

Date March 7, 2022

**CONTINUED HEARING FOR VACATION OF A PORTION OF BIRDLAND
PARK AND CONVEYANCE TO DES MOINES METROPOLITAN
WASTEWATER RECLAMATION AUTHORITY (WRA) FOR THE WRA
BIRDLAND PUMP STATION REPLACEMENT PROJECT**

WHEREAS, the City of Des Moines is the owner of certain parkland located in Birdland Park, and lying south of and adjoining 1900 Saylor Road, Des Moines, Iowa (“Property”), upon which the City of Des (City) constructed a wastewater pump station and related conveyance facilities including a force main sanitary sewer and all related appurtenances thereto (collectively the “Improvements”); and

WHEREAS, the Des Moines Metropolitan Wastewater Reclamation Authority (“WRA”) is a legal entity created for the purpose of conveying and treating wastewater from seventeen regional communities, and the City of Des Moines is one of the seventeen member communities that is a party to the Second Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority dated June 6, 2014, with an effective date of July 1, 2004 (“Agreement”); and

WHEREAS, the WRA plans to construct a replacement pump station (“Replacement Pump Station”) near the location of the City’s existing Birdland Pump Station; and

WHEREAS, the Agreement stipulated that the WRA may request such real property interest(s) as it needs to accomplish its public purposes from any participating community in relation to the construction, use, operation, maintenance, or other purpose of any improvements; and

WHEREAS, the WRA has requested the property interests necessary to construct the replacement WRA Birdland Pump Station; and

WHEREAS, once the Replacement Pump Station is fully constructed and fully operational, the City’s Improvements will be transferred to the WRA by virtue of a Bill of Sale to the WRA; and

WHEREAS, there is no known current or future public need for the Property proposed to be conveyed and the City will not be inconvenienced by the vacation and conveyance of said Property to the WRA; and

WHEREAS, in accordance with Iowa Code 364.7(3), the City proposes to convey the Property, except the Improvements, to the WRA at no cost for the public purpose of the WRA replacing the City of Des Moines Birdland Pump Station and taking over ownership and management of the wastewater pump station and related conveyance facilities including a force main sanitary sewer, subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same, until such time as said

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utilities are abandoned or relocated, and further subject to the reservation of an access easement for the City to access its Improvements; and

WHEREAS, on February 7, 2022, by Roll Call No. 22-0172, it was duly resolved by the City Council that the proposed vacation and conveyance be set down for hearing on February 21, 2022, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, on February 21, 2022, by Roll Call No. 22-0259, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the hearing on the proposed vacation of a portion of Birdland Park located south of and adjoining 1900 Saylor Road, be continued, to March 7, 2022 at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa in order to allow additional time for further abstracting and to identify the title clearing actions required to perfect title to the Property; and

WHEREAS, due notice of said proposal to vacate and convey the portion of Birdland Park was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, the title certificate revealed a cloud on title over a portion of the Property which will require further City action to address and perfect; 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 a portion of Birdland Park, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of Birdland Park proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Birdland Park located south of and adjoining 1900 Saylor Road, legally described as follows, subject to the reservation of easements therein, and said vacation is hereby approved:

THAT PART OF LOT 7 IN THOMPSON ESTATES, BEING A SUBDIVISION OF PART OF SECTIONS 26, 27, 28, 34, 35 & 36, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT DATED 1866 AND RECORDED IN BOOK A PAGE 192, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN GORDON PLACE, BEING A SUBDIVISION OF SAID SECTION 35, ACCORDING TO THE PLAT THEREOF RECORDED

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OCTOBER 20, 1925 IN BOOK I PAGE 185; THENCE SOUTH 89 DEGREES 49 MINUTES 03 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 1, 3.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE, SOUTH 89 DEGREES 49 MINUTES 03 SECONDS WEST, 124.49 FEET TO A MEANDER LINE OF THE DES MOINES RIVER; THENCE NORTH 38 DEGREES 15 MINUTES 05 SECONDS WEST ALONG SAID MEANDER LINE, 177.16 FEET; THENCE CONTINUING ALONG SAID MEANDER LINE, NORTH 68 DEGREES 48 MINUTES 18 SECONDS WEST, 29.21 FEET; THENCE NORTH 51 DEGREES 31 MINUTES 34 SECOND EAST, 125.75 FEET; THENCE NORTH 05 DEGREES 31 MINUTES 03 SECONDS EAST, 23.87 FEET; THENCE NORTH 32 DEGREES 24 MINUTES 42 SECONDS WEST, 50.07 FEET; THENCE NORTH 57 DEGREES 35 MINUTES 18 SECONDS EAST, 26.32 FEET TO THE WESTERLY LINE OF SAYLOR ROAD AS MONUMENTED AND OCCUPIED AND A NON-TANGENT CURVE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 593.00 FEET, A CHORD BEARING OF SOUTH 25 DEGREES 13 MINUTES 48 SECONDS EAST AND A CHORD LENGTH OF 58.33 FEET, FOR AN ARC LENGTH OF 58.35 FEET TO A POINT OF TANGENCY; THENCE SOUTH 28 DEGREES 02 MINUTES 56 SECONDS EAST ALONG SAID WESTERLY LINE OF SAYLOR ROAD, 225.65 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE BEING A CURVE TO THE LEFT, HAVING A RADIUS OF 523.00 FEET, A CHORD BEARING OF SOUTH 31 DEGREES 19 MINUTES 59 SECONDS EAST AND A CHORD LENGTH OF 59.93 FEET, FOR AN ARC LENGTH OF 59.96 FEET TO A POINT OF TANGENCY; THENCE SOUTH 34 DEGREES 37 MINUTES 02 SECONDS EAST ALONG SAID WESTERLY LINE, 5.54 FEET TO THE POINT OF BEGINNING, IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING 31,341 SQUARE FEET.

