

Date March 4, 2024

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SEGMENT OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 2103 INGERSOLL AVENUE AND CONVEYANCE OF 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 on the north side of Ingersoll Avenue between 23th Street and Martin Luther King, Jr. Parkway, as legally described below (“Easement Areas”), for the purpose of constructing, operating and maintaining a DART bus stop shelter; and

WHEREAS, On May 23, 2022, by Roll Call 22-0789, City Council of the City of Des Moines received and filed a communication from the Greater Des Moines Public Art Foundation (GDMPAF) recommending approval of the DART art bus shelter concepts as presented by The Avenues; and

WHEREAS, On June 26, 2023, by Roll Call 23-0937, City Council of the City of Des Moines voted for continuance of hearing on vacation of segments of Ingersoll Avenue right-of-way and conveyance of easements for bus shelter encroachment on City-owned property to Des Moines Area Regional Transit Authority, \$1,320 for six permanent easements; and

WHEREAS, DART and the City Real Estate Division has negotiated the terms for one permanent easement which includes: (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, 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 the approved plans and specifications; and

WHEREAS, DART shall pay to the City \$220.00 for costs incurred by the City in preparing necessary documentation for the bus shelter location to allow for vacation and conveyance of easements within the right-of-way 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 Ingersoll Avenue, 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:

Date March 4, 2024

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 north side of Ingersoll Avenue between 23th Street and Martin Luther King, Jr. Parkway, more specifically described as follows, subject to the reservation for utilities therein:

LEGAL DESCRIPTION 100-V1:

A PORTION OF INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF INGERSOLL AVENUE AND THE WEST LINE OF LOT 9 OF SAID OFFICIAL PLAT; THENCE NORTH 89°(DEGREES) 53'(MINUTES) 47'(SECONDS) EAST, 79.61 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE SOUTH 00°52'53" EAST, 21.82 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°55'38" EAST, 13.68 FEET; THENCE SOUTH 00°29'05" EAST, 7.56 FEET; THENCE NORTH 89°58'38" WEST, 13.63 FEET; THENCE NORTH 00°52'53" WEST, 7.54 FEET TO THE POINT OF BEGINNING CONTAINING 103 SQUARE FEET.

SUBJECT TO ALL EASEMENTS AND AGREEMENTS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

2. That if the City Council decides to vacate the above-described portion of City right-of-way, the City of Des Moines further proposes to convey 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 March 18, 2024, 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. Persons interested in the proposal will be given the opportunity to express their views at that hearing.
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.

★ **Roll Call Number**

24-0331

Agenda Item Number

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Date March 4, 2024

Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			
MOTION CARRIED	APPROVED			

Connie Boesen 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
Laura Baumgartner, City Clerk