



Roll Call Number

21-1518

Agenda Item Number

51

Date October 4, 2021

**AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY
PROPERTY INTERESTS FOR THE LOWER FOURMILE CREEK GREENWAY
PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN**

WHEREAS, on November 6, 2017, by Roll Call No. 17-1901, City Council approved the Lower Fourmile Creek Greenway Master Plan (“Greenway”) that was developed as a joint effort between the City of Des Moines, City of Pleasant Hill, Polk County, Polk County Conservation, Polk County Soil and Water Conservation District and the Fourmile Creek Watershed Management Authority; and

WHEREAS, on July 15, 2019, by Roll Call No. 19-1121, City Council approved the Lower Fourmile Creek Greenway Management and Maintenance Chapter 28E Agreement (“Agreement”) between the City of Des Moines and Polk County Conservation Board (“PCCB”); and

WHEREAS, on September 14, 2020, by Roll Call No. 20-1459, City Council approved an amendment to said Agreement; and

WHEREAS, in order to fully implement the Lower Fourmile Creek Greenway Project (hereinafter “Project”), it is necessary for City Council to authorize acquisition of certain private properties by gift, negotiation, or eminent domain; and

WHEREAS, the Project will include the removal or partial removal of various streets, and, with the exception of properties needed for City parkland purposes, all of the acquired properties will ultimately be conveyed to Polk County, Iowa for the use and benefit of the Polk County Conservation Board for incorporation and management of the Greenway for watershed purposes in accordance with the 28E agreement identified above, as amended; and

WHEREAS, in accordance with Iowa Code Section 6B.2D, notice of intent to approve acquisition of the necessary property interests for the Project has been sent to each property owner, contract purchaser of record and any tenant known to be occupying property proposed to be acquired for the Project, and all such persons receiving notice shall have the right to voice objection to the proposed acquisition of the property interests; and

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

WHEREAS, after property interest needs are determined, the proposed Fair Market Value of the property interests to be acquired will be submitted to the City Council or the City Manager, as applicable, for approval and authorization to proceed with acquisitions.



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

1. That all objections and endorsements having been fully reviewed and considered, the hearing providing the opportunity for input from affected property owners, contract purchasers, and tenants on the question of acquisition or condemnation of private property for the Lower Fourmile Creek Greenway Project is now concluded and closed.
2. That the location of the Project as determined by the City's Engineering Department and the PCCB is hereby approved; there is a reasonable expectation the City will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits; and the City of Des Moines Real Estate Division be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by gift, negotiation, or condemnation the necessary property interests for construction of the Lower Fourmile Creek Greenway Project, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201 (c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as applicable.
3. That the property will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and that relocation assistance is hereby authorized.
4. That the City Manager is hereby authorized to approve all Fair Market Values for all the property interests needed for the Project. If the property owners agree to convey the property to the City in an amount based on the established fair market value, including an approved administrative settlement, or if a condemnation award is based on the established fair market value or falls within an approved settlement amount, the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out these transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to complete these transactions in accordance with standard real estate practices and state law requirements.
5. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.
6. That the City Clerk is hereby authorized and directed to endorse upon the real estate documents for this Project the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.



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(Council Communication No. 21-421)

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

DW

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

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