

★ Roll Call Number

25-0306

Agenda Item Number

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Date March 10, 2025

**HOLD HEARING FOR APPROVAL OF CONVEYANCE OF FLOOD PROTECTION
LEVEE EASEMENTS FOR RELOCATION OF A PORTION OF THE SOUTHEAST
DES MOINES LEVEE SYSTEM, AS REQUIRED BY THE SOUTHEAST CONNECTOR -
SE 30TH STREET TO U.S. HIGHWAY 65 PROJECT, TO THE UNITED STATES OF
AMERICA, ACTING BY AND THROUGH THE SECRETARY OF THE ARMY.**

WHEREAS, on June 8, 2020, by Roll Call No. 20-0956, the City Council of the City of Des Moines, Iowa authorized acquisition of the necessary property interests, including agricultural land, for the Southeast Connector – SE 30th Street to U.S. Highway 65 Project (“Project”) by gift, negotiation, or eminent domain; and

WHEREAS, as part of the Project, a portion of the Southeast Des Moines Levee System (“Levee”) will be relocated; and

WHEREAS, the City acquired Permanent Easements for Flood Protection Levee (“Easements”) for relocation of the Levee from two property owners as part of the Project. The City’s interest in these Easements need to be quit claimed to the United States of America, acting by and through the Secretary of the Army for no consideration in accordance with Iowa Code Section 364.7(3) for the public purpose of relocation of a portion of the Levee, subject to reservation of the rights to allow the City access to construct the Project which reservation shall terminate upon the acceptance of the Project as complete by the City Council; and

WHEREAS, a portion of the relocated Levee is located on City-owned property located east of SE 42nd Street, and will require the City to convey a Permanent Easement for Flood Protection Levee to the United States of America, acting by and through the Secretary of the Army for no consideration in accordance with Iowa Code Section 364.7(3) for the public purpose of relocation of a portion of the Levee, subject to reservation of the rights to allow the City access to construct the Project, which reservation shall terminate upon the acceptance of the Project as complete by the City; and

WHEREAS, there is no known current or future public need or benefit for the City Property proposed to be conveyed, and the City will not be inconvenienced by the conveyance of said Easements; and

WHEREAS, on February 24, 2025, by Roll Call No. 25-0261, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on March 10, 2025, 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 convey the Easements was given as provided by law, setting forth the time and place for hearing on said proposal; and

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WHEREAS, in accordance with City Council direction, those interested in the proposed 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 conveyance by Quit Claim of two Permanent Easements for Flood Protection Levee acquired by the City for the for the public purpose of relocation of a portion of the Southeast Des Moines Levee System for the Southeast Connector – SE 30th Street to U.S. Highway 65 Project to the United States of America, acting by and through the Secretary of the Army for no consideration in accordance with Iowa Code Section 364.7(3), legally described as follows,, subject to reservation of the rights to allow the City access to construct the Project which reservation shall terminate upon the acceptance of the Project as complete by the City, are hereby overruled:

PERMANENT EASEMENT FOR FLOOD PROTECTION LEVEE recorded in the Office of the Polk County Recorder at Book 19294, Page 108.

A PORTION OF LOT 13 OF THE OFFICIAL PLAT OF THE SW 1/4 AND THE S 1/2 OF THE NW 1/4 AND THE W 1/2 OF THE E 1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1484.35 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE NORTHERLY RIGHT OF WAY LINE OF THE VACATED WABASH RAILWAY; THENCE NORTH 80°44'31" WEST, 1017.76 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE 323.00 FEET ON A 5679.58 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 79°06'00" WEST, 322.96 FEET ON SAID NORTHERLY RIGHT OF WAY LINE TO THE WEST LINE OF THE EAST 80 RODS OF SAID LOT 13 AND THE POINT OF BEGINNING; THENCE 91.65 FEET ON A 5679.58 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 77°00'31" WEST, 91.65 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE SOUTH 89°00'21" EAST, 89.20 FEET TO THE WEST LINE OF THE WEST 80 RODS OF LOT 13; THENCE SOUTH 00°21'19" EAST, 19.06 FEET ON SAID WEST LINE TO THE POINT OF BEGINNING, CONTAINING (861 SQUARE FEET), 0.02 ACRES, MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

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AND

PERMANENT EASEMENT FOR FLOOD PROTECTION LEVEE recorded in the Office of the Polk County Recorder in Book 20048, Page 196.

A PORTION OF LOT 13 OF THE OFFICIAL PLAT OF THE SW 1/4 AND THE S 1/2 OF THE NW 1/4 AND THE W 1/2 OF THE E 1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1484.35 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE NORTHERLY RIGHT OF WAY LINE OF THE VACATED WABASH RAILWAY; THENCE NORTH 80°44'44" WEST, 910.41 FEET ON SAID NORTHERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 80°44'44" WEST, 107.12 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE 323.00 FEET ON A 5679.58 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 79°06'00" WEST, 322.96 FEET ON SAID NORTHERLY LINE TO THE WEST LINE OF THE EAST 80 RODS OF SAID LOT 13; THENCE NORTH 00°21'19" WEST, 19.06 FEET ON SAID WEST LINE; THENCE SOUTH 89°00'21" EAST, 998.80 FEET; THENCE SOUTH 01°01'06" WEST, 90.00 FEET; THENCE NORTH 89°00'21" WEST, 574.16 FEET TO THE POINT OF BEGINNING, CONTAINING (75,799 SQUARE FEET), 1.74 ACRES, MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

AND

A PORTION OF LOT 13 AND 19 OF THE OFFICIAL PLAT OF THE SW 1/4 AND THE S 1/2 OF THE NW 1/4 AND THE W 1/2 OF THE E 1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1615.18 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE POINT OF BEGINNING; THENCE NORTH 89°00'21" WEST, 229.72 FEET; THENCE NORTH 01°01'06" EAST, 90.00 FEET; THENCE SOUTH 89°00'21" EAST, 826.99 FEET; THENCE 316.50 FEET ON A 295.00 FOOT RADIUS CURVE TO

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THE RIGHT WITH A CHORD BEARING SOUTH 58°16'12" EAST, 301.54 FEET; THENCE SOUTH 27°32'03" EAST, 36.10 FEET; THENCE NORTH 74°48'32" WEST, 132.23 FEET; THENCE 165.70 FEET ON A 205.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING NORTH 65°51'01" WEST, 161.22 FEET: THENCE NORTH 89°00'21" WEST, 597.31 FEET TO THE POINT OF BEGINNING, CONTAINING (97,976 SQUARE FEET), 2.25 ACRES OF WHICH (38,468 SQUARE FEET) 0.88 ACRES ARE IN A PRESENTLY ESTABLISHED PERMANENT EASEMENT FOR OVERFLOW, FLOOD, SUBMERGE, MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

2. Upon due consideration of the facts and statements of interested persons, any and all objections to the further proposed conveyance of a Permanent Easement for Flood Protection Levee on City-owned property located east of SE 42nd Street, legally described as follows, to the United States of America, acting by and through the Secretary of the Army for no consideration in accordance with Iowa Code Section 364.7(3) for the public purpose of relocation of a portion of the Southeast Des Moines Levee System for the Project, subject to reservation of the rights to allow the City access to construct the Project, which reservation shall terminate upon acceptance of the Project as complete by the City, are hereby approved and the hearing is closed:

PERMANENT EASEMENT FOR FLOOD PROTECTION LEVEE

A PORTION OF THE VACATED WABASH RAILWAY RUNNING THROUGH LOT 13 OF THE OFFICIAL PLAT OF THE SW 1/4 AND THE S 1/2 OF THE NW 1/4 AND THE W 1/2 OF THE E 1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M. AND RUNNING THROUGH THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1484.35 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE NORTHERLY RIGHT OF WAY LINE OF THE VACATED WABASH RAILWAY; THENCE NORTH 80°44'44" WEST, 910.63 FEET ON SAID NORTHERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE NORTH 89°00'21" WEST, 568.60 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID VACATED WABASH RAILWAY; THENCE 822.03 FEET ON A 5779.58 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 72°08'22" WEST, 821.34 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE; THENCE NORTH 68°03'54" WEST, 1821.12 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF SE 36TH STREET; THENCE NORTH 00°04'13" WEST, 53.93 FEET ON

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SAID EAST RIGHT OF WAY LINE; THENCE SOUTH 68°03'55" EAST, 1841.33 FEET; THENCE 640.95 FEET ON A 5729.58 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 71°17'02" EAST, 640.62 FEET; THENCE SOUTH 89°00'21" EAST, 212.72 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE 414.66 FEET ON A 5679.58 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 78°38'16" EAST, 414.56 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE SOUTH 80°44'44" EAST, 107.12 FEET ON SAID NORTHERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING (161,575 SQUARE FEET) 3.71 ACRES, MORE OR LESS.

AND

A PORTION OF LOTS 19 AND 21 OF THE OFFICIAL PLAT OF THE S.W.1/4 THE S.1/2 OF THE N.W.1/4 AND THE W.1/2 OF THE E.1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1382.85 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE SOUTHERLY RIGHT OF WAY LINE OF THE VACATED WABASH RAILWAY; THENCE SOUTH 79°36'05" EAST, 395.52 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE 110.37 FEET ON A 95.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 37°19'07" EAST, 104.26 FEET; THENCE 228.59 FEET ON A 901.78 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 77°51'42" EAST, 227.97 FEET; THENCE 6.17 FEET ON A 5.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING NORTH 49°47'19" EAST, 5.78 FEET; THENCE NORTH 14°27'15" EAST, 69.77 FEET; THENCE 3.48 FEET ON A 5.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING NORTH 05°28'58" WEST, 3.41 FEET; THENCE 171.83 FEET ON A 156.48 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING NORTH 57°12'46" WEST, 163.33 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MARTIN LUTHER KING JR. PARKWAY EAST; THENCE SOUTH 89°00'21" EAST, 36.47 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE 165.70 FEET ON A 205.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 65°51'01" EAST, 161.22 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE SOUTH 74°48'32" EAST, 44.99 FEET ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE 36.21 FEET ON A 95.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 03°32'08" WEST, 35.99 FEET; THENCE SOUTH 14°27'15" WEST, 69.77 FEET; THENCE 117.29 FEET ON A 94.37 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH

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49°47'19" WEST, 109.89 FEET; THENCE 205.77 FEET ON A 811.78 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 77°51'42" WEST, 205.22 FEET; THENCE 8.34 FEET ON A 5.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 22°49'31" WEST, 7.41 FEET; THENCE SOUTH 24°56'58" EAST, 9.36 FEET TO SAID SOUTHERLY RIGHT OF WAY LINE; THENCE NORTH 79°36'05" WEST, 95.75 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING, CONTAINING (43,570 SQUARE FEET), 1.00 ACRES OF WHICH (37,730 SQUARE FEET) 0.87 ACRES ARE IN A PRESENTLY ESTABLISHED PERMANENT EASEMENT FOR OVERFLOW, FLOOD, SUBMERGE, MORE OR LESS.

AND

A PORTION OF LOT 13 OF THE OFFICIAL PLAT OF THE SW 1/4 AND THE S 1/2 OF THE NW 1/4 AND THE W 1/2 OF THE E 1/2 OF SECTION 8, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE NORTH 00°(DEGREES) 21'(MINUTES) 19"(SECONDS) WEST, 1615.18 FEET ON THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89°00'21" WEST, 229.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°00'21" WEST, 94.00 FEET; THENCE NORTH 01°01'06" EAST, 90.00 FEET; THENCE SOUTH 89°00'21" EAST, 94.00 FEET; THENCE SOUTH 01°01'06" WEST, 90.00 FEET TO THE POINT OF BEGINNING CONTAINING (8,460 SQUARE FEET), 0.19 ACRES,, MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

3. The Mayor is authorized and directed to sign the Quit Claim of Permanent Easements for Flood Protection Levee and the Permanent Easement for Flood Protection Levee for the conveyance, as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the Quit Claim of Permanent Easements for Flood Protection Levee and the Permanent Easement for Flood Protection Levee, 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.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim of Permanent Easements for Flood Protection Levee and the Permanent Easement for Flood

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Protection Levee, 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.

6. 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 of Permanent Easements for Flood Protection Levee and the Permanent Easement for Flood Protection Levee and copies of the other documents to the grantee.

7. There will be no proceeds associated with this conveyance.

Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

Kathleen Vanderpool
 Kathleen Vanderpool
 Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

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.

MOTION CARRIED APPROVED
Connie Coen Mayor

Laura Baumgartner City Clerk