



Date June 9, 2025

**HOLD HEARING FOR VACATION OF SUBSURFACE RIGHTS WITHIN A PORTION
OF CARPENTER AVENUE RIGHT-OF-WAY ADJOINING 2400 CARPENTER AVENUE
AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING
ENCROACHMENT ON CITY-OWNED PROPERTY TO VALO APARTMENTS LLC
FOR \$30.00**

WHEREAS, on December 18, 2023, by Roll Call No. 23-1758 the City Council of the City of Des Moines, Iowa received and filed a recommendation from the City Plan and Zoning Commission to approve a request from Merge, LLC to vacate subsurface rights within a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa ("Property") to allow for encroachment of proposed building footings, subject to the reservation of easements for all existing utilities until such time as they are abandoned or relocated at the applicant's expense; and

WHEREAS, Merge, LLC has transferred said Property to Valo Apartments LLC; and

WHEREAS, Valo Apartments LLC has offered to the City the purchase price of \$30.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-Owned Property ("Easement") under, through and across a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa (hereinafter "Easement Area") for the purpose of constructing, operating, maintaining and repairing footings for a building being constructed on the Property, which price reflects the fair market value of the Easement 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 Easement in such vacated right-of-way; and

WHEREAS, on May 19, 2025 by Roll Call No. 25-0734, 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 Subsurface Building Encroachment on City-Owned Property be set for hearing on June 9, 2025 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 Easement was given to all necessary parties 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 subsurface rights in a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa 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 subsurface rights within a portion of Carpenter Avenue right-of-way adjoining 2400 Carpenter Avenue, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

A TRACT OF LAND LYING WITHIN THE CARPENTER AVENUE RIGHT-OF-WAY THAT IS ADJOINING LOT 41 OF UNIVERSITY PLACE, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 41; THENCE S89°19'23"W, 63.05 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CARPENTER AVENUE TO THE POINT OF BEGINNING, THE NEXT 4 CALLS ARE ALONG LINES PARALLEL OR PERPENDICULAR TO SAID SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE N00°40'37"W, 0.50 FEET; THENCE S89°19'23"W, 33.00 FEET; THENCE S00°40'37"E, 0.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE N89°19'23"E, 33.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 16.5 SQUARE FEET.

3. The proposed conveyance of the Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated street right-of-way, as legally described below, to Valo Apartments LLC for \$30.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A TRACT OF LAND LYING WITHIN THE VACATED PORTION OF CARPENTER AVENUE RIGHT-OF-WAY THAT IS ADJOINING LOT 41 OF UNIVERSITY PLACE, AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 41; THENCE S89°19'23"W, 63.05 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CARPENTER AVENUE TO THE POINT OF BEGINNING, THE NEXT 4 CALLS ARE ALONG LINES PARALLEL OR PERPENDICULAR TO SAID SOUTH RIGHT-OF-WAY LINE OF CARPENTER AVENUE; THENCE N00°40'37"W, 0.50 FEET; THENCE S89°19'23"W, 33.00 FEET; THENCE S00°40'37"E, 0.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE N89°19'23"E, 33.00 FEET

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ALONG SAID SOUTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.
SAID TRACT CONTAINS 16.5 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the 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.
6. 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 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the 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.
8. 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 Subsurface Building Encroachment on City-Owned Property and a copy of the other documents to the grantee.
9. 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/ Grant Hyland
Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

MOTION CARRIED

APPROVED

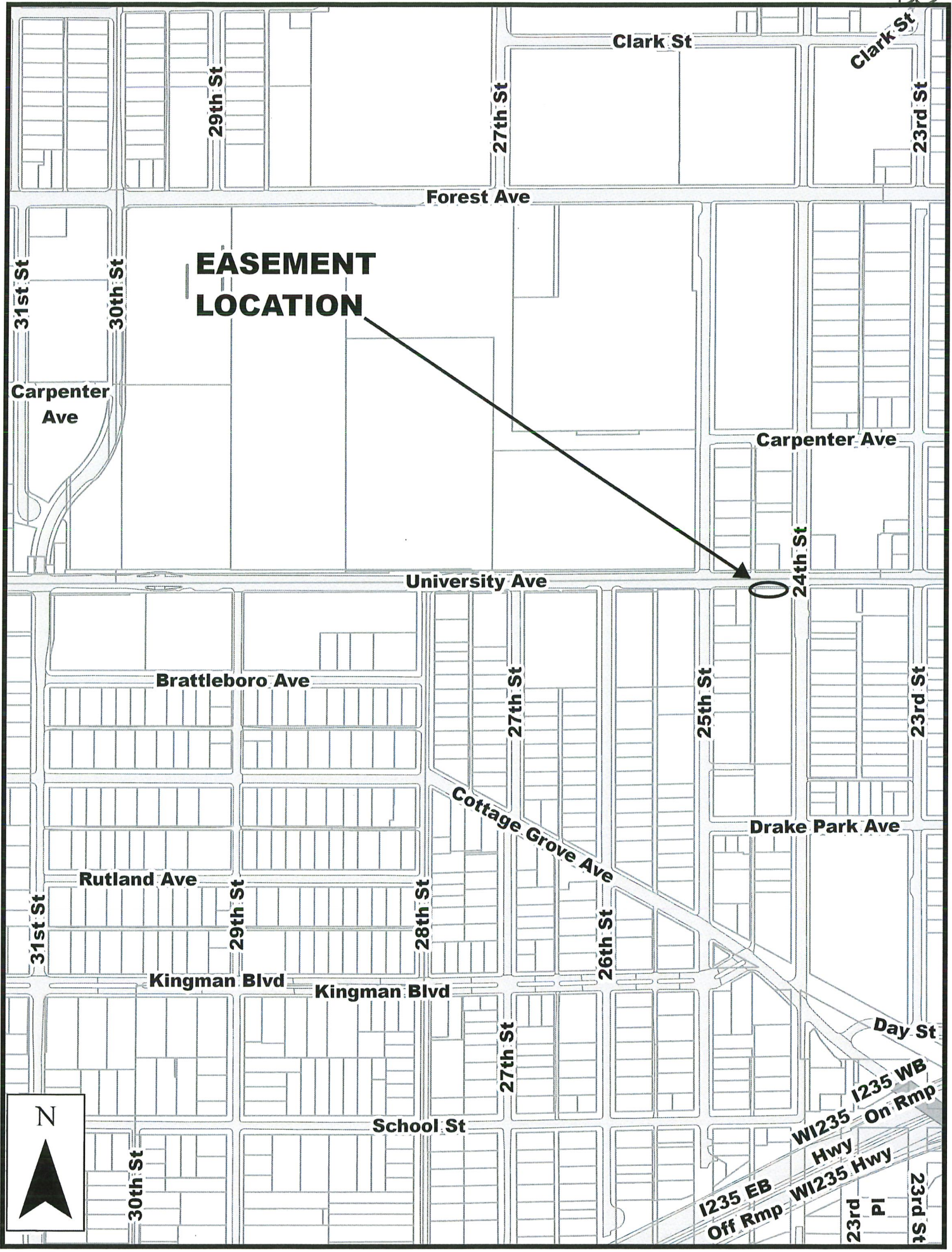
Mayor

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



**EASEMENT
LOCATION**