



HOLD HEARING FOR VACATION OF PORTIONS OF EAST 37TH STREET, EAST 38TH STREET, EAST JEFFERSON AVENUE AND WILLIAMS STREET RIGHT-OF-WAY LOCATED IN THE FOURMILE CREEK FLOODPLAIN AND CONVEYANCE TO POLK COUNTY CONSERVATION BOARD FOR THE LOWER FOURMILE CREEK GREENWAY PROJECT

WHEREAS, on July 15, 2019, by Roll Call No. 19-1121, the City Council of the City of Des Moines, Iowa ("City") approved the Lower Fourmile Creek Greenway Management and Maintenance Chapter 28E Agreement ("28E Agreement") between the City of Des Moines and the Polk County Conservation Board ("PCCB"); and

WHEREAS, the 28E Agreement provides for the transfer of certain lands from the City to Polk County to be managed by PCCB in accordance with the Lower Fourmile Creek Greenway Master Plan; and

WHEREAS, on July 14, 2025, by Roll Call No. 25-0972, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a City initiated request to vacate the following segments of public street in the vicinity of East 37th Street, Mattern Avenue and East Jefferson Avenue ("Property") to allow for the removal of the roadways and the restoration of the areas for incorporation into the Lower Fourmile Creek Greenway:

- East 37th Street north of Easton Boulevard;
- East 38th Street between East Mattern Avenue and East Jefferson Avenue;
- East Jefferson Avenue east of East 38th Street; and
- Williams Street south of East Jefferson Avenue;

subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the Polk County Conservation Board's expense; and

WHEREAS, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to vacate and convey the Property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Lower Fourmile Creek Greenway Project, subject to the following conditions:

- a) 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.
- b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail.
- c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
- d) Compliance with the Lower Fourmile Creek Greenway Master Plan.



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

WHEREAS, on August 4, 2025, by Roll Call No. ~~25-1044~~, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on August 18, 2025, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey the street 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 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 street right-of-way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of East 37th Street north of Easton Boulevard, East 38th Street between East Mattern Avenue and East Jefferson Avenue, East Jefferson Avenue east of East 38th Street, and Williams Street south of East Jefferson Avenue, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

PART OF EAST 37TH STREET BETWEEN LOT 808 AND EASTON BOULEVARD

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO A LINE PROJECTED SOUTHWESTERLY FROM A LINE DESCRIBED AS GOING FROM A POINT ON THE EAST LINE OF LOT 793 IN SAID FOUR MILE THAT IS 19.11 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 793 TO A POINT ON THE WEST LINE OF SAID LOT 793 THAT IS 24.08 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 793, SAID WEST LINE OF SAID LOT 793 ALSO BEING THE EAST LINE OF SAID LOT L; THENCE SOUTHWESTERLY ALONG SAID PROJECTED LINE TO THE WEST



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LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808; THENCE EAST ALONG SAID WESTERLY EXTENSION TO THE SOUTHWEST CORNER OF SAID LOT 808 AND TO THE POINT OF BEGINNING. SAID AREA CONTAINING APPROXIMATELY 33,112 SQUARE FEET.

AND

PART OF EAST 37TH STREET BETWEEN LOTS 808 AND 813, FOUR MILE

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 813 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808 TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 813; THENCE EAST ALONG THE WESTERLY EXTENSION OF SAID LOT 813 TO THE SOUTHWEST CORNER OF SAID LOT 813 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 10,000 SQUARE FEET.

AND

PART OF EAST 38TH STREET AND PART OF EAST JEFFERSON AVENUE

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 32, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., AND A PART OF LOTS N AND P IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 423 IN SAID ELMWOOD PARK; THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 423 TO THE SOUTH LINE OF SAID LOT N; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT N AND ALONG THE SOUTH LINE OF SAID LOT P TO THE WEST LINE OF SAID LOT P; THENCE CONTINUING EAST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT P, A DISTANCE OF 25 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOT P TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 402 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 402 TO THE WEST LINE OF SAID LOT 402; THENCE SOUTH ALONG THE WEST LINE OF LOTS 402 AND 403 IN SAID ELMWOOD PARK TO THE NORTH LINE OF SAID LOT N; THENCE EAST ALONG THE NORTH LINE OF SAID LOT N TO THE SOUTHEAST CORNER OF



SAID LOT 423 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 32,435 SQUARE FEET.

