

Date May 6, 2019

**HOLD 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 until May 31, 2024, with one five-year renewal period from June 1, 2024 to May 31, 2029, a one-time rent payment of \$500.00 and additional one-time renewal payment of \$500.00 if applicable, 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; notwithstanding the above, such terms are not required to be in effect during baseball games at Principal Park, nor during special events in downtown Des Moines which events may not be excessive; 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; and



**Roll Call Number**

19-0743

**Agenda Item Number**

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**Date** May 6, 2019

**WHEREAS**, on April 22, 2019, by Roll Call No. 19-0628, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of the portion of 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, north of and adjoining 313 Southwest 5<sup>th</sup> Street, be set for hearing on May 6, 2019, 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 vacate and lease said portion of West Martin Luther King, Jr. Parkway right-of-way 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 lease, 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 lease of a portion of 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, north of and adjoining 313 Southwest 5<sup>th</sup> Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of West Martin Luther King, Jr. Parkway right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of 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, legally described as follows, and said vacation is hereby approved:

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.



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Containing 13,933 square feet.

3. The proposed lease of such vacated West Martin Luther King, Jr. Parkway right-of-way, as legally described above, to Midwest Radio, Inc. for a one-time payment of \$500.00 and additional consideration described above and in the Lease Agreement, subject to any and all easements, restrictions and covenants of record, is hereby approved.

4. The Mayor is authorized and directed to sign the Lease Agreement 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 costs, the City Clerk is authorized and directed to forward the original of the Lease Agreement, 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.

6. That the Real Estate Division Manager of the Engineering Department is hereby authorized, directed, and designated to act on behalf of the City to administer and enforce the terms of the Lease Agreement, and is further authorized and directed to approve and execute any non-substantive amendments to the Lease Agreement following approval as to form by the City Legal Department, and is further directed to return any substantive amendments to this Council for approval.

7. Non-project related land sale and lease proceeds are used to support general operating budget expenses: Org - EG064090.

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

RW

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

J. M. Franken Cownie 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.

Diane Rauh City Clerk