CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: June 17, 2019

ITEM: Resolution – Sale and conveyance of property located near SE 11th Street and Veterans Parkway

FINANCIAL IMPACT: $120,000 to City

SYNOPSIS: On July 12, 2011 the Hurd Land Company and the City of West Des Moines executed a Settlement Agreement following an appeal of the condemnation award made by the Polk County Condemnation Commission for a portion of the Southwest Connector Project (n/k/a Veterans Parkway). A provision of the Agreement granted Hurd *First Right of Refusal* to purchase property adjacent to the Project on terms provided by the City. Subsequent to the City obtaining an appraisal of $120,000 for the property, which comprises 2.82 acres, the attached *Offer Regarding Right of First Refusal* was presented to Hurd.

The attached Resolution approves the sale and conveyance of the property on the terms set forth in the *Offer*, subject to all easements of record.

RECOMMENDATION: Approve - Resolution approving the sale and conveyance of property from the City of West Des Moines to Hurd Indianola, LLC

Lead Staff Member: Richard J. Scieszinski, City Attorney

STAFF REVIEWS

Department Director	Richard J. Scieszinski, City Attorney RJS
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	DM Register
Dates(s) Published	June 12, 2019

SUBCOMMITTEE REVIEW (if applicable)

Committee	None		
Date Reviewed			
Recommendation			

Prepared by: Richard J. Scieszinski, City Attorney, PO Box 65320, West Des Moines, IA 50265-0320 (515) 222-3614
Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines IA 50265 (515) 222-3600

SPACE ABOVE THIS LINE FOR RECORDER

RESOLUTION NO. _____

RESOLUTION OPENING AND CLOSING PUBLIC HEARING AND AUTHORIZING THE SALE AND CONVEYANCE OF PROPERTY TO HURD LAND COMPANY

WHEREAS, in fulfillment of the Settlement Agreement executed by Hurd Land Company ("Hurd") and the City of West Des Moines, Iowa on July 12, 2011, the City has provided Hurd an *Offer Regarding First Right of Refusal* for 2.82 acres of Parcel E, a parcel of property located in the City of West Des Moines, Polk County, Iowa as shown in Book 7827, Page 281 in the Office of the Polk County, Iowa Recorder as shown on Exhibit "A"; and

WHEREAS, Hurd has agreed to the terms and conditions of the *Offer Regarding First Right of Refusal*; and

WHEREAS, based upon the fair market value established by appraisal of the property, the Offer requires payment from Hurd Land Company of $120,000.00 for the sale and conveyance of the property; and

WHEREAS, pursuant to Code of Iowa Sections 362.3 and 364.7, publication of notice for the sale of the property legally described above and attached hereto as Exhibit "B" was made on June 12, 2019; and

WHEREAS, this being the time and place for a public hearing regarding sale of the above legally-described property; and

WHEREAS, in compliance with the Settlement Agreement between the parties, approval of the *Offer Regarding First Right of Refusal* by the City and acceptance of the *Offer* by Hurd is appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:

1. Pursuant to Code of Iowa Section 364.7, publication of notice regarding the sale of the property legally-described on the attached Exhibit "B" has been properly made.

2. The public hearing regarding the sale of the above legally-described property is closed and the sale and conveyance of the property to Hurd Land Company on terms and conditions of the *Offer Regarding First Right of Refusal* attached as Exhibit "A" is approved.

3. The City Attorney is authorized to take all steps necessary and consistent with the *Offer Regarding First Right of Refusal* to convey the property to Hurd Land Company.

PASSED AND ADOPTED this 17th day of June, 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

OFFER REGARDING FIRST RIGHT OF REFUSAL

TO: Hurd Land Company, LLC
c/o Tim Hogan, Attorney at Law
3101 Ingersoll Avenue, Suite 103
Des Moines, IA 50312

COPY

PURSUANT TO THE SETTLEMENT AGREEMENT BETWEEN HURD LAND COMPANY, LLC AND THE CITY OF WEST DES MOINES, IOWA and the FIRST RIGHT OF REFUSAL dated July 12, 2011, the City of West Des Moines, Iowa hereby offers to sell the following property on the terms and conditions listed below:

Description of Property: Tract 3 and Tract 4, Parcel "E" as shown in Book 7827, Page 281 in the Office of the Polk County, Iowa Recorder comprising 2.82 acres, as shown on the attached Disposition Plat 01-D ("Property").

