



Roll Call Number

18-1104

Agenda Item Number

51

Date June 25, 2018

**HOLD HEARING FOR VACATION OF A PORTION OF EAST MARTIN LUTHER KING, JR. PARKWAY AND THE NORTH-SOUTH ALLEY RIGHT-OF-WAY ADJOINING 410 SOUTHEAST 6<sup>TH</sup> STREET, AND CONVEYANCE OF SAID VACATED RIGHT-OF-WAY AND OTHER EXCESS CITY-OWNED PROPERTY ADJOINING 400 SOUTHEAST 6<sup>TH</sup> STREET, TO 400 SOUTHEAST 6<sup>TH</sup> STREET, LLC FOR \$102,136.00**

**WHEREAS**, the City of Des Moines, Iowa, (“City”) is the owner of certain real estate located at the northwest corner of East Martin Luther King, Jr. Parkway and Southeast 6<sup>th</sup> Street, consisting of East Martin Luther King, Jr. Parkway right-of-way, north-south alley right-of-way and excess City property locally known as 410 Southeast 6<sup>th</sup> Street, Des Moines, Iowa (collectively hereinafter “Property”), more particularly described below; and

**WHEREAS**, on May 21, 2018, the City Council of the City of Des Moines received a recommendation from the City Plan and Zoning Commission to approve the vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5<sup>th</sup> Street and 400 Southeast 6<sup>th</sup> Street, to allow development of additional off-street parking for adjoining restaurant uses, subject to the following:

- Any necessary easements for all existing utilities in place shall be provided until such time they are abandoned or are relocated.
- Any off-street parking lot constructed on the property shall be set back at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
- Any conveyance shall be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property;

And;

**WHEREAS**, 400 SE 6<sup>th</sup> Street, LLC, owner of the adjoining property at 400 Southeast 6<sup>th</sup> Street and at 401 Southeast 5<sup>th</sup> Street has offered to the City of Des Moines, Iowa, the purchase price of \$102,136.00 for the purchase of said Property in order to incorporate it into the adjoining properties for development of additional off-street parking in the short-term, subject to the reservation of a permanent easement for utility corridor, and subject to the terms contained in the Offer to Purchase, including a no-build restriction; which price reflects the restricted fair market value of said Property as determined by an independent appraisal; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be vacated and/or sold, and the City will not be inconvenienced by the vacation and/or sale of said Property; and



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**WHEREAS**, on June 11, 2018, by Roll Call No. 18-0985, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set down for hearing on June 25, 2018, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5<sup>th</sup> Street and 400 Southeast 6<sup>th</sup> Street, and convey said vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6<sup>th</sup> Street, was given to all necessary parties 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5<sup>th</sup> Street and 400 Southeast 6<sup>th</sup> Street, and conveyance of said vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6<sup>th</sup> Street, as described below, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the City right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5<sup>th</sup> Street and 400 Southeast 6<sup>th</sup> Street, Des Moines, Iowa, as legally described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, subject to the reservation of a permanent easement for utility corridor, and subject to a no-build easement, and said vacation is hereby approved:

Part of Lots 3 and 8 and part of the alley lying westerly of and adjoining Lots 8, 9, and 10, all in Block 43 of TOWN OF DEMOINE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 3 in Block 43; thence North 74°(degrees) 56'(minutes) 59"(seconds) East, 150.17 feet along the North line of said Lot 3 to the Northeast corner of said Lot 3; thence North 15°00'36" West, 111.94 feet along the East lines of Lots 2 and 1 in said Block 43 to the Northeast corner of said Lot 1 on the South right-of-way line of



