

Date March 6, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR A LAND EXCHANGE AGREEMENT WITH JERRY’S HOMES, INC. FOR PROPERTY LOCATED BETWEEN E. PAYTON AVENUE AND E. ARMY POST ROAD FOR THE CARLISLE TRAIL CONNECTION PROJECT

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa (hereinafter “City Parcel”), as depicted on Plat of Survey 2022-1075 filed of record with the Polk County Recorder’s office on July 25, 2022 in Book 19205, Page 69, and legally described below; and

WHEREAS, Jerry’s Homes, Inc., an Iowa corporation (“Seller”), is the owner of certain property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa, which property adjoins the City Parcel and a portion of which is required by the City of Des Moines Parks and Recreation Department for the Carlisle Trail Connection Project (hereinafter “Seller Parcel”); and

WHEREAS, as part of the Carlisle Trail Connection Project, the City has offered to convey the City Parcel to Jerry’s Homes, Inc. in exchange for a Permanent Easement for Recreational Trail, to be reserved in the quit claim deed from the City to Jerry’s Homes Inc., and a Temporary Easement for Construction and Construction-Related Activities, as legally described below, over, through and across a portion of the City Parcel; and a separate Permanent Easement for Recreational Trail and Temporary Easement for Construction and Construction-Related Activities over, through and across a portion of the Seller Parcel, which represents an equitable exchange of value as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the City Parcel proposed to be exchanged and the City will not be inconvenienced by the conveyance of said City Parcel.

WHEREAS, on February 20, 2023 by Roll Call No. 23-0221, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed land exchange agreement be set for hearing on March 6, 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 convey the City Parcel by a land exchange 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 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:

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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of certain City property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the City Parcel proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of a portion of City property located between East Payton Avenue and East Army Post Road, Des Moines, Iowa ("City Parcel") as legally described below:

City Parcel:

PARCEL 2022-1075

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°(DEGREES) 00'(MINUTES) 11"(SECONDS) EAST ALONG THE EAST LINE OF SAID FRACTIONAL 1/4, A DISTANCE OF 91.12 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ARMY POST ROAD, AS PRESENTLY ESTABLISHED; THENCE NORTH 89°13'30" WEST ALONG SAID NORTH RIGHT OF WAY, 295.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST ALONG SAID RIGHT OF WAY, 117.67 FEET; THENCE NORTH 19°33'16" WEST, 507.13 FEET; THENCE NORTH 30°38'27" EAST, 234.88 FEET; THENCE SOUTH 88°49'41" EAST, 166.93 FEET; THENCE SOUTH 33°54'25" WEST, 275.40 FEET; THENCE SOUTH 12°09'09" EAST, 255.27 FEET; THENCE SOUTH 26°43'08" EAST, 223.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.9 ACRES (82933 SQ. FT.).

3. The proposed Land Exchange Agreement with Jerry’s Homes Inc. as part of the Carlisle Trail Connection Project whereby the City agrees to convey the City Parcel legally described above for a Permanent Easement for Recreational Trail to be reserved in the quit claim deed from the City of Des Moines to Jerry’s Homes Inc., and for a Temporary Easement for Construction and Construction-Related Activities over, through and across a portion of the City Parcel; and for a separate Permanent Easement for Recreational Trail and Temporary Easement for Construction and Construction-Related Activities over, through and across a portion of property owned by Jerry’s Homes Inc., all as legally described below, is hereby approved:

PERMANENT EASEMENT FOR RECREATIONAL TRAIL RESERVED IN DEED:

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW

Date March 6, 2023

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 PARCEL 2022-1075; THENCE NORTH 89°(DEGREES) 13'(MINUTES) 30"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID PARCEL, 17.19 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST ALONG SAID SOUTH LINE, 59.98 FEET; THENCE ALONG AN ARC 47.94 FEET TO THE RIGHT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS NORTH 33°11'56" WEST, 47.60 FEET; THENCE SOUTH 71°14'09" WEST, 21.46 FEET; THENCE NORTH 16°21'31" WEST, 21.44 FEET; THENCE NORTH 76°02'49" EAST, 21.46 FEET; THENCE ALONG AN ARC 24.48 FEET TO THE RIGHT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS NORTH 5°21'43" WEST, 24.44 FEET; THENCE ALONG AN ARC 107.60 FEET TO THE LEFT, HAVING A RADIUS OF 285.00 FEET, THE CHORD OF WHICH IS NORTH 10°04'42" WEST, 106.96 FEET; THENCE NORTH 20°53'38" WEST, 168.21 FEET; THENCE ALONG AN ARC 59.78 FEET TO THE LEFT, HAVING A RADIUS OF 100.00 FEET, THE CHORD OF WHICH IS NORTH 38°01'11" WEST, 58.89 FEET; THENCE NORTH 55°08'43" WEST, 5.09 FEET; THENCE ALONG AN ARC 78.43 FEET TO THE RIGHT, HAVING A RADIUS OF 140.00 FEET, THE CHORD OF WHICH IS NORTH 39°05'48" WEST, 77.41 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL; THENCE NORTH 19°33'16" WEST ALONG THE WESTERLY LINE OF SAID PARCEL, 25.04 FEET TO A CORNER OF SAID PARCEL; THENCE NORTH 30°38'27" EAST ALONG THE WESTERLY LINE OF SAID PARCEL, 55.95 FEET; THENCE ALONG AN ARC 122.86 FEET TO THE LEFT, HAVING A RADIUS OF 110.00 FEET, THE CHORD OF WHICH IS SOUTH 23°08'50" EAST, 116.58 FEET; THENCE SOUTH 55°08'43" EAST, 5.09 FEET; THENCE ALONG AN ARC 77.71 FEET TO THE RIGHT, HAVING A RADIUS OF 130.00 FEET, THE CHORD OF WHICH IS SOUTH 38°01'11" EAST, 76.56 FEET; THENCE SOUTH 20°53'38" EAST, 168.21 FEET; THENCE ALONG AN ARC 118.92 FEET TO THE RIGHT, HAVING A RADIUS OF 315.00 FEET, THE CHORD OF WHICH IS SOUTH 10°04'42" EAST, 118.22 FEET; THENCE ALONG AN ARC 20.36 FEET TO THE LEFT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS SOUTH 6°07'28" EAST, 20.31 FEET; THENCE NORTH 73°38'29" EAST, 6.83 FEET; THENCE SOUTH 16°21'31" EAST, 10.00 FEET; THENCE SOUTH 73°38'29" WEST, 6.83 FEET; THENCE ALONG AN ARC 82.88 FEET TO THE LEFT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS SOUTH 47°39'54" EAST, 79.64 FEET TO THE POINT OF BEGINNING AND CONTAINING 17462 SQUARE FEET.

PERMANENT EASEMENT FOR RECREATIONAL TRAIL TO BE CONVEYED AT CLOSING:

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°(DEGREES) 00'(MINUTES) 11"(SECONDS) EAST ALONG THE EAST LINE OF SAID FRACTIONAL 1/4, A DISTANCE OF 91.12 FEET

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TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ARMY POST ROAD, AS PRESENTLY ESTABLISHED; THENCE NORTH 89°13'30" WEST ALONG SAID NORTH RIGHT OF WAY LINE, 147.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°13'30" WEST, 147.88 FEET TO THE SOUTHEAST CORNER OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN DEED BOOK 19205, PAGE 601; THENCE NORTH 26°43'08" WEST ALONG THE EASTERLY LINE OF SAID PARCEL, 9.05 FEET; THENCE SOUTH 89°36'09" EAST, 46.74 FEET; THENCE NORTH 77°39'14" EAST, 45.33 FEET; THENCE SOUTH 89°40'37" EAST, 50.00 FEET; THENCE SOUTH 29°37'59" EAST, 22.05 FEET TO THE POINT OF BEGINNING AND CONTAINING 2008 SQUARE FEET.

TEMPORARY EASEMENTS FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES TO BE CONVEYED AT CLOSING:

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 2022-1075; THENCE NORTH 19°(DEGREES) 33'(MINUTES) 16"(SECONDS) WEST, 482.09 FEET; THENCE ALONG AN ARC 78.43 FEET TO THE LEFT, HAVING A RADIUS OF 140.00 FEET, THE CHORD OF WHICH IS SOUTH 39°05'48" EAST, 77.41 FEET; THENCE SOUTH 55°08'43" EAST, 5.09 FEET; THENCE ALONG AN ARC 59.78 FEET TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET, THE CHORD OF WHICH IS SOUTH 38°01'11" EAST, 58.89 FEET; THENCE SOUTH 20°53'38" EAST, 168.21 FEET; THENCE ALONG AN ARC 107.60 FEET TO THE RIGHT, HAVING A RADIUS OF 285.00 FEET, THE CHORD OF WHICH IS SOUTH 10°04'42" EAST, 106.96 FEET; THENCE ALONG AN ARC 24.48 FEET TO THE LEFT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS SOUTH 5°21'43" EAST, 24.44 FEET; THENCE SOUTH 76°02'49" WEST, 21.46 FEET; THENCE SOUTH 16°21'31" EAST, 21.44 FEET; THENCE NORTH 71°14'09" EAST, 21.46 FEET; THENCE ALONG AN ARC 47.94 FEET TO THE LEFT, HAVING A RADIUS OF 115.00 FEET, THE CHORD OF WHICH IS SOUTH 33°11'56" EAST, 47.60 FEET; THENCE NORTH 89°13'30" WEST, 40.49 FEET TO THE POINT OF BEGINNING AND CONTAINING 18227 SQUARE FEET.

AND,

A PART OF PARCEL 2022-1075 AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19205, PAGE 69 OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 2022-1075; THENCE NORTH 89°(DEGREES) 13'(MINUTES) 30"(SECONDS) WEST, 17.19 FEET; THENCE

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ALONG AN ARC 82.88 FEET TO THE RIGHT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS NORTH 47°39'54" WEST, 79.64 FEET; THENCE NORTH 73°38'29" EAST, 6.83 FEET; THENCE NORTH 16°21'31" WEST, 10.00 FEET; THENCE SOUTH 73°38'29" WEST, 6.83 FEET; THENCE ALONG AN ARC 20.36 FEET TO THE RIGHT, HAVING A RADIUS OF 85.00 FEET, THE CHORD OF WHICH IS NORTH 6°07'28" WEST, 20.31 FEET; THENCE ALONG AN ARC 118.92 FEET TO THE LEFT, HAVING A RADIUS OF 315.00 FEET, THE CHORD OF WHICH IS NORTH 10°04'42" WEST, 118.22 FEET; THENCE NORTH 20°53'38" WEST, 168.21 FEET; THENCE ALONG AN ARC 77.71 FEET TO THE LEFT, HAVING A RADIUS OF 130.00 FEET, THE CHORD OF WHICH IS NORTH 38°01'11" WEST, 76.56 FEET; THENCE NORTH 55°08'43" WEST, 5.09 FEET; THENCE ALONG AN ARC 122.86 FEET TO THE RIGHT, HAVING A RADIUS OF 110.00 FEET, THE CHORD OF WHICH IS NORTH 23°08'50" WEST, 116.58 FEET; THENCE NORTH 30°38'27" EAST, 178.93 FEET; THENCE SOUTH 88°49'41" EAST, 166.93 FEET; THENCE SOUTH 33°54'25" WEST, 275.40 FEET; THENCE SOUTH 12°09'09" EAST, 255.27 FEET; THENCE SOUTH 26°43'08" EAST, 223.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 47244 SQUARE FEET.

AND,

A PART OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., 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 SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°(DEGREES) 00'(MINUTES) 11"(SECONDS) EAST ALONG THE EAST LINE OF SAID FRACTIONAL 1/4, A DISTANCE OF 91.12 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ARMY POST ROAD, AS PRESENTLY ESTABLISHED AND ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°13'30" WEST, 147.75 FEET; THENCE NORTH 29°37'59" WEST, 22.05 FEET; THENCE NORTH 89°40'37" WEST, 50.00 FEET; THENCE SOUTH 77°39'14" WEST, 45.33 FEET; THENCE NORTH 89°36'09" WEST, 46.74 FEET; THENCE NORTH 26°43'08" WEST, 24.77 FEET; THENCE SOUTH 89°13'30" EAST, 310.83 FEET; THENCE SOUTH 0°00'11" WEST, 30.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 7089 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Land Exchange Agreement 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 Clerk is authorized and directed to attest to the City Council's acceptance and approval of the Permanent Easement for Recreational Trail and the Temporary Easements for Construction and Construction-Related Activities.

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7. The City Clerk is authorized and directed to forward the original of the Quit Claim Deed, and the Permanent Easement for Recreational Trail, 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.

8. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, and the Permanent Easement for Recreational Trail, 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.

9. The City Clerk is authorized and directed to forward the originals of the Temporary Easements for Construction and Construction-Related Activities to the Real Estate Division of the Engineering Department.

9. 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 the Permanent Easement for Recreational Trail, and copies of the other documents to the grantee.

10. There are no proceeds associated with this transaction.

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

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

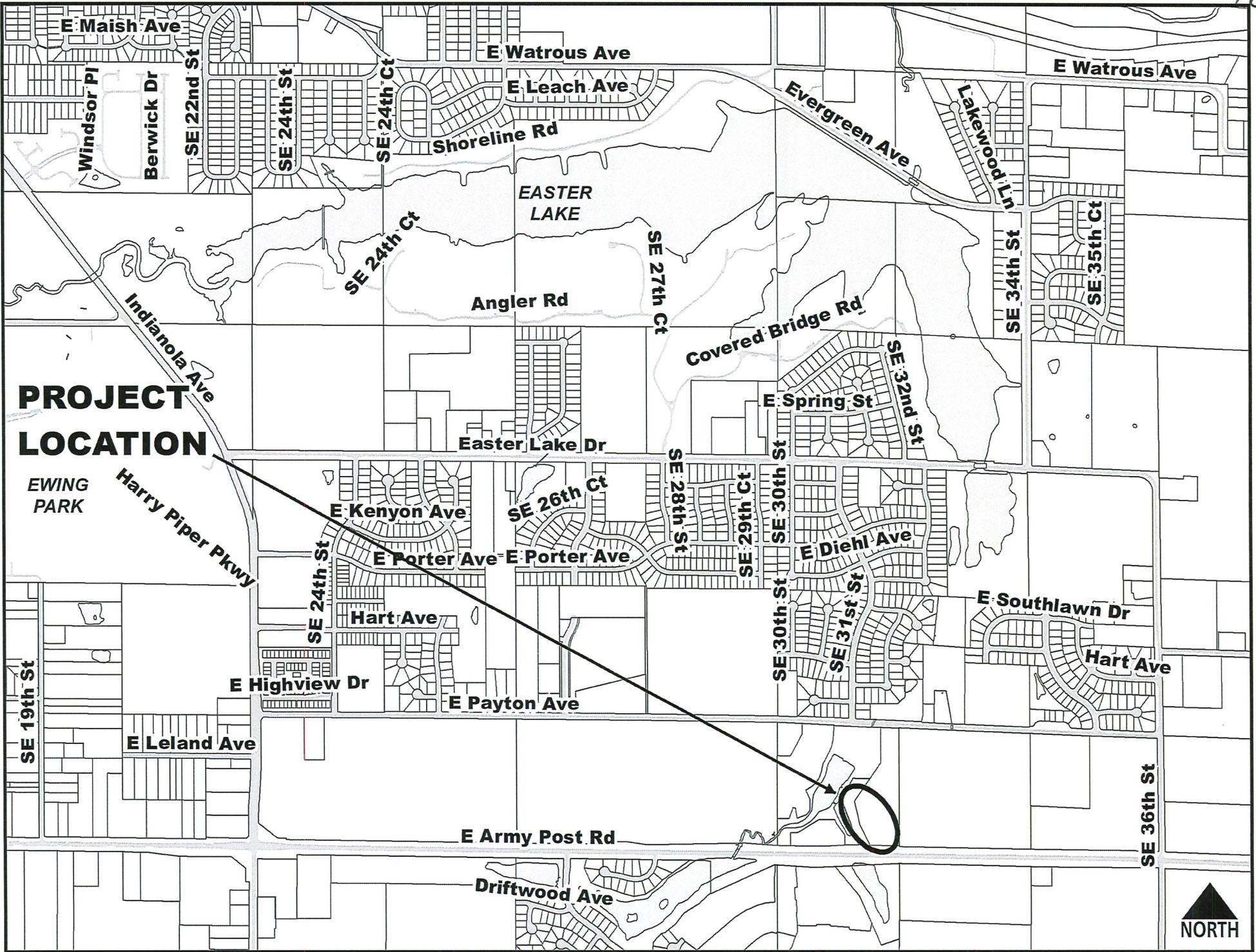
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

Laura Baumgartner, City Clerk



**PROJECT
LOCATION**

EWING
PARK