TERMS OF SALE:

1. PURCAHSE PRICE. The City agrees to sell the Property for the total purchase price of $120,000.00.

2. CONVEYANCE OF TITLE. City shall convey marketable title to Hurd by warranty deed, with terms and provisions as per form approved by the City of West Des Moines, subject to all easements of record, free and clear of liens, real estate taxes, special assessments, mortgage payoffs or judgments, including leasehold interests and leasehold claims, reservations or modifications except as otherwise expressly provided.

3. WARRANTIES. The property shall be sold "as-is" with no warranties whatsoever, including no environmental warranties, except as to warranty of title as provided in paragraph 2, above.

4. NO ABSTRACT. No abstract of title shall be provided.

5. CLOSING. The City shall deliver the Warranty Deed and possession of the Property to Hurd on a date as mutually agreed by the parties (Closing Date). Conveyance of the Property by Warranty Deed shall be made at the principal office of the City, or as otherwise mutually agreed by the parties, on the Closing Date, and Hurd shall accept such conveyance and pay to the City at such time and place the Purchase Price in immediately available funds.

6. ENTIRE AGREEMENT. This Agreement and any referenced Exhibits shall constitute the entire agreement between the City and Hurd and supersedes all other written and oral agreements, discussions and negotiations.

7. AMENDMENT. This Agreement may not be amended or assigned by either party without the express written permission of the other party.

8. APPROVAL. This Agreement is subject to the approval of the City of West Des Moines City Council and shall be of no force or effect unless and until approved by the City Council.

9. EXPIRATION. Pursuant to the terms and conditions of the First Right of Refusal, this Offer to Purchase, having been personally provided to the law office of Tim Hogan on June 11, 2019, shall expire June 26, 2019. If you elect to purchase the Property at the Purchase Price set forth in paragraph 1, you must notify the City of West Des Moines in writing of your intention to do so on or before June 26, 2019.

10. APPRAISAL. A copy of the appraisal is included in this Offer Regarding First Right of Refusal.

CITY OF WEST DES MOINES, IOWA

Richard J. Scieszinski, City Attorney

State of Iowa)
) ss.
County of Polk)

This record was acknowledged before me on the 11th day of June, 2019 by Richard J. Scieszinski, City Attorney of the City of West Des Moines, Iowa.

NOTARIAL SEAL IOWA
JILL J. MOOMEY
COMMISSION NUMBER 224184
MY COMMISSION EXPIRES
AUGUST 24, 2020

Notary Public in the State of Iowa

INDEX LEGEND

COUNTY: Polk
SITE ADDRESS: Veterans Parkway
CITY: West Des Moines
SECTION: 34 TOWNSHIP: 78 RANGE: 25
ALIQUOT PART: NE1/4 NE1/4
PROPRIETOR: City of West Des Moines
REQUESTED BY: City of West Des Moines
SURVEYOR NAME: Vincent E. Piagentini

DISPOSITION PLAT

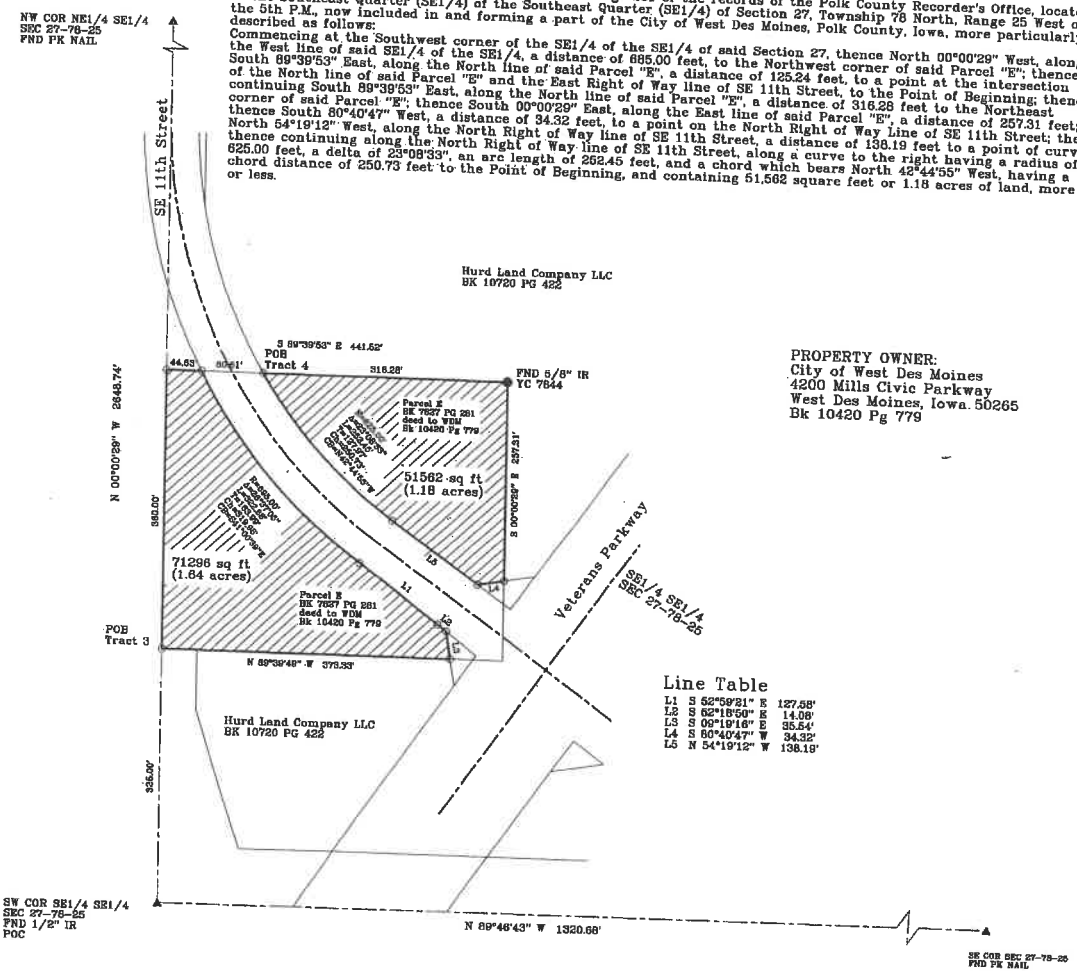
EXHIBIT 01-D

PREPARED BY & RETURN TO: ABACI CONSULTING INC, 101 NE CIRCLE DR, GRIMES, IA 50111, PH(515)986-5048

THIS SPACE RESERVED FOR REC ORDER'S OFFICE USE ONLY

Legal Description – Tract 3
All that part of Parcel "E" as shown in Book 7827 Page 281 of the records of the Polk County Recorder's Office, located in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 27, Township 78 North, Range 25 West of the 5th P.M., now included in and forming a part of the City of West Des Moines, Polk County, Iowa, more particularly described as follows:
Commencing at the Southwest corner of the SE1/4 of the SE1/4 of said Section 27, thence North 00°00'29" West, along the West line of said SE1/4 of the SE1/4, a distance of 325.00 feet, to the Point of Beginning, being the Southwest corner of said Parcel "E"; thence North 00°00'29" West, along the West line of said SE1/4 of the SE1/4 and the West line of said Parcel "E", a distance of 360.00 feet, to the Northwest corner of said Parcel "E"; thence South 89°39'53" East, along the North line of said Parcel "E", a distance of 44.63 feet to the West Right of Way line of SE 11th Street, being a point on a curve; thence along a curve to the left having a radius of 695.00 feet, a delta of 26°37'05", an arc length of 322.86 feet, and a chord which bears South 41°00'39" East, having a chord distance of 319.98 feet; thence South 52°59'20" East, a distance of 127.58 feet; thence South 52°18'50" East, a distance of 14.08 feet; thence South 09°19'16" East, a distance of 35.54 feet, to a point on the South line of said Parcel "E"; thence North 89°39'49" West, along the South line of said Parcel "E", a distance of 373.33 feet to the Point of Beginning, and containing 71,296 square feet or 1.64 acres of land, more or less.

