

Date October 24, 2016

HOLD HEARING FOR VACATION OF SEGMENTS OF INGERSOLL AVENUE AND EAST UNIVERSITY AVENUE RIGHT-OF-WAY AND CONVEYANCE OF BUS SHELTER ENCROACHMENT EASEMENTS IN THE VACATED RIGHT-OF-WAY TO DES MOINES AREA REGIONAL TRANSIT FOR \$1,200

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter "DART") wishes to acquire six permanent easements on portions of City right-of-way located at various points along Ingersoll Avenue and East University Avenue, as legally described below ("Easement Area"), for the purpose of constructing, operating and maintaining DART bus stop shelters; and

WHEREAS, DART and the City Real Estate Division have negotiated the terms of the permanent easement which include: (1) DART's installation and use of the Bus Shelter shall comply with all City, State and Federal ordinances and regulations; (2) DART, or its contractors, shall obtain, comply with, and pay all related fees for all necessary permits, and provide required insurance and bond, related to excavation and obstruction of City right-of-way upon and above the Easement Area prior to accessing the Easement Area, and, except in the case of emergency, access to the Easement Area shall be limited to the times set forth in such permits; (3) the bus shelter shall be constructed and installed in accordance with plans and specifications approved by the City Engineer or designee, and DART shall certify to the City that the bus shelter has been constructed and located within the Easement Area as shown on the approved plans and specifications; (4) DART shall be solely responsible for all activities related to and costs of maintenance of the Easement Area and installation, operation, maintenance and repair of the bus shelter, in accordance with City ordinances, policies and regulations, and State law; and

WHEREAS, DART shall pay to the City \$200.00 per easement, a total of \$1,200.00, for costs incurred by the City in preparing necessary documentation for each Bus Shelter location to allow vacation and conveyance of property within the right-of-way including but not limited to preparation of an exhibit and corresponding legal description, and no additional consideration is required in accordance with Iowa Code §364.7; and

WHEREAS, said portions of City right-of-way located along Ingersoll Avenue and East University Avenue, as legally described below, have been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of Ingersoll Avenue and East University Avenue, and the City will not be inconvenienced by the vacation and conveyance of said Permanent Easements for Bus Shelter Encroachment; and

WHEREAS, on October 10, 2016, by Roll Call No. 16-1715, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such permanent easement be set for hearing on October 24, 2016, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate portions of City right-of-way located at various points along Ingersoll Avenue and East University Avenue, and convey the proposed easements therein was given as provided by law, setting forth the time and place for hearing on said proposal; and

Date October 24, 2016

WHEREAS, in accordance with City Council direction, those interested in said 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 said proposed vacation and conveyance of the permanent easements for bus shelter encroachment in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of portions of City right-of-way located at various points along Ingersoll Avenue and East University Avenue, legally described as follows, and said vacation is hereby approved:

E. University Avenue, East of E. 14th, North side

A 6 FOOT STRIP OF GROUND LYING SOUTHEAST OF AND PERPENDICULAR TO A LINE AND BEING A PART OF LOTS 412, 413 AND 415, SUBDIVISION OF BLOCK A IN POLK AND HUBBELL'S ADDITION TO CAPITAL PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND SAID LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS 4.5 FEET EAST OF AND 18 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 415; THENCE ALONG A STRAIGHT LINE TO A POINT OF TERMINUS AND SAID POINT IS 9.42 FEET WEST OF AND 19.37 FEET SOUTH OF SAID NORTHWEST CORNER.

Ingersoll Ave. and 18th St., Northeast Corner

A 6 FOOT STRIP OF GROUND LYING NORTHWEST OF AND PERPENDICULAR TO A LINE AND BEING A PART OF THE INGERSOLL AVENUE RIGHT OF WAY LYING IN LOT C, J.C. SAVERY'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND SAID LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS 222 FEET WEST OF AND 58 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT C; THENCE ALONG A STRAIGHT LINE TO A POINT OF TERMINUS AND SAID POINT IS 60.4 FEET NORTH OF AND 206.5 FEET WEST OF SAID SOUTHEAST CORNER.

Ingersoll Ave. and 35th St., Northeast Corner

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN STRATFORD, 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 LOT 18 OF SAID STRATFORD; THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 18, A DISTANCE OF 11 FEET AND TO THE POINT OF BEGINNING; THENCE EAST AND PARALLEL WITH THE SOUTH LINE OF LOT 17 IN SAID STRATFORD, A DISTANCE OF 12 FEET; THENCE SOUTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 17, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO THE SOUTH

Date October 24, 2016

LINE OF SAID LOTS 17 AND 18, A DISTANCE OF 14 FEET; THENCE NORTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 18, A DISTANCE OF 6 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF SAID LOT 18, A DISTANCE OF 2 FEET TO THE POINT OF BEGINNING.

Ingersoll Ave. and 35th St., Southwest Corner

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SECTION 6, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 36 OF THE OFFICIAL PLAT OF THE SOUTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 6; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 36, A DISTANCE OF 55 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 4 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE EAST AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 14 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

Ingersoll Ave. and 42nd St., Northeast Corner

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY LYING IN LOT 3, GREENWOOD PARK, 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 3; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 31 FEET; THENCE NORTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 4 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 6 FEET; THENCE EAST AND PARALLEL TO SAID SOUTH LINE, A DISTANCE OF 14 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID SOUTH LINE, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

Ingersoll Ave. and MLK Jr. Pkwy, Northwest Corner

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., 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 LOT 9 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 5; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 9, A DISTANCE OF 103 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 8 FEET TO THE POINT OF BEGINNING; THENCE EAST AND PARALLEL TO SAID SOUTH LINE, A DISTANCE OF 14 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID SOUTH LINE, A DISTANCE OF 14 FEET; THENCE NORTH AND PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 6 FEET TO THE POINT OF BEGINNING.

3. That the conveyance of easements in such vacated right-of-way as described below, to Des Moines Area

Date October 24, 2016

Regional Transit Authority for a fee of \$1,200.00, together with payment by said grantee of \$113.00 for the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the negotiated terms of the permanent easement as set forth herein above:

E. University Avenue, East of E. 14th, North side

A 6 FOOT STRIP OF GROUND LYING SOUTHEAST OF AND PERPENDICULAR TO A LINE AND BEING A PART OF VACATED LOTS 412, 413 AND 415, SUBDIVISION OF BLOCK A IN POLK AND HUBBELL'S ADDITION TO CAPITAL PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND SAID LINE DESCRIBED AS FOLLOWS:

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Date October 24, 2016

SAID NORTH LINE, A DISTANCE OF 4 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE EAST AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 14 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

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4. The Mayor is authorized and directed to sign the six Permanent Easements for Bus Shelter Encroachment on City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said right-of-way, and upon proof of payment of the \$1,200.00 fee plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original Easements, 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 following closing.
6. In accordance with the terms set forth in the Easements, the Real Estate Division Manager is authorized and directed to forward the original of the Easements, together with a certified copy of this resolution and

Date October 24, 2016

of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easements and copies of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

PRW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, 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.

City Clerk