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Raccoon Street; thence North 74°58'50" East, 18.00 feet along the South right-of-way line of Raccoon Street to the Northwest corner of Lot 10 in said Block 43; thence South 15°00'36" East, 111.93 feet along the West lines of Lots 10 and 9 in said Block 43 to the Northwest corner of said Lot 8 in Block 43; thence North 74°56'59" East, 121.62 feet along the North line of said Lot 8; thence southwesterly 44.05 feet along the arc of a non-tangent curve concave southeasterly and having a radius of 84.00 feet, a central angle of 30°02'42" and a 43.55 feet long chord that bears South 34°42'51" West; thence southwesterly 18.27 feet along a non-tangent curve concave southeasterly and having a radius of 45.00 feet, a central angle of 23°16'00" and a 18.15 feet long chord that bears South 52°23'16" West; thence southwesterly 16.72 feet along the arc of a curve concave northwesterly and having a radius of 28.00 feet, a central angle of 34°13'20" and a 16.48 feet long chord that bears South 57°51'56" West; thence South 74°58'37" West, 224.16 feet to the West line of said Lot 3; thence North 14°53'04" West, 39.82 feet along the West line of said Lot 3 to the point of beginning.

Containing 12,458 square feet (0.29 acres).

3. The proposed sale of such vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6<sup>th</sup> Street, as legally described below, to 400 SE 6<sup>th</sup> Street, LLC for \$102,136.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, subject to a permanent easement for utility corridor, and further subject to the development requirements set forth in the Offer to Purchase including a no-build restriction, is hereby approved:

Part of Lots 3, 8, 9, and 10 and part of the vacated alley lying westerly of and adjoining said Lots 8, 9, and 10, all in Block 43 of TOWN OF DEMOINE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 3 in Block 43; thence North 74°(degrees) 56'(minutes) 59"(seconds) East, 150.17 feet along the North line of said Lot 3 to the Northeast corner of said Lot 3; thence North 15°00'36" West, 111.94 feet along the East lines of Lots 2 and 1 in said Block 43 to the Northeast corner of said Lot 1 on the South right-of-way line of Raccoon Street; thence North 74°58'50" East, 93.00 feet along the South right-of-way line of Raccoon Street to the Northwest corner of the East Half of the North 47 feet of said Lot 10 in Block 43; thence South 15°02'00" East, 46.95 feet along the West line of the East Half of the North 47 feet of said Lot 10 to the Southwest corner of the East Half of the North 47 feet of said Lot 10; thence North 74°56'27" East, 75.00 feet along the South line of the East Half of the North 47 feet of said Lot 10 to the East line of said Lot 10; thence South 15°00'45" East, 51.57 feet along the East lines of said Lots 10 and 9 in Block 43; thence South 49°44'12" West, 31.40 feet; thence southwesterly 44.05 feet along the arc of a curve concave southeasterly and



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having a radius of 84.00 feet, a central angle of 30°02'42" and a 43.55 feet long chord that bears South 34°42'51" West; thence southwesterly 18.27 feet along a non-tangent curve concave southeasterly and having a radius of 45.00 feet, a central angle of 23°16'00" and a 18.15 feet long chord that bears South 52°23'16" West; thence southwesterly 16.72 feet along the arc of a curve concave northwesterly and having a radius of 28.00 feet, a central angle of 34°13'20" and a 16.48 feet long chord that bears South 57°51'56" West; thence South 74°58'37" West, 224.16 feet to the West line of said Lot 3; thence North 14°53'04" West, 39.82 feet along the West line of said Lot 3 to the point of beginning.

Containing 25,534 square feet (0.59 acres)

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed and Reservation of Easements for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. 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 and Reservation of Easements, 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 document to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and Reservation of Easements, 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 the document to be recorded.
7. Upon receipt of the recorded document back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and Reservation of Easements and copies of the other documents to the grantee.
8. The ML King, Jr. Pkwy project encumbered proceeds from this sale (\$94,076.00) will be deposited into the Fed Title 23 Land Sales Account, ST500.
9. The non-project related land sale proceeds from this sale (\$8,060.00) will be used to support general operating budget expenses: Org – EG064090.



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(Council Communication No. 18-336)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

[Signature of Lisa A. Wieland]

Lisa A. Wieland, Assistant City Attorney

RW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED

T. M. Franklin 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.

[Signature of Diane Rauh] City Clerk