

**Roll Call Number****Agenda Item Number**25-1335660**Date** September 29, 2025

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**HOLD HEARING TO CORRECT THE VACATION OF PORTIONS OF EAST 36<sup>TH</sup> STREET, EAST 36<sup>TH</sup> COURT, ARTHUR AVENUE, EAST 40<sup>TH</sup> COURT, AND LOT Q RIGHT-OF-WAY LOCATED IN THE FOURMILE CREEK FLOODPLAIN AND ISSUE A CORRECTED QUIT CLAIM DEED TO POLK COUNTY CONSERVATION BOARD FOR THE LOWER FOURMILE CREEK GREENWAY PROJECT**

**WHEREAS**, on October 21, 2024, by Roll Call No. 24-1472, the City Council of the City of Des Moines voted to pass Ordinance No. 16,396, vacating East 36<sup>th</sup> Street from East Sheridan Avenue to Arthur Avenue, East 36<sup>th</sup> Court from East Sheridan Avenue to Arthur Avenue, Arthur Avenue to the west of East 37<sup>th</sup> Street, East 40<sup>th</sup> Court to the south of East Jefferson Avenue, and Lot Q between the vacated Four Mile Drive and the south line of Lot Q ("Property") to allow for the removal of the roadways and the restoration of the areas for incorporation into the Lower Fourmile Creek Greenway; and

**WHEREAS**, subsequent to passing Ordinance No. 16,396, an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinance and pass a new ordinance to vacate the properly described right-of-way and to issue a corrected deed 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; and

**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 September 8, 2025, by Roll Call No. 25-1213, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed repeal of Ordinance No. 16,396, the adoption of a corrected ordinance vacating the properly described street right-of-way, and conveyance of a Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement be set for hearing on September 29, 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 repeal Ordinance No. 16,396 and to adopt an ordinance permanently vacating East 36<sup>th</sup> Street from East Sheridan Avenue to Arthur Avenue, East 36<sup>th</sup> Court from East Sheridan Avenue to Arthur Avenue, Arthur Avenue to the west of East 37<sup>th</sup> Street, East 40<sup>th</sup> Court to the south of East Jefferson Avenue, and Lot Q between the vacated Four Mile Drive and the south line of Lot Q, and convey the Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement 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.



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**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 repeal of Ordinance No. 16,396 and the vacation 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 36<sup>th</sup> Street from East Sheridan Avenue to Arthur Avenue, East 36<sup>th</sup> Court from East Sheridan Avenue to Arthur Avenue, Arthur Avenue to the west of East 37<sup>th</sup> Street, East 40<sup>th</sup> Court to the south of East Jefferson Avenue, and Lot Q between the vacated Four Mile Drive and the south line of Lot Q, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

ALL OF LOT V, AND

ALL THAT PART OF LOT M LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 857, AND

ALL THAT PART OF LOT N LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 893,

ALL IN FOUR MILE, AN OFFICIAL PLAT,

AND

LOT J, ELMWOOD PARK, AN OFFICIAL PLAT, **-EXCEPT** THE FOLLOWING DESCRIBED AREA: BEGINNING AT THE SOUTHEAST CORNER OF LOT 248 IN SAID ELMWOOD PARK; THENCE NORTH ALONG THE WEST LINE OF SAID LOT J, A DISTANCE OF 70.0 FEET; THENCE EAST AND PERPENDICULAR TO SAID WEST LINE TO THE EAST LINE OF SAID LOT J; THENCE SOUTH ALONG SAID EAST LINE TO THE SOUTH LINE OF SAID LOT J; THENCE WEST ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING-,

AND

ALL OF LOT Q IN SAID ELMWOOD PARK,

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.



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3. The proposed conveyance of the Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement for 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.

is hereby approved:

ALL OF LOT V, AND

ALL THAT PART OF LOT M LYING SOUTH OF THE WESTERLY  
EXTENSION OF THE NORTH LINE OF LOT 857, AND

ALL THAT PART OF LOT N LYING SOUTH OF THE WESTERLY  
EXTENSION OF THE NORTH LINE OF LOT 893,

ALL IN FOUR MILE, AN OFFICIAL PLAT,

AND

LOT J, ELMWOOD PARK, AN OFFICIAL PLAT, -EXCEPT THE  
FOLLOWING DESCRIBED AREA: BEGINNING AT THE SOUTHEAST  
CORNER OF LOT 248 IN SAID ELMWOOD PARK; THENCE NORTH  
ALONG THE WEST LINE OF SAID LOT J, A DISTANCE OF 70.0 FEET;  
THENCE EAST AND PERPENDICULAR TO SAID WEST LINE TO THE  
EAST LINE OF SAID LOT J; THENCE SOUTH ALONG SAID EAST LINE TO  
THE SOUTH LINE OF SAID LOT J; THENCE WEST ALONG SAID SOUTH  
LINE TO THE POINT OF BEGINNING-,

AND

ALL OF LOT Q IN SAID ELMWOOD PARK,

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES  
MOINES, POLK COUNTY, IOWA.



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4. The Mayor is authorized and directed to sign the Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement 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 Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement, 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 Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement, 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 Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement and a copy of the other documents to the grantee.
8. There will be no proceeds associated with this transaction.

Moved by Westergaard to adopt. Second by Gatto.

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

## 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

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

MOTION CARRIED

APPROVED

Connie Boesen

Mayor