



**Roll Call Number**

23-1032

**Agenda Item Number**

62

**Date** July 17, 2023

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**HOLD HEARING VACATION OF A SEGMENT OF 7TH STREET RIGHT-OF-WAY ADJOINING 201 7TH STREET AND APPROVAL OF A LEASE AGREEMENT WITH THE STREET COLLECTIVE FOR THE PLACEMENT OF B-CYCLE PROGRAM BICYCLE KIOSKS ON VACATED CITY RIGHT-OF-WAY**

**WHEREAS**, on November 17, 2014, by Roll Call No. 14-1797, the City Council of the City of Des Moines, Iowa, approved a Lease Agreement with the Des Moines Bicycle Collective, as Lessee, for the placement of and operation of the B-Cycle Program bicycle kiosks in various locations throughout the downtown Des Moines area, which Agreement expired on November 30, 2019; and

**WHEREAS**, on December 6, 2016 said lease agreement was amended to include an additional B-Cycle Program bicycle kiosk location north of and adjoining 420 Court Avenue, Des Moines, Iowa; and

**WHEREAS**, on February 20, 2020 the City of Des Moines, Iowa approved a new lease agreement with the Street Collective, formerly known as Des Moines Bicycle Collective as Lessee, for the placement of and operation of the B-Cycle Program bicycle kiosks in various locations throughout the downtown Des Moines area, which Agreement expired on November 30, 2022; and

**WHEREAS**, the City of Des Moines and the Street Collective have negotiated the terms of a new Lease Agreement (hereinafter "Agreement"), which Agreement includes the placement of an additional B-Cycle Program bicycle kiosk in vacated City right-of-way located on the east side of 7<sup>th</sup> Street south of Walnut Street adjoining 201 7<sup>th</sup> Street; and

**WHEREAS**, the new Agreement shall have a term of ten (10) years and the Street Collective shall pay \$750.00 per year of the Agreement, which amounts to \$150.00 per B-Cycle Program bicycle kiosk location, as consideration; and

**WHEREAS**, there is no known current or future public need for the City right-of-way proposed to be vacated, and the lease of the vacated City right-of-way for the purposes described herein will not adversely affect the use of adjoining real estate by City for municipal purposes, and the City will not be inconvenienced by approval of the proposed Lease Agreement with the Street Collective; and

**WHEREAS**, on June 26, 2023, by Roll Call No. 23-0896, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and the approval of said Lease Agreement be set for hearing on July 17, 2023, 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 vacate the street right-of-way and enter into the Lease Agreement was given 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 lease, both for and against, have been given an opportunity to be heard with respect thereto and have



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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 lease 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 a portion of street right-of-way located on the east side of 7<sup>th</sup> Street south of Walnut Street adjoining 201 7<sup>th</sup> Street, legally described as follows, and said vacation is hereby approved:

THAT PART OF 7TH STREET RIGHT-OF-WAY LYING WEST OF LOT 1, BLOCK 11, FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 15°(DEGREES) 25'(MINUTES) 57"(SECONDS) EAST ALONG THE WEST LINE OF SAID LOT, 13.29 FEET; THENCE SOUTH 74°34'30" WEST, 12.44 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°25'57" EAST, 29.00 FEET; THENCE SOUTH 74°34'03" WEST, 7.00 FEET; THENCE NORTH 15°25'57" WEST, 29.00 FEET; THENCE NORTH 74°34'03" EAST, 7.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 203 SQUARE FEET.

3. The proposed lease of such vacated street right-of-way and other sections of vacated right-of-way throughout the downtown Des Moines area for \$750.00 per year, as legally described below, subject to reservation of easements therein, and said Lease Agreement is hereby approved:

**Legal Description – Location 1 (East Side of 13<sup>th</sup> St, South of Grand Ave)**

A PART OF THE VACATED 13<sup>th</sup> STREET RIGHT OF WAY LYING IN LOT 4, FOURTEENTH STREET PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 4 TO A POINT ON THE EAST RIGHT OF WAY LINE OF 13<sup>TH</sup> STREET, AS PRESENTLY ESTABLISHED; THENCE CONTINUING WEST ALONG SAID SOUTH LINE, 4 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, 10 FEET TO THE POINT OF BEGINNING; THENCE WEST AND PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE, 6 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, 30 FEET; THENCE EAST AND PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE, 6 FEET; THENCE SOUTH AND



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PARALLEL TO SAID EAST RIGHT OF WAY LINE, 30 FEET TO THE POINT OF BEGINNING.

