City Property proposed to be vacated and conveyed, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated and the requirement that said City Property shall be open for public use during the hours that the Principal Riverwalk is open to the public; further subject to the reservation of a Permanent Access Easement, which will be included in the Quit Claim Deed from City to GSA, over the City Property for all activities related to the purpose of the City constructing, reconstructing, repairing, and maintaining the existing Riverwalk parkway adjoining the City Property, along with all the necessary appurtenances thereto, under, over, through and across said City Property; in consideration of GSA conveying to the City a 30-foot-wide storm sewer easement

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within the GSA Property; and the City will not be inconvenienced by the vacation and sale of said City Property.

WHEREAS, on August 3, 2020, by Roll Call No. 20-1213, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Property and acceptance of the Grant of Easement be set for hearing on August 17, 2020, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, and given Mayor Cownie's March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location; and

WHEREAS, due notice of said proposal was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal, including how to participate telephonically or electronically; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of approximately 25-foot-wide by 270-foot-long strip of dedicated parkland located between the Principal Riverwalk and 101 Locust Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the parkland proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said parkland, legally described as follows, and said vacation is hereby approved:

PARCEL 2019-110 BEING A TRACT OF LAND LOCATED IN A PART OF LOT 2, COLISEUM PLACE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA,

AND

THE VACATED ALLEY ADJACENT TO LOT 1, LOT 2, AND LOT 3 OF COLISEUM PLACE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK

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COUNTY, IOWA, EXCEPT THE NORTHERLY 7.00 FEET THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE N15°30'37"W, ALONG THE EAST LINE OF SAID LOT 1 AND SAID LOT 3, ALSO BEING THE WEST LINE OF SAID VACATED ALLEY, 270.24 FEET, TO THE SOUTH RIGHT-OF-WAY LINE OF GRAND AVENUE, AS PRESENTLY ESTABLISHED; THENCE N74°25'30"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 25.13 FEET; THENCE S15°38'49"E, 270.14 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF LOCUST STREET, ALSO BEING THE SOUTH LINE OF SAID LOT 2; THENCE S74°11'54"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, 25.77 FEET, TO THE POINT OF BEGINNING.

DESCRIBED TRACT CONTAINS 0.16 ACRES (6,877 SQUARE FEET).

3. The proposed sale of the portion of vacated parkland, legally described below, to the United States of America, acting by and through the General Services Administration, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; and further subject to the reservation of a Permanent Access Easement and the requirement that said City Property shall be open for public use during the hours that the Principal Riverwalk is open to the public, which will be included in the Quit Claim Deed from City to GSA, over the City Property for all activities related to the purpose of the City constructing, reconstructing, repairing, and maintaining the existing Riverwalk parkway adjoining the City Property, along with all the necessary appurtenances thereto, under, over, through and across said City Property, in consideration of the USA, acting by and through the GSA, conveying to the City of Des Moines a 30-foot-wide storm sewer easement within the GSA Property, is hereby approved:

PARCEL 2019-110 BEING A TRACT OF LAND LOCATED IN A PART OF LOT 2, COLISEUM PLACE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA,

AND

THE VACATED ALLEY ADJACENT TO LOT 1, LOT 2, AND LOT 3 OF COLISEUM PLACE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, EXCEPT THE NORTHERLY 7.00 FEET THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE N15°30'37"W, ALONG THE EAST LINE OF SAID LOT 1 AND SAID LOT 3, ALSO BEING THE WEST LINE OF SAID VACATED ALLEY, 270.24 FEET, TO THE SOUTH RIGHT-OF-WAY LINE OF GRAND AVENUE, AS PRESENTLY ESTABLISHED; THENCE N74°25'30"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 25.13 FEET; THENCE S15°38'49"E, 270.14 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF LOCUST STREET, ALSO BEING THE SOUTH LINE OF SAID LOT 2; THENCE S74°11'54"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, 25.77 FEET, TO THE POINT OF BEGINNING.

DESCRIBED TRACT CONTAINS 0.16 ACRES (6,877 SQUARE FEET).

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4. The proposed acceptance of the Grant of Easement from the United States of America, acting by and through the General Services Administration, is hereby approved.
5. The Mayor is authorized and directed to sign the Quit Claim Deed and the acceptance of the Grant of Easement for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
6. The City Clerk is authorized and directed to forward the original of the Quit Claim Deed and the Grant of Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and the Grant of Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and the Grant of Easement, and a copy of the other documents to the grantees. **(Council Communication No. 20-359)**

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/
Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. KAY CMELIK, 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