



Date July 13, 2020

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY LOCATED BETWEEN EAST 15TH STREET AND EAST 18TH STREET AND CONVEYANCE TO DES MOINES INDUSTRIAL, LLC FOR \$100.00**

**WHEREAS**, on Thursday June 4, 2020, the City Plan and Zoning Commission voted to recommend approval of a City-initiated request for the vacation of a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, 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;
3. The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City’s use of the vacated right-of-way, or any utility’s use of the vacated right-of-way; and

**WHEREAS**, upon further review, City staff has determined the third condition above is satisfied by the City’s right to repurchase the property pursuant to the first condition set forth above; and

**WHEREAS**, Des Moines Industrial, LLC, the owner and developer of the adjoining property at 301 Southeast 15th Street, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$100.00 for the purchase of the portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street for incorporation into their adjoining property for creation of a landscaped buffer between East Martin Luther King, Jr. Parkway and the future railroad transloading facility to the north., subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation by the City of 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 reservation by the City of 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**, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

**WHEREAS**, on June 22, 2020 by Roll Call No. 20-1002, 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 July 13, 2020, at 5:00 p.m., in the MSC Board Room, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and given Mayor Cownie’s June 5, 2020 Proclamation Amendment placing certain requirements on gatherings of ten or more persons on public property and Section One of the Governor’s May 26, 2020 Proclamation strongly

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encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, the City Council has determined that a meeting at a physical place is impossible or impracticable and all Council meetings for the time being will be conducted electronically with the public allowed to attend electronically or telephonically; 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, including how to participate telephonically or electronically; 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 a portion of East Martin Luther King, Jr. Parkway right-of-way located between East 15th Street and East 18th Street, 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 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, and said vacation is hereby approved:

A PORTION OF RIGHT OF WAY DEDICATION TRACT A, 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 LOT 2, 3, 6 AND A PORTION OF THE VACATED NORTH/SOUTH ALLEY ADJOINING LOT 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

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LINE OF EAST MARTIN LUTHER KING 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.

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to 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;
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 said conveyance is hereby approved:

Grantee: Des Moines Industrial, LLC

Consideration: \$100.00

Legal Description:

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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

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SUBJECT TO ANY AND ALL EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase and 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 Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
6. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, 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.
7. 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.
8. 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.
9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

/s/  
Lisa A. Wieland, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED  
J. M. Franklin Cownie 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.

P. Kay Cmelik City Clerk