**Legal Description – Location 2 (North Side of Walnut St, East of 10<sup>th</sup> St)**

A PART OF THE VACATED WALNUT STREET RIGHT OF WAY LYING SOUTH OF LOT 8, BLOCK 5, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 8; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 8, 75 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID SOUTH LINE, 10 FEET TO THE POINT OF BEGINNING; THENCE EAST AND PARALLEL TO SAID SOUTH LINE, 36 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID SOUTH LINE, 6 FEET; THENCE WEST AND PARALLEL TO SAID SOUTH LINE, 36 FEET; THENCE NORTH AND PERPENDICULAR TO SAID SOUTH LINE, 6 FEET TO THE POINT OF BEGINNING.

**Legal Description – Location 3 (East Side of 7<sup>th</sup> St, South of Walnut St.)**

THAT PART OF VACATED 7<sup>TH</sup> STREET RIGHT-OF-WAY LYING WEST OF LOT 1, BLOCK 11, FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 15°(DEGREES) 25'(MINUTES) 57"(SECONDS) EAST ALONG THE WEST LINE OF SAID LOT, 13.29 FEET; THENCE SOUTH 74°34'30" WEST, 12.44 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°25'57" EAST, 29.00 FEET; THENCE SOUTH 74°34'03" WEST, 7.00 FEET; THENCE NORTH 15°25'57" WEST, 29.00 FEET; THENCE NORTH 74°34'03" EAST, 7.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 203 SQUARE FEET.

**Legal Description – Location 4 (West Side of 5<sup>th</sup> Ave, North of Grand Ave)**

A PART OF THE VACATED 5<sup>TH</sup> AVENUE RIGHT OF WAY LYING EAST OF LOT 9, ALHAMBRA NO.2, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 9, SAID CORNER LYING ON THE NORTH RIGHT OF WAY LINE OF GRAND AVENUE; THENCE EAST ALONG SAID NORTH RIGHT OF WAY LINE, 5.03 FEET TO THE WEST RIGHT OF WAY LINE OF 5<sup>TH</sup> AVENUE, AS PRESENTLY ESTABLISHED; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE, 130 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH ALONG SAID WEST RIGHT OF WAY LINE, 37 FEET; THENCE EAST AND PERPENDICULAR TO SAID WEST RIGHT OF WAY LINE, 6 FEET; THENCE



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SOUTH AND PARALLEL TO SAID WEST RIGHT OF WAY LINE, 37 FEET; THENCE WEST AND PERPENDICULAR TO SAID WEST RIGHT OF WAY LINE, 6 FEET TO THE POINT OF BEGINNING;

**Legal Description – Location 5 (North of and Adjoining 420 Court Avenue)**

A PART OF THE VACATED COURT AVENUE RIGHT OF WAY IN FORT DES MOINES, AN OFFICIAL PLAT, AND LYING NORTH OF BLOCK 20 OF SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 20; THENCE NORTHEASTERLY ALONG THE NORTH LINE OF SAID BLOCK 20, A DISTANCE 65 FEET; THENCE NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE NORTHEASTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET; THENCE SOUTHEASTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE SOUTHWESTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET TO THE POINT OF BEGINNING.

4. The Mayor is authorized and directed to sign the Lease Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the \$750.00 consideration, the City Clerk is authorized and directed to forward the original of the Lease Agreement, 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.
6. The Real Estate Division Manager shall mail the original of the Lease Agreement and a copy of the other documents to the lessee.
7. Non-project related proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Mandelbaum to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes handwritten signatures and 'MOTION CARRIED' and 'APPROVED' stamps.

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.
Signature: Laura Baumgartner, City Clerk