

Date June 14, 2021

SET DATE OF PUBLIC HEARING OF INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT THE SOUTHWEST 9TH STREET BRIDGE REPLACEMENT OVER MIDDLE SOUTH CREEK PROJECT AND TO AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS, INCLUDING AGRICULTURAL LAND, FOR THE PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN

WHEREAS, the City’s Engineering Department has determined that it is necessary to acquire certain property interests in connection with the Southwest 9th Street Bridge Replacement Over Middle South Creek Project (hereinafter “Project”); and

WHEREAS, the City’s Real Estate Division of the Engineering Department will acquire the necessary property interests for this Project; and

WHEREAS, under the provisions of Section 6B.2A of the Iowa Code, a governmental body which proposes to acquire agricultural property, by eminent domain for public improvement purposes is required to give notice of a proposed resolution, motion, or other document authorizing such acquisition of property to each property owner and contract purchaser of record (collectively, “Property Owners”) of the meeting at which such proposed authorization will be considered; and

WHEREAS, in accordance with Iowa Code Section 6B.2A, before the City can proceed with acquisition of property by eminent domain for the aforementioned Project, the City Council must:

- (a) Give affected persons the opportunity to attend the Council meeting and present their views and objections regarding the proposed acquisition of agricultural property for public improvement projects by gift, negotiation or eminent domain.
- (b) Provide notice of the public hearing to all property owners and contract purchasers of record within the timeframes set forth in Iowa Code Sections 6B.2A
- (c) Adopt a resolution to authorize acquisition of agricultural property for the public improvement project by gift, negotiation, eminent domain.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That a public hearing shall be held on June 28, 2021, at 5:00 p.m. in the City Council Chamber, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal to authorize acquisition of private property, including agricultural property, by gift, negotiation, or eminent domain for public improvement purposes for the Southwest 9th Street Bridge Replacement Over Middle South Creek Project.

★ Roll Call Number

Agenda Item Number

37

Date June 14, 2021

Please check the posted agenda in advance of the meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

2. That the notices of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property, including agricultural property, for public improvement purposes by gift, negotiation or eminent domain, which notices were previously mailed by the City's Engineering Department - Real Estate Division pursuant to the requirements Iowa Code Section 6B.2A, are hereby ratified and confirmed.
3. That the City Clerk is hereby instructed to cause notice to be published as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, said Notice of Hearing on the Intent to be in substantially the same form.

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

pmw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

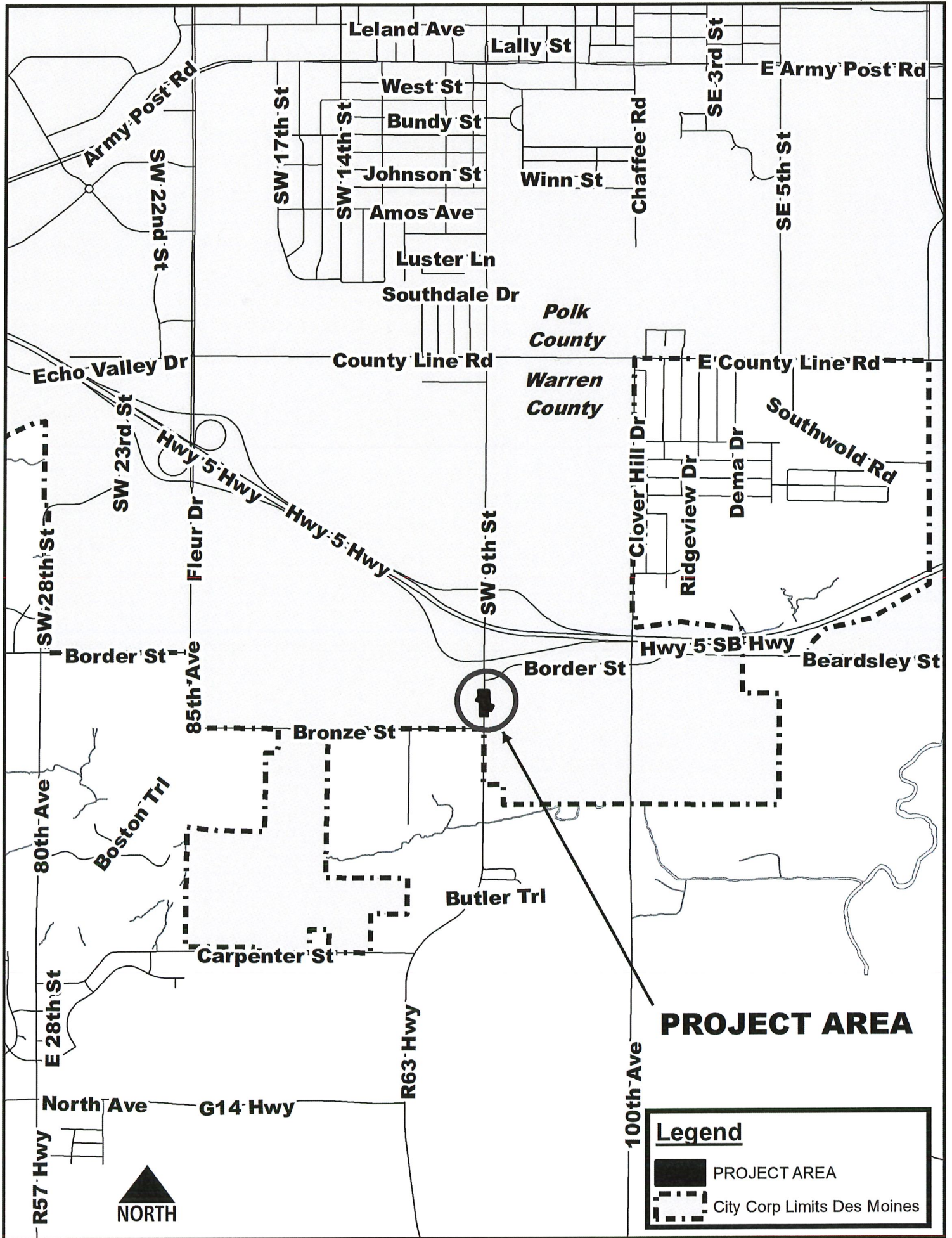
MOTION CARRIED APPROVED
 _____ Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

