

★ Roll Call Number

Agenda Item Number

20-01661

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Date April 20, 2020

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SEGMENTS OF 6TH AVENUE AND UNIVERSITY AVENUE RIGHT-OF-WAY AND CONVEYANCE OF EASEMENTS FOR BUS SHELTER ENCROACHMENT ON CITY-OWNED PROPERTY TO DES MOINES AREA REGIONAL TRANSIT AUTHORITY FOR \$1,540.00

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter "DART") wishes to acquire seven permanent easements on portions of City right-of-way located at various points along 6th Avenue and University Avenue, as legally described below ("Easement Area"), for the purpose of constructing, operating and maintaining a DART bus stop shelters; and

WHEREAS, DART and the City Real Estate Division have negotiated the terms of the permanent easements 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, including snow removal, in accordance with City ordinances, policies and regulations, and State law, which easements are subject to the reservation of utilities therein; and

WHEREAS, DART shall pay to the City \$220.00 per easement, a total of \$1,540.00 for costs incurred by the City in preparing necessary documentation for bus shelter location to allow for vacation and conveyance of an easement 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(3); and

WHEREAS, the vacation of said portions of City right-of-way located along 6th Avenue and University Avenue, as legally described below, and conveyance of said Easements for Bus Shelter Encroachment on City-owned Property will not inconvenience the City or public.

WHEREAS, on March 23, 2020, by Roll Call No. 20-0519, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed vacation and conveyance of such permanent easement interests be set for hearing on April 20, 2020, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, the location of City Council meetings have been relocated to the Richard A. Clark Municipal Services Center instead of City Hall due to the developing COVID-19 pandemic; and

WHEREAS, prior to publication of notice City staff corrected the location of said hearing; and

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WHEREAS, due notice of said proposal to vacate portions of City right-of-way located along 6th Avenue and University Avenue and convey said proposed easements therein 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 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 Easements for Bus Shelter Encroachment on City-owned Property in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.
2. The public would not be inconvenienced by reason of the vacation of various portions of City right-of-way located along 6th Avenue and University Avenue, subject to the reservation of easement therein, legally described as follows, and said vacation is hereby approved:

6th Avenue, North of Franklin Avenue, East Side

A PART OF 6TH AVENUE RIGHT OF WAY IN RIVERVIEW PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 16 IN SAID RIVERVIEW PARK, SAID SOUTHWEST CORNER ALSO BEING ON THE EAST RIGHT OF WAY LINE OF 6TH AVENUE; THENCE NORTH ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 34 FEET; THENCE WEST AND PARALLEL TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 8.5 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING WEST AND PARALLEL TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 7 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE EAST AND PARALLEL TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 7 FEET; THENCE SOUTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 336 SQUARE FEET.

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COMMENCING AT THE SOUTHWEST CORNER OF LOT 16 IN SAID RIVERVIEW PARK; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 66 FEET TO THE WEST RIGHT OF WAY LINE OF SAID 6TH AVENUE; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 45 FEET; THENCE EAST AND PARALLEL TO

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THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 8.5 FEET TO THE POINT OF BEGINNING; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE EAST AND PARALLEL TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 7 FEET; THENCE SOUTH AND PARALLEL TO SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE WEST AND PARALLEL TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 7 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 336 SQUARE FEET.

6th Avenue, North of Washington Avenue, East Side

A PART OF 6TH AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., (ALSO REFERRED TO AS POLK COUNTY HOMESTEAD & TRUST CO'S ADDITION), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 IN BLOCK 5 OF SAID OFFICIAL PLAT OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., SAID SOUTHEAST CORNER ALSO BEING ON THE WEST RIGHT OF WAY LINE OF 6TH AVENUE; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 42 FEET; THENCE EAST AND PARALLEL TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 8.5 FEET TO THE POINT OF BEGINNING; THENCE NORTH AND PARALLEL TO SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE EAST AND PARALLEL TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 7 FEET; THENCE SOUTH AND PARALLEL TO SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE WEST AND PARALLEL TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 7 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 336 SQUARE FEET.

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6th Avenue, South of College Avenue, East Side

A PART OF 6TH AVENUE RIGHT OF WAY IN W.W. FINK'S SUBDIVISION OF LOT 42 OF OFFICIAL PLAT OF SE 1/4 S 34, T79, R24, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF COLLEGE AVENUE AND THE EAST RIGHT OF WAY LINE OF 6TH AVENUE; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 74.5 FEET; THENCE WEST AND PARALLEL TO THE WESTERLY EXTENSION OF SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 8.5 FEET TO THE POINT OF BEGINNING; THENCE SOUTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE WEST AND PARALLEL TO THE WESTERLY EXTENSION OF SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 7 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE EAST AND PARALLEL TO THE WESTERLY EXTENSION OF SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 7 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 336 SQUARE FEET.

University Avenue, West of 27th Street, North Side

A PART OF UNIVERSITY AVENUE RIGHT OF WAY IN UNIVERSITY PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 118 IN SAID UNIVERSITY PLACE; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 70 FEET; THENCE SOUTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 3 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 10.5 FEET; THENCE WEST AND PARALLEL TO THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 36 FEET; THENCE NORTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 10.5 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF SAID LOT 118, A DISTANCE OF 36 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 378 SQUARE FEET.

University Avenue, West of 29th Street, North Side

A PART OF UNIVERSITY AVENUE RIGHT OF WAY IN DRAKE UNIVERSITY'S 1ST ADDITION TO UNIVERSITY PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 25 IN SAID DRAKE UNIVERSITY'S 1ST ADDITION TO UNIVERSITY PLACE; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 25, A DISTANCE OF 3 FEET; THENCE SOUTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 25, A DISTANCE OF 0.5 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 25, A DISTANCE OF 10.5 FEET; THENCE WEST AND PARALLEL TO THE SOUTH LINE OF SAID LOT 25, A DISTANCE OF 36 FEET; THENCE NORTH AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT 25, A DISTANCE OF 10.5 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF SAID LOT 25,

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A DISTANCE OF 36 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 378 SQUARE FEET.

3. That the conveyance of an Easement for Bus Shelter Encroachment on City-owned Property in such vacated right-of-way as described below, to Des Moines Area Regional Transit Authority for a fee of \$1,540.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the reservation of easements therein, and further subject to the negotiated terms of the permanent easements as set forth herein above:

6th Avenue, North of Franklin Avenue, East Side

A PART OF VACATED 6TH AVENUE RIGHT OF WAY IN RIVERVIEW PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SOUTH RIGHT OF WAY LINE, A DISTANCE OF 7 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 48 FEET; THENCE EAST AND PARALLEL TO THE WESTERLY EXTENSION OF SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 7 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 336 SQUARE FEET.

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4. The Mayor is authorized and directed to sign the seven (7) 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 \$1,540.00 fee 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.

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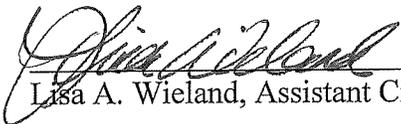
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6. The Real Estate Division Manager is authorized and directed to forward the original of the Easements, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's 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.
9. The actions of City staff in preparing the notice with the correct place of the hearing are hereby ratified.

Moved by Gray to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

CERTIFICATE

I, P. KAY CMELIK, 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


 Mayor