

Date August 9, 2021

**SET HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF A PORTION OF EAST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY LOCATED BETWEEN EAST 15<sup>TH</sup> STREET AND EAST 18<sup>TH</sup> STREET AND TO CORRECT THE CONVEYANCE TO DES MOINES INDUSTRIAL, LLC FOR \$100**

**WHEREAS**, on July 13, 2020, by Roll Call No. 20-1153, the City Council of the City of Des Moines voted to pass Ordinance No. 15,907 vacating a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street to allow for conveyance to Des Moines Industrial, LLC , subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated; and

**WHEREAS**, by the same roll call, the City Council of the City of Des Moines approved conveyance of said vacated portion of East Martin Luther King, Jr. Parkway right-of-way to Des Moines Industrial for \$100, subject to the reservation of easements therein and further subject to the following conditions: (1) City reserves the right to repurchase the vacated right-of-way or a portion thereof in the future for \$1.00, if needed for the expansion of East M.L. King, Jr. Parkway, and (2) City reserves an access easement over the vacated right-of-way for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway; and

**WHEREAS**, subsequent to passing Ordinance No. 15,907 an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinance, pass a new ordinance to vacate the properly described right-of-way, and issue a Quit Claim Deed.

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

1. The City Council of the City of Des Moines, Iowa, shall consider repealing Ordinance No. 15,907 and adoption of a new ordinance permanently vacating a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned:

A PORTION OF RIGHT OF WAY DEDICATION TRACT 1, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 16485, PAGE 889, IN THE OFFICE OF THE RECORDER, POLK COUNTY, IOWA, SAID PORTION BEING A PORTION OF LOTS 1 THRU 19, AND A PORTION OF VACATED RACCOON STREET ADJOINING LOTS 1 THRU 3, AND A PORTION OF VACATED SOUTHEAST 16TH STREET ADJOINING LOT 19, ALL IN COTTAGE ADDITION, AND A PORTION OF LOTS 2, 3, 6 AND A PORTION OF THE VACATED NORTH/SOUTH ALLEY ADJOINING LOTS 2, 3, AND 6, AND A PORTION OF THE VACATED RAILROAD, ALL IN CHOICE ADDITION TO DES MOINES, IOWA,

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AND A PORTION OF LOTS 34, 35, AND 36, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES,  
AND A PORTION OF LOT 38, CAPITAL ADDITION,  
AND A PORTION OF FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD,  
ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY,  
IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF EAST MARTIN LUTHER KING JR PARKWAY AND SOUTHEAST 15TH STREET; THENCE NORTH 83°(DEGREES) 07'(MINUTES) 17'(SECONDS) EAST, 508.46 FEET ON THE NORTHERLY RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR PARKWAY; THENCE 614.07 FEET ON A 5115.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 86°33'39" EAST, 613.71 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE NORTH 90°00'00" EAST, 775.21 FEET ON SAID NORTH RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°02'05" WEST, 58.83 FEET; THENCE NORTH 90°00'00" WEST, 671.03 FEET; THENCE 887.57 FEET ON A 7527.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 86°37'19" WEST, 887.06 FEET; THENCE SOUTH 88°49'59" WEST, 80.56 FEET; THENCE SOUTH 83°07'17" WEST, 180.15 FEET; THENCE NORTH 61°20'28" WEST, 41.62 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET; THENCE NORTH 00°03'46" EAST, 0.81 FEET ON SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING (72,704 SQUARE FEET) 1.67 ACRES, MORE OR LESS.

SUBJECT TO ALL EASEMENTS AND AGREEMENTS OF RECORD.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein, including but not limited to an easement for all storm sewers now in place, and further subject to the following conditions:

1. City reserves the right to repurchase the vacated right-of-way in the future for \$1.00, if needed for the expansion of East M.L. King, Jr. Parkway;
2. City reserves an access easement over the vacated right-of-way for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway:

Grantee: Des Moines Industrial, LLC

Consideration: \$100.00

Legal Description:

A PORTION OF RIGHT OF WAY DEDICATION TRACT 1, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 16485, PAGE 889, IN THE OFFICE OF THE RECORDER, POLK COUNTY, IOWA, SAID PORTION BEING A PORTION OF LOTS 1 THRU 19, AND A PORTION

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OF VACATED RACCOON STREET ADJOINING LOTS 1 THRU 3, AND A PORTION OF VACATED SOUTHEAST 16TH STREET ADJOINING LOT 19, ALL IN COTTAGE ADDITION, AND A PORTION OF LOTS 2, 3, 6 AND A PORTION OF THE VACATED NORTH/SOUTH ALLEY ADJOINING LOTS 2, 3, AND 6, AND A PORTION OF THE VACATED RAILROAD, ALL IN CHOICE ADDITION TO DES MOINES, IOWA, AND A PORTION OF LOTS 34, 35, AND 36, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AND A PORTION OF LOT 38, CAPITAL ADDITION, AND A PORTION OF FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD, ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF EAST MARTIN LUTHER KING JR PARKWAY AND SOUTHEAST 15TH STREET; THENCE NORTH 83°(DEGREES) 07'(MINUTES) 17'(SECONDS) EAST, 508.46 FEET ON THE NORTHERLY RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR PARKWAY; THENCE 614.07 FEET ON A 5115.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING NORTH 86°33'39" EAST, 613.71 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE NORTH 90°00'00" EAST, 775.21 FEET ON SAID NORTH RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°02'05" WEST, 58.83 FEET; THENCE NORTH 90°00'00" WEST, 671.03 FEET; THENCE 887.57 FEET ON A 7527.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 86°37'19" WEST, 887.06 FEET; THENCE SOUTH 88°49'59" WEST, 80.56 FEET; THENCE SOUTH 83°07'17" WEST, 180.15 FEET; THENCE NORTH 61°20'28" WEST, 41.62 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET; THENCE NORTH 00°03'46" EAST, 0.81 FEET ON SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING (72,704 SQUARE FEET) 1.67 ACRES, MORE OR LESS.

SUBJECT TO ALL EASEMENTS AND AGREEMENTS OF RECORD.

3. A public hearing shall be held on August 23, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

Please check the posted agenda in advance of the August 23, 2021 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 addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. August 19, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

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4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Proceeds from this sale will be deposited into the Southeast Connector Project ST256, Org: C038EG99.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

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

**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.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk