

Date August 23, 2021

HOLD HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF A PORTION OF EAST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY LOCATED BETWEEN EAST 15TH STREET AND EAST 18TH STREET AND TO CORRECT THE CONVEYANCE TO DES MOINES INDUSTRIAL, LLC FOR \$100

WHEREAS, on July 13, 2020, by Roll Call No. 20-1153, the City Council of the City of Des Moines voted to pass Ordinance No. 15,907 vacating a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street to allow for conveyance to Des Moines Industrial, LLC, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated; and

WHEREAS, by the same roll call, the City Council of the City of Des Moines approved conveyance of said vacated portion of East Martin Luther King, Jr. Parkway right-of-way to Des Moines Industrial for \$100, subject to the reservation of easements therein and further subject to the following conditions: (1) City reserves the right to repurchase the vacated right-of-way or a portion thereof in the future for \$1.00, if needed for the expansion of East M.L. King, Jr. Parkway, and City reserves an access easement over the vacated right-of-way for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway; and

WHEREAS, subsequent to passing Ordinance No. 15,907 an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinances, pass a new ordinance to vacate the properly described right-of-way, and issue a Quit Claim Deed.

WHEREAS, on August 9, 2021, by Roll Call No. 21-1217, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation and conveyance of the street right-of-way be set for hearing on August 23, 2021, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to repeal Ordinance No. 15,907 and to correct the vacation and conveyance of the street right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; 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 repeal of Ordinance No. 15,907 and the vacation and conveyance of a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, as described herein, are hereby overruled and the hearing is closed.

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2. The City Engineer and City Traffic Engineer have determined that there is no public need or benefit for the street right-of-way proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of the vacation of a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned, and said vacation is hereby approved:

A PORTION OF RIGHT OF WAY DEDICATION TRACT 1, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 16485, PAGE 889, IN THE OFFICE OF THE RECORDER, POLK COUNTY, IOWA, SAID PORTION BEING A PORTION OF LOTS 1 THRU 19, AND A PORTION OF VACATED RACCOON STREET ADJOINING LOTS 1 THRU 3, AND A PORTION OF VACATED SOUTHEAST 16TH STREET ADJOINING LOT 19, ALL IN COTTAGE ADDITION, AND A PORTION OF LOT 2, 3, 6 AND A PORTION OF THE VACATED NORTH/SOUTH ALLEY ADJOINING LOT 2, 3, AND 6, AND A PORTION OF THE VACATED RAILROAD, ALL IN CHOICE ADDITION TO DES MOINES, IOWA, AND A PORTION OF LOTS 34, 35, AND 36, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AND A PORTION OF LOT 38, CAPITAL ADDITION, AND A PORTION OF FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD, ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF EAST MARTIN LUTHER KING JR PARKWAY AND SOUTHEAST 15TH STREET; THENCE NORTH 83°(DEGREES) 07'(MINUTES) 17"(SECONDS) EAST, 508.46 FEET ON THE NORTHERLY RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING PARKWAY; THENCE 614.07 FEET ON A 5115.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 86°33'39" EAST, 613.71 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE NORTH 90°00'00" EAST, 775.21 FEET ON SAID NORTH RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°02'05" WEST, 58.83 FEET; THENCE NORTH 90°00'00" WEST, 671.03 FEET; THENCE 887.57 FEET ON A 7527.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 86°37'19" WEST, 887.06 FEET; THENCE SOUTH 88°49'59" WEST, 80.56 FEET; THENCE SOUTH 83°07'17" WEST, 180.15 FEET; THENCE NORTH 61°20'28" WEST, 41.62 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET; THENCE NORTH 00°03'46" EAST, 0.81 FEET ON SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING (72,704 SQUARE FEET) 1.67 ACRES, MORE OR LESS.

SUBJECT TO ALL EASEMENTS AND AGREEMENTS OF RECORD.

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, including but not limited to an easement for all storm sewers now in place, and further subject to the following conditions:

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1. City reserves the right to repurchase the vacated right-of-way or a portion thereof in the future for \$1.00, if needed for the expansion of East M.L. King, Jr. Parkway;
2. City reserves an access easement over the vacated right-of-way for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway;

and said conveyance is hereby approved:

Grantee: Des Moines Industrial, LLC

Consideration: \$100.00

Legal Description:

A PORTION OF RIGHT OF WAY DEDICATION TRACT 1, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 16485, PAGE 889, IN THE OFFICE OF THE RECORDER, POLK COUNTY, IOWA, SAID PORTION BEING A PORTION OF LOTS 1 THRU 19, AND A PORTION OF VACATED RACCOON STREET ADJOINING LOTS 1 THRU 3, AND A PORTION OF VACATED SOUTHEAST 16TH STREET ADJOINING LOT 19, ALL IN COTTAGE ADDITION; AND A PORTION OF LOT 2, 3, 6 AND A PORTION OF THE VACATED NORTH/SOUTH ALLEY ADJOINING LOT 2, 3, AND 6, AND A PORTION OF THE VACATED RAILROAD, ALL IN CHOICE ADDITION TO DES MOINES, IOWA; AND A PORTION OF LOTS 34, 35, AND 36, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES; AND A PORTION OF LOT 38, CAPITAL ADDITION; AND A PORTION OF FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD; ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF EAST MARTIN LUTHER KING JR PARKWAY AND SOUTHEAST 15TH STREET; THENCE NORTH 83°(DEGREES) 07'(MINUTES) 17"(SECONDS) EAST, 508.46 FEET ON THE NORTHERLY RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING PARKWAY; THENCE 614.07 FEET ON A 5115.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 86°33'39" EAST, 613.71 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE NORTH 90°00'00" EAST, 775.21 FEET ON SAID NORTH RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°02'05" WEST, 58.83 FEET; THENCE NORTH 90°00'00" WEST, 671.03 FEET; THENCE 887.57 FEET ON A 7527.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 86°37'19" WEST, 887.06 FEET; THENCE SOUTH 88°49'59" WEST, 80.56 FEET; THENCE SOUTH 83°07'17" WEST, 180.15 FEET; THENCE NORTH 61°20'28" WEST, 41.62 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET; THENCE NORTH 00°03'46" EAST, 0.81 FEET ON SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING (72,704 SQUARE FEET) 1.67 ACRES, MORE OR LESS.

SUBJECT TO ANY AND ALL EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
6. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, 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, 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 a copy of the other documents to the grantee.
9. Proceeds from this sale will be deposited into the Southeast Connector Project ST256, Org: C038EG99.

Date August 23, 2021

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

DM

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

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.

_____ Mayor

_____ City Clerk