AND

PART OF WILLIAMS STREET

ALL THAT PART OF LOT M, AND LOTS 98 THROUGH 100 IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 126 IN SAID ELMWOOD PARK, SAID CORNER BEING ON THE WEST LINE OF SAID LOT M; THENCE NORTH ALONG SAID WEST LINE TO THE NORTHEAST CORNER OF LOT 117 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 117 TO THE EAST LINE OF SAID LOT M; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF SAID LOT 100; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 100, A DISTANCE OF 53.4 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 98; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF SAID LOT 126 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 8,073 SQUARE FEET.

3. The proposed conveyance of such vacated street right-of-way, as legally described below, to Polk County, Iowa for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, subject to the following conditions:

- a) 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;
- b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail.
- c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization;
- d) Compliance with the Lower Fourmile Creek Greenway Master Plan;

and said conveyance is hereby approved:

VACATED EAST 37TH STREET BETWEEN LOT 808 AND EASTON BOULEVARD

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE



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SOUTH ALONG SAID EAST LINE TO A LINE PROJECTED SOUTHWESTERLY FROM A LINE DESCRIBED AS GOING FROM A POINT ON THE EAST LINE OF LOT 793 IN SAID FOUR MILE THAT IS 19.11 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 793 TO A POINT ON THE WEST LINE OF SAID LOT 793 THAT IS 24.08 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 793, SAID WEST LINE OF SAID LOT 793 ALSO BEING THE EAST LINE OF SAID LOT L; THENCE SOUTHWESTERLY ALONG SAID PROJECTED LINE TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808; THENCE EAST ALONG SAID WESTERLY EXTENSION TO THE SOUTHWEST CORNER OF SAID LOT 808 AND TO THE POINT OF BEGINNING. SAID AREA CONTAINING APPROXIMATELY 33,112 SQUARE FEET.

AND

VACATED EAST 37TH STREET BETWEEN LOTS 808 AND 813, FOUR MILE

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AND

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BEGINNING AT THE SOUTHEAST CORNER OF LOT 423 IN SAID ELMWOOD PARK; THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 423 TO THE SOUTH LINE OF SAID LOT N; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT N AND ALONG THE SOUTH LINE OF SAID LOT P TO THE WEST LINE OF SAID LOT P; THENCE CONTINUING EAST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT P, A



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DISTANCE OF 25 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOT P TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 402 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 402 TO THE WEST LINE OF SAID LOT 402; THENCE SOUTH ALONG THE WEST LINE OF LOTS 402 AND 403 IN SAID ELMWOOD PARK TO THE NORTH LINE OF SAID LOT N; THENCE EAST ALONG THE NORTH LINE OF SAID LOT N TO THE SOUTHEAST CORNER OF SAID LOT 423 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 32,435 SQUARE FEET.

AND

VACATED WILLIAMS STREET

ALL THAT PART OF LOT M, AND LOTS 98 THROUGH 100 IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 126 IN SAID ELMWOOD PARK, SAID CORNER BEING ON THE WEST LINE OF SAID LOT M; THENCE NORTH ALONG SAID WEST LINE TO THE NORTHEAST CORNER OF LOT 117 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 117 TO THE EAST LINE OF SAID LOT M; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF SAID LOT 100; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 100, A DISTANCE OF 53.4 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 98; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF SAID LOT 126 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 8,073 SQUARE FEET.

4. The Mayor is authorized and directed to sign the 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 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.



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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. There will be no proceeds associated with the conveyance of this property.

Moved by Westergaard to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO				✓
TOTAL	6			1

MOTION CARRIED

APPROVED

Connie Boesen 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 City Clerk