Legal Description – Tract 4
All that part of Parcel "E" as shown in Book 7827 Page 281 of the records of the Polk County Recorder's Office, located in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 27, Township 78 North, Range 25 West of the 5th P.M., now included in and forming a part of the City of West Des Moines, Polk County, Iowa, more particularly described as follows:
Commencing at the Southwest corner of the SE1/4 of the SE1/4 of said Section 27, thence North 00°00'29" West, along the West line of said SE1/4 of the SE1/4, a distance of 685.00 feet, to the Northwest corner of said Parcel "E"; thence South 89°39'53" East, along the North line of said Parcel "E", a distance of 125.24 feet, to a point at the intersection of the North line of said Parcel "E" and the East Right of Way line of SE 11th Street, to the Point of Beginning; thence continuing South 89°39'53" East, along the North line of said Parcel "E", a distance of 316.28 feet to the Northeast corner of said Parcel "E"; thence South 00°00'29" East, along the East line of said Parcel "E", a distance of 257.31 feet; thence South 80°40'47" West, a distance of 34.32 feet, to a point on the North Right of Way Line of SE 11th Street; thence North 54°19'12" West, along the North Right of Way line of SE 11th Street, a distance of 138.19 feet to a point of curve; thence continuing along the North Right of Way line of SE 11th Street, along a curve to the right having a radius of 625.00 feet, a delta of 23°08'33", an arc length of 252.45 feet, and a chord which bears North 42°44'55" West, having a chord distance of 250.73 feet to the Point of Beginning, and containing 51,562 square feet or 1.18 acres of land, more or less.



PROPERTY OWNER:
City of West Des Moines
4200 Mills Civic Parkway
West Des Moines, Iowa 50265
Bk 10420 Pg 779

Line Table

L1	S 52°59'21" E	127.58'
L2	S 52°18'50" E	14.08'
L3	S 09°19'16" E	35.54'
L4	S 80°40'47" W	34.32'
L5	N 54°19'12" W	138.19'

ABACI CONSULTING, INC.
CIVIL ENGINEERING - LAND SURVEYING
101 NE CIRCLE DR., GRIMES, IOWA 50111, PH. (515)986-5048

Revisions:
8/3/18
1/23/19

City Project No: 0260-013-2018

DATE OF SURVEY FIELDWORK: 6/18/18 DRAWING DATE: 5/17/18 DRAFTER: VP PROJECT NO: 16081 DRAWING NO: 16081DS2

I HEREBY CERTIFY THAT THIS SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

2/19/19

VINCENT E. PIAGENTINI, IOWA LIC. NO 15982 DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2020.

ADDITIONAL PAGES CERTIFIED (NONE UNLESS INDICATED HERE)

VINCENT E. PIAGENTINI LICENSED 15982 IOWA PROFESSIONAL LAND SURVEYOR

SYMBOLS LEGEND:

R	RECORDED DISTANCE
M	MEASURED DISTANCE
C	CALCULATED DISTANCE
●	CORNER MONUMENT FOUND
O	SET 1/2" IR YC 15982 UNLESS NOTED
▲	SECTION CORNER FOUND
△	SECTION CORNER SET 1/2" IR YC 15982 UNLESS NOTED
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
YC	YELLOW CAP
IR	IRON ROD
IP	IRON PIPE

0 150
Scale 1" = 150'