_____ City Clerk



PROJECT AREA

Legend

- PROJECT AREA
- City Corp Limits Des Moines

NOTICE OF HEARING ON THE INTENT TO ACQUIRE AGRICULTURAL PROPERTY FOR PUBLIC IMPROVEMENT PURPOSES AND AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS THEREOF FROM VARIOUS PROPERTY OWNERS FOR THE SOUTHWEST 9TH STREET BRIDGE REPLACEMENT OVER MIDDLE SOUTH CREEK PROJECT BY GIFT, NEGOTIATION OR EMINENT DOMAIN

TO:

Property Owner	Mailing Address	Location of Affected Property	County
LeMar Koethe	6000 Douglas Avenue, Suite 210 Urbandale, IA 50322	District/Parcel 91000090240 Norwalk, IA 50211	Warren
Rueter Corp.	P.O. Box 227 Grand Junction, IA 50107	District/Parcel 91360000070 Norwalk, IA 50211	Warren

and other Warren County Property Owners.

Under the provisions of Chapter 6B.2A of the Iowa Code, a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of its intent to commence the project to all owners and record contract purchasers of such agricultural land whose properties may be acquired in whole or in part for the project. (See Sections 6A.21(a) and 6B.2A of the Iowa Code.)

1. DESCRIPTION OF THE PROJECT.

NOTICE IS HEREBY GIVEN to the above-identified owners of agricultural land and contract purchasers of record known to be occupying the property (collectively, "Property Owners") that the Des Moines City Council will consider authorizing acquisition of property by gift, negotiation or eminent domain for the Southwest 9th Street Bridge Replacement Over Middle South Creek Project (the "Project"). This Project consists of replacing the bridge with a new concrete slab structure that meets current design standards with improved traffic safety features.

2. PRIVATE AGRICULTURAL PROPERTY MAY BE ACQUIRED BY PURCHASE OR CONDEMNATION.

The Project, if approved by the City Council, will require acquisition of property interests for the Project improvements. Upon review of Warren County property records, it appears that agricultural land owned by the above-identified persons may have to be acquired in whole or in part for the Project. The proposed location of the above-described public improvement is shown on the attached map.

3. CITY OF DES MOINES PROCESS TO DECIDE TO PROCEED WITH THE PROJECT AND TO ACQUIRE AGRICULTURAL PROPERTY BY PURCHASE OR EMINENT DOMAIN; CITY COUNCIL ACTION REQUIRED TO PROCEED WITH PROJECT; OPPORTUNITY FOR PUBLIC INPUT.

In making the decision to proceed with the above-described Project and to authorize the acquisition of property and property interests, the City Council will hold a **public hearing**, giving all persons interested in the proposed Project the opportunity to present their views and voice objections regarding the Project and proposed acquisition of agricultural property for the Project by eminent domain. **The public hearing will be held at 5:00 p.m. during the City Council's regularly scheduled meeting on the 28th day of June, 2021, in the Council Chambers, 400 Robert D. Ray Drive, Des Moines, Iowa.** Persons receiving this notice have a right to attend the meeting and to provide public input and voice objections regarding the proposed acquisition of the agricultural property. Please check the posted agenda in advance of the meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

In order for the City of Des Moines to proceed with the above-described Project and commence the acquisition of agricultural property for the Project, the City Council will be required to approve the Project and authorize acquisition of private agricultural property for the Project by eminent domain by City Council resolution. The City Council is scheduled to consider adoption of the resolution authorizing the acquisition of property for the Project by gift, negotiation, or eminent domain following the public hearing on June 28, 2021.

If the Project is approved by the City Council, an appraiser retained by the City of Des Moines will determine the compensation to be paid for the property or property interests that are needed for the Project. The City of Des Moines will offer no less than the appraised value and will attempt to purchase the property or property interests needed for the Project by good faith negotiations. If the City of Des Moines is unable to acquire properties needed for the Project by negotiation, the City of Des Moines would proceed by acquiring those properties or property interests by condemnation.

Please give a copy of this notice to any owner or contract purchaser on your agricultural land not listed above and provide contact information for said owner or contract purchaser to the City of Des Moines contact person listed below.

4. CONTACT PERSON.

Ben Cole has been designated by the City as the person to contact regarding the Project. Persons desiring further information regarding the Project or its impact on the agricultural properties identified above may contact Ben Cole by mail at the City of Des Moines, Engineering Department, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309 or by telephone at (515) 283-4176.