

24-0269

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Date February 19, 2024

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR THE VACATION OF A PORTION OF THE DES MOINES MASONIC CEMETERY, LOCATED SOUTHWEST AND INTERIOR TO THE INTERSECTION OF 48TH STREET AND FRANKLIN AVENUE, AND CONVEYANCE TO CHILDSERVE HABILITATION CENTER, INC. FOR THE PURCHASE PRICE FOR \$600,000.00.

WHEREAS, the City of Des Moines owns numerous municipal cemeteries which are operated by the Park and Recreation Department; and

WHEREAS, on March 10, 2023, the Des Moines Masonic Cemetery Association Board of Directors passed a resolution to transfer ownership and control of the Des Moines Masonic Cemetery, located at 1550 48th Street in Des Moines, and all remaining funds in the Des Moines Masonic Cemetery operating account, after all payment of all outstanding costs and expenses, and all operations and business records and intangibles, to the City of Des Moines: and

WHEREAS, on July 17, 2023, by Roll Call No. 23-0982, the City Council approved an asset purchase agreement and offer to purchase for the transfer of ownership and control of the Des Moines Masonic Cemetery from the Des Moines Masonic Cemetery Association to the City of Des Moines, Iowa, pursuant to Deed filed and recorded in the Polk County Recorder's office on January 31, 2024, in Book 19708, Page 520, and further dedicated said property as parkland; and

WHEREAS, the City of Des Moines has received an offer from ChildServe Habilitation Center, Inc., for \$600,000.00, to acquire approximately five (5) acres of the recently acquired 40 acres transferred from the Des Moines Masonic Cemetery Association to the City of Des Moines; and

WHEREAS, there is no known current or future public need for the cemetery land proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on February 5, 2024, by Roll Call No. 24-0179, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Cemetery parkland be set for hearing on February 19, 2024, 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 convey the cemetery parkland 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:

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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 conveyance of cemetery land, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the cemetery land proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the property as parkland, legally described as follows, and said vacation is hereby approved:

PARCEL 2023-203

AN IRREGULAR SHAPED PORTION OF LOT 6 AND LOT 11 IN FRANKLIN PLAZA, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N89°50'49"W ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 131.60 FEET; THENCE N00°35'37"E, A DISTANCE OF 88.00 FEET; THENCE N89°50'49"W, A DISTANCE OF 509.62 FEET; THENCE N00°15'57"W, A DISTANCE OF 327.03 FEET TO THE NORTH LINE OF SAID LOT 11; THENCE S89°33'55"E ALONG THE NORTH LINE OF SAID LOT 11, A DISTANCE OF 80.87 FEET TO THE SOUTHWEST CORNER OF LOT 10 IN SAID FRANKLIN PLAZA; THENCE S89°43'25"E ALONG THE SOUTH LINE OF LOTS 10 AND 9 IN SAID FRANKLIN PLAZA, A DISTANCE OF 227.96 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N89°57'30"E ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 329.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE S00°33'08"E ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 415.29 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 5.05 ACRES 220,085 SQUARE FEET)

3. The proposed sale of such vacated cemetery land, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: ChildServe Habilitation Center, Inc.

Consideration: \$600,000.00

Legal Description:

PARCEL 2023-203

AN IRREGULAR SHAPED PORTION OF LOT 6 AND LOT 11 IN FRANKLIN PLAZA, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N89°50'49"W ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 131.60 FEET; THENCE N00°35'37"E, A DISTANCE OF 88.00 FEET; THENCE N89°50'49"W, A DISTANCE OF



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509.62 FEET; THENCE N00°15'57"W, A DISTANCE OF 327.03 FEET TO THE NORTH LINE OF SAID LOT 11; THENCE S89°33'55"E ALONG THE NORTH LINE OF SAID LOT 11, A DISTANCE OF 80.87 FEET TO THE SOUTHWEST CORNER OF LOT 10 IN SAID FRANKLIN PLAZA; THENCE S89°43'25"E ALONG THE SOUTH LINE OF LOTS 10 AND 9 IN SAID FRANKLIN PLAZA, A DISTANCE OF 227.96 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N89°57'30"E ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 329.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE S00°33'08"E ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 415.29 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 5.05 ACRES 220,085 SQUARE FEET)

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 is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
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, 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, 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 Quit Claim Deed and a copy of the other documents to the grantee.
8. Sale proceeds are to be used to support cemetery infrastructure and improvements funds: PK138.



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(Council Communication No. 24-082)

Moved by Coleman to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno

Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	6			

MOTION CARRIED

APPROVED

Connie Boeser Mayor

CERTIFICATE

I, Laura Baumgartner, 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.

Laura Baumgartner
Laura Baumgartner, City Clerk