



**Roll Call Number**

21-0970

**Agenda Item Number**

24

**Date** June 28, 2021

Page 1

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SEGMENTS OF 42<sup>ND</sup> STREET RIGHT-OF-WAY AND CONVEYANCE OF EASEMENTS FOR BUS SHELTER ENCROACHMENT ON CITY-OWNED PROPERTY TO DES MOINES AREA REGIONAL TRANSIT AUTHORITY FOR \$440.00**

**WHEREAS**, Des Moines Area Regional Transit Authority (hereinafter “DART”) wishes to acquire permanent easements on portions of City right-of-way located on the west side of 42<sup>nd</sup> Street north of Rollins Avenue, and on the east side of 42<sup>nd</sup> Street south of Rollins Avenue, as legally described below (“Easement Areas”), for the purpose of constructing, operating and maintaining a DART bus stop shelter on each location; and

**WHEREAS**, DART and the City Real Estate Division have negotiated the terms of two 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, and shall be performed in a workmanlike manner; (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; and

**WHEREAS**, DART shall pay to the City \$440.00 for costs incurred by the City in preparing necessary documentation for bus shelter locations to allow for vacation and conveyance of easements within the right-of-way, including but not limited to preparation of an exhibit and corresponding legal description for each location, 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 42<sup>nd</sup> Street, as legally described below, and the conveyances of said Easements 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 on the west side of 42<sup>nd</sup> Street, north of Rollins Avenue, and on the east side of 42<sup>nd</sup> Street, south of Rollins Avenue, more specifically described as follows, subject to the reservation for utilities therein:

WEST SIDE OF 42<sup>ND</sup> STREET

A PART OF 42<sup>ND</sup> STREET RIGHT OF WAY IN LOT 32 OF THE OFFICIAL REPLAT OF THE OFFICIAL PLAT OF THE NE 1/4 OF SECTION 1, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., ALL



**Roll Call Number**

21-0970

**Agenda Item Number**

24

**Date** June 28, 2021

Page 2

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 NORTHEAST CORNER OF SAID LOT 32; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 32, A DISTANCE OF 138 FEET; THENCE WEST AND PERPENDICULAR TO SAID EAST LINE, 6.5 FEET TO THE POINT OF BEGINNING; THENCE SOUTH AND PARALLEL TO SAID EAST LINE, 14 FEET; THENCE WEST AND PERPENDICULAR TO SAID EAST LINE, 5 FEET TO THE WEST RIGHT OF WAY LINE OF 42<sup>ND</sup> STREET, AS PRESENTLY ESTABLISHED; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE, 14 FEET; THENCE EAST AND PERPENDICULAR TO SAID EAST LINE, 5 FEET TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 70 SQUARE FEET.

EAST SIDE OF 42<sup>ND</sup> STREET

A PART OF LOT 10 AND A PART OF 42<sup>ND</sup> STREET RIGHT OF WAY LYING WEST OF SAID LOT 10, ALL IN BRYN MAWR HEIGHTS ADDITION TO THE CITY OF DES MOINES, IA, 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 NORTHWEST CORNER OF LOT 10; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 5 FEET TO THE EAST RIGHT OF WAY LINE OF 42<sup>ND</sup> STREET; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE, 20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID EAST RIGHT OF WAY LINE, 14 FEET; THENCE WEST AND PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE, 6 FEET; THENCE NORTH AND PARALLEL TO SAID EAST RIGHT OF WAY LINE, 14 FEET; THENCE EAST AND PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE, 6 FEET TO SAID EAST RIGHT OF WAY LINE 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 two Easements for Bus Shelter Encroachment on City-Owned Property in such vacated City right-of-way to Des Moines Area Regional Transit Authority for \$440.00.
3. A public hearing shall be held on July 19, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. July 15, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the July 19, 2021 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.



**Roll Call Number**

21-0970

**Agenda Item Number**

24

**Date** June 28, 2021

Page 3

- 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.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PSW

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

J. M. Franklin Cownie  
Mayor

**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.

P. Kay Cmelik

City Clerk