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Date September 16, 2024

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SURFACE AND SUBSURFACE RIGHTS WITHIN PORTIONS OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 2701 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO STAR LOFTS CONDOS FOR \$5,400

WHEREAS, on August 5, 2024, by Roll Call No. 24-1062, the City Council of the City of Des Moines, Iowa, voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Star Lofts Condos to vacate surface and subsurface rights within portions of Ingersoll Avenue right-of-way adjoining 2701 Ingersoll Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, Star Lofts Condos, the owner of 2701 Ingersoll Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$5,400.00 for the purchase of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (“Easements”) over, through and across portions of Ingersoll Avenue right-of-way adjoining 2701 Ingersoll Avenue (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing a patio space in front of the building, and using, repairing, renovating, and maintaining a foundation for a retaining wall upon the vacated right-of-way, which price reflects the fair market value of the Easements as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated, and the City will not be inconvenienced by the vacation of said property and the conveyance of the Easements in such vacated right-of-way; and

WHEREAS, on August 19, 2024, by Roll Call No. 24-1148, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and the conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property be set for hearing on September 16, 2024, 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 convey the Easements 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 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 vacation of surface and subsurface rights within portions of Ingersoll Avenue right-of-way adjoining 2701 Ingersoll Avenue, as described herein, 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 surface and subsurface rights within portions of Ingersoll Avenue right-of-way adjoining 2701 Ingersoll Avenue, legally described as follows, and said vacation is hereby approved:

SURFACE RIGHTS

PART OF INGERSOLL AVENUE RIGHT-OF-WAY ABUTTING THE WEST 180 FEET OF THAT PART OF LOT 16 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING NORTH OF INGERSOLL AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE NORTH 89°(DEGREES) 49'(MINUTES) 07"(SECONDS) EAST, 180.00 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE SOUTHEAST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE SOUTH 00°10'53" EAST, 3.15 FEET; THENCE SOUTH 89°49'07" WEST, 180.00 FEET; THENCE NORTH 00°10'53" WEST, 3.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 567 SQUARE FEET.

AND

SUBSURFACE RIGHTS

PART OF INGERSOLL AVENUE RIGHT-OF-WAY SOUTH OF THE WEST 180 FEET OF THAT PART OF LOT 16 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING NORTH OF INGERSOLL AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE SOUTH 00°(DEGREES) 10'(MINUTES) 53"(SECONDS) EAST 3.15 FEET; THENCE SOUTH 89° 49' 07" WEST, 37.00 FEET PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE POINT OF BEGINNING; THENCE SOUTH 00°10'53" EAST, 2.00 FEET; THENCE SOUTH 89°49'07" WEST, 45.00 FEET; THENCE NORTH 00°10'53"

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WEST, 2.00 FEET; THENCE NORTH 89°49'07" EAST, 45.00 FEET PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE POINT OF BEGINNING.

CONTAINING 90 SQUARE FEET.

3. The proposed conveyance of the Permanent Easement for Building Encroachment and the Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated street right-of-way, as legally described below, to Star Lofts Condos for \$5,400.00 is hereby approved:

PERMANENT EASEMENT FOR BUILDING ENCROACHMENT

PART OF VACATED INGERSOLL AVENUE RIGHT-OF-WAY ABUTTING THE WEST 180 FEET OF THAT PART OF LOT 16 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING NORTH OF INGERSOLL AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE NORTH 89°(DEGREES) 49'(MINUTES) 07"(SECONDS) EAST, 180.00 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE SOUTHEAST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE SOUTH 00°10'53" EAST, 3.15 FEET; THENCE SOUTH 89°49'07" WEST, 180.00 FEET; THENCE NORTH 00°10'53" WEST, 3.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 567 SQUARE FEET.

AND

PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY

PART OF VACATED INGERSOLL AVENUE RIGHT-OF-WAY SOUTH OF THE WEST 180 FEET OF THAT PART OF LOT 16 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING NORTH OF INGERSOLL AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST 180 FEET OF SAID LOT 16 LYING NORTH OF INGERSOLL AVENUE; THENCE SOUTH 00°(DEGREES) 10'(MINUTES) 53"(SECONDS) EAST 3.15 FEET; THENCE SOUTH 89° 49' 07" WEST, 37.00 FEET PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE POINT OF BEGINNING; THENCE SOUTH 00°10'53" EAST, 2.00

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FEET; THENCE SOUTH 89°49'07" WEST, 45.00 FEET; THENCE NORTH 00°10'53" WEST, 2.00 FEET; THENCE NORTH 89°49'07" EAST, 45.00 FEET PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID INGERSOLL AVENUE TO THE POINT OF BEGINNING.

CONTAINING 90 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement for Building Encroachment and Permanent Easement for Subsurface Building Encroachment on City-Owned Property as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Building Encroachment and Permanent Easement for Subsurface Building Encroachment on City-Owned Property, 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building Encroachment and Permanent Easement for Subsurface Building Encroachment on City-Owned Property, 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.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and Permanent Easement for Subsurface Building Encroachment on City-Owned Property and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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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
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

CERTIFICATE

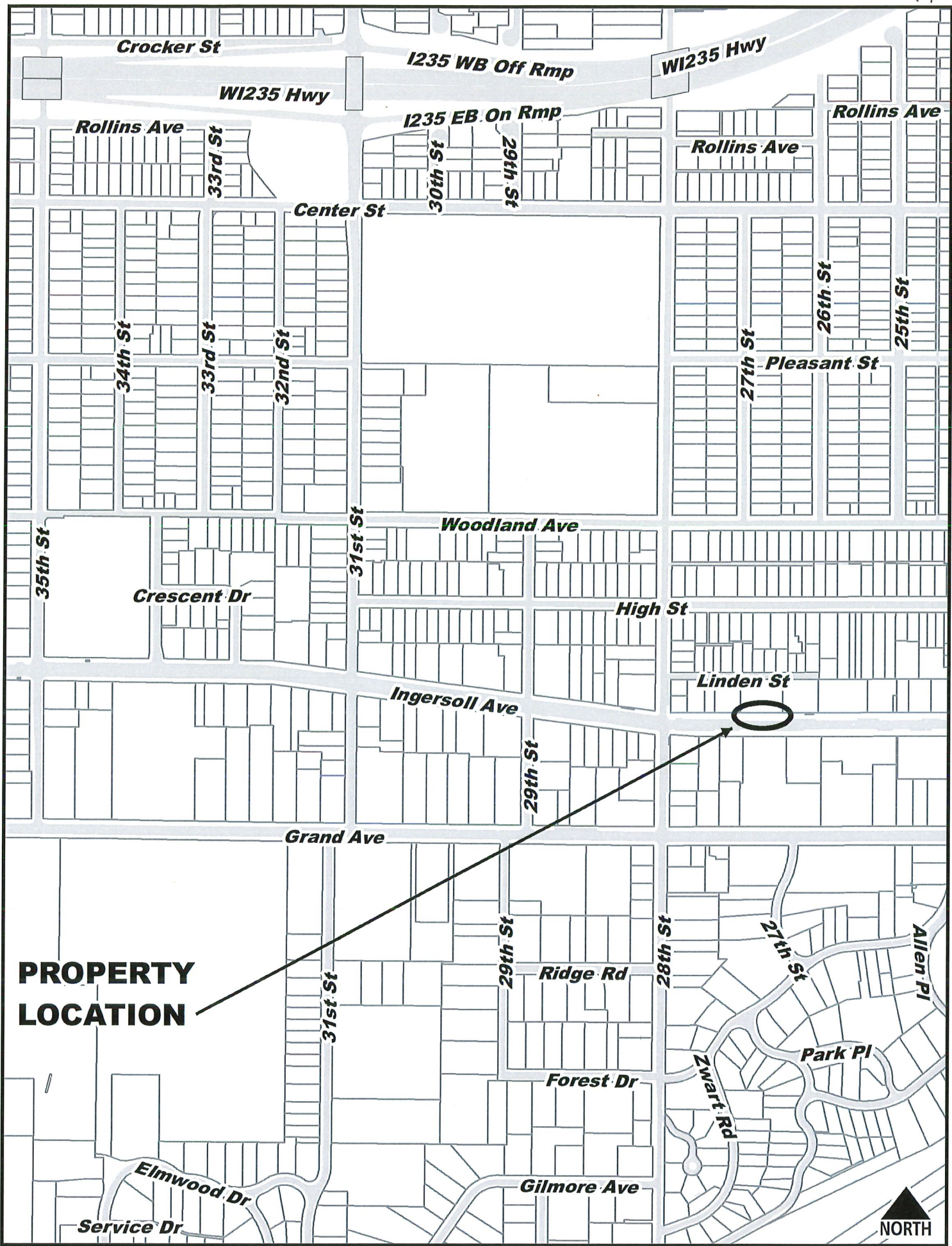
I, Laura Baumgartner, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

Laura Baumgartner, City Clerk



**PROPERTY
LOCATION**

