



**Roll Call Number**

19-1541

**Agenda Item Number**

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**Date** September 23, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE EAST-WEST ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING 901 WALNUT STREET AND LEASE TO DES MOINES COMMUNITY SCHOOL DISTRICT**

**WHEREAS**, on July 15, 2019, by Roll Call No. 19-1096, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission of a request from Des Moines Public Schools to vacate a segment of east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street, to allow for placement of access control gates, subject to the reservation of easements for all existing utilities, and that all parcels in the vicinity owned by the applicant must be combined and recorded with Polk County; and

**WHEREAS**, the City's Real Estate Division has negotiated a Lease Agreement with Des Moines Independent Community School District, aka Des Moines Public Schools (hereinafter "Lessee"), for lease of the vacated east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street (hereinafter "Leased Premises"), which Agreement will include, among other terms, a twenty-year lease term, no consideration in accordance with Iowa Code 364.7(3), and additional consideration including the following:

- A) All ongoing maintenance and repair of the Leased Premises including snow and ice removal, surface repairs and re-paving as needed, as determined by the CITY; and

**WHEREAS**, Lessee has already combined all parcels owned by Lessee in the vicinity, thereby satisfying the second condition from the City's Planning and Zoning Commission; and

**WHEREAS**, there is no known current or future public need for the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property; and

**WHEREAS**, on September 9, 2019, by Roll Call No. 19-1396, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street, be set for hearing on September 23, 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 east-west alley 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:



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and lease of the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<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 east-west alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street, legally described as follows, and said vacation is hereby approved:

ALL OF THE EAST/WEST ALLEY IN BLOCK 5, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.11 ACRES (4,660 SQUARE FEET).

3. The proposed lease of such vacated east-west alley right-of-way, as legally described above, to Des Moines Independent Community School District, for no consideration in accordance with Iowa Code 364.7(3), 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. 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. There are no proceeds associated with this conveyance.



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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

*Miss A Wieland*

Miss A Wieland, Assistant City Attorney

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

MOTION CARRIED

APPROVED

*J. M. Franklin 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