

25-0653

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Date May 5, 2025

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR RIGHTS WITHIN A PORTION OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 3711 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO INGERSOLL THEATER, LLC FOR \$3,200.00

WHEREAS, Ingersoll Theater, LLC, the owner of 3711 Ingersoll Avenue, Des Moines, Iowa, has requested that the City of Des Moines, Iowa ("City") vacate air rights in a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue, which request was not presented to the City's Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, Ingersoll Theater, LLC has offered to the City the purchase price of \$3,200.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property ("Easement") over, through and across a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue (hereinafter "Easement Area") for the purpose of constructing, operating, maintaining and repairing a marquee sign, 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.

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

- 1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating air rights in a portion of Ingersoll Avenue right-of-way adjoining 3711 Ingersoll Avenue, Des Moines, Iowa, legally described as follows:

A PART OF INGERSOLL AVENUE RIGHT-OF-WAY IN DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL '2021-251', AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19190, PAGE 899 IN SAID CITY OF DES MOINES; THENCE SOUTH 89°02'50" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL '2021-251', A DISTANCE OF 6.91 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°02'50" EAST ALONG SAID SOUTHERLY LINE, 39.29 FEET; THENCE SOUTH 00°57'10" WEST, 2.42 FEET; THENCE SOUTH 58°57'12" WEST, 18.74 FEET; THENCE SOUTH 00°57'10" WEST, 2.89 FEET; THENCE NORTH 89°02'50"

WEST, 7.71 FEET; THENCE NORTH 00°57'10" EAST, 2.87 FEET; THENCE NORTH 57°47'37" WEST, 18.34 FEET; THENCE NORTH 00°57'10" EAST, 2.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (354 SQUARE FEET). GROUND ELEVATION = 147.02 FEET. BOTTOM OF SIGN ELEVATