

Date August 17, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF URBANDALE AVENUE RIGHT-OF-WAY AND CONVEYANCE OF AN EASEMENT FOR BUS SHELTER ENCROACHMENT ON CITY-OWNED PROPERTY TO DES MOINES AREA REGIONAL TRANSIT AUTHORITY FOR \$220.00

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter “DART”) wishes to acquire a permanent easement on a portion of City right-of-way located along Urbandale Avenue east of Beaver Avenue, as legally described below (“Easement Area”), for the purpose of constructing, operating and maintaining a DART bus stop shelter; 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, including any approved artwork, 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, including any approved artwork, 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, and any approved artwork, has been constructed and located within the Easement Area as shown on approved plans and specifications; and (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 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 portion of City right-of-way located along Urbandale Avenue, as legally described below, and conveyance of said Easement for Bus Shelter Encroachment on City-owned Property will not inconvenience the City or public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of City right-of-way located along Urbandale Avenue east of Beaver Avenue, more specifically described as follows, subject to the reservation for utilities therein:

A PART OF URBANDALE AVENUE RIGHT OF WAY LYING NORTH OF AND ADJOINING LOT 10 IN BEAVER GLEN, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE



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CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 10; THENCE NORTHWEST ALONG THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWEST ALONG SAID NORTH LINE, 14 FEET; THENCE NORTHEAST AND PERPENDICULAR TO SAID NORTH LINE, 6 FEET; THENCE SOUTHEAST AND PARALLEL TO SAID NORTH LINE, 14 FEET; THENCE SOUTHWEST AND PERPENDICULAR TO SAID NORTH LINE, 6 FEET AND TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 84 SQUARE FEET.

2. That if the City Council decides to vacate the above described portions of City right-of-way, the City of Des Moines further proposes to convey an Easement for Bus Shelter Encroachment on City-Owned Property in such vacated City right-of-way to Des Moines Area Regional Transit Authority for \$220.00.

3. A public hearing shall be held on September 14, 2020, at 5:00 p.m. at the Board Room of the Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie’s March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

- Please click this URL to join:
<https://zoom.us/j/94014038677?pwd=Qlh5M0prV0sxVHFZl1pIbVhYmIYdz09>
Passcode: 642423
- Or join by phone:
Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)
Webinar ID: 940 1403 8677

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.

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

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

/s/
 Lisa A. Wieland, Assistant City Attorney

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

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.

MOTION CARRIED 7 APPROVED
J. M. Frankin Cownie
 Mayor

P. Kay Cmelik City Clerk