3. That the proposed conveyance by the City of Des Moines of the vacated parkland, as legally described below, except the Improvements, to the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), at no cost in accordance with Iowa Code Section 364.7(3) and in accordance with the Agreement, by quit claim deed for use in association with the WRA Birdland Pump Station Project, subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same, until such time as said utilities are abandoned or relocated, and further subject to the reservation of an access easement for the City to access its Improvements, be and is hereby approved:

THAT PART OF LOT 7 IN THOMPSON ESTATES, BEING A SUBDIVISION OF PART OF SECTIONS 26, 27, 28, 34, 35 & 36, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT DATED 1866 AND RECORDED IN BOOK A PAGE 192, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN GORDON PLACE, BEING A SUBDIVISION OF SAID SECTION 35, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 20, 1925 IN BOOK I PAGE 185; THENCE SOUTH 89 DEGREES 49 MINUTES 03 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 1, 3.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE, SOUTH 89

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DEGREES 49 MINUTES 03 SECONDS WEST, 124.49 FEET TO A MEANDER LINE OF THE DES MOINES RIVER; THENCE NORTH 38 DEGREES 15 MINUTES 05 SECONDS WEST ALONG SAID MEANDER LINE, 177.16 FEET; THENCE CONTINUING ALONG SAID MEANDER LINE, NORTH 68 DEGREES 48 MINUTES 18 SECONDS WEST, 29.21 FEET; THENCE NORTH 51 DEGREES 31 MINUTES 34 SECOND EAST, 125.75 FEET; THENCE NORTH 05 DEGREES 31 MINUTES 03 SECONDS EAST, 23.87 FEET; THENCE NORTH 32 DEGREES 24 MINUTES 42 SECONDS WEST, 50.07 FEET; THENCE NORTH 57 DEGREES 35 MINUTES 18 SECONDS EAST, 26.32 FEET TO THE WESTERLY LINE OF SAYLOR ROAD AS MONUMENTED AND OCCUPIED AND A NON-TANGENT CURVE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 593.00 FEET, A CHORD BEARING OF SOUTH 25 DEGREES 13 MINUTES 48 SECONDS EAST AND A CHORD LENGTH OF 58.33 FEET, FOR AN ARC LENGTH OF 58.35 FEET TO A POINT OF TANGENCY; THENCE SOUTH 28 DEGREES 02 MINUTES 56 SECONDS EAST ALONG SAID WESTERLY LINE OF SAYLOR ROAD, 225.65 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE BEING A CURVE TO THE LEFT, HAVING A RADIUS OF 523.00 FEET, A CHORD BEARING OF SOUTH 31 DEGREES 19 MINUTES 59 SECONDS EAST AND A CHORD LENGTH OF 59.93 FEET, FOR AN ARC LENGTH OF 59.96 FEET TO A POINT OF TANGENCY; THENCE SOUTH 34 DEGREES 37 MINUTES 02 SECONDS EAST ALONG SAID WESTERLY LINE, 5.54 FEET TO THE POINT OF BEGINNING, IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING 31,341 SQUARE FEET.

4. Once the Replacement Pump Station is fully constructed and fully operational and transfer of the exiting Birdland Pump Station to the Birdland Pump Station Replacement, and the City has obtained marketable title to the property, the Mayor is authorized and directed to sign the Quit Claim Deed Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and is further authorized and directed to sign the Bill of Sale for the Improvements, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward this Deed and Bill of Sale, 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and Bill of Sale, 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.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and Bill of Sale and copies of the other documents to the WRA.

★ Roll Call Number

Agenda Item Number

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(Council Communication No. 22-101)

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

Done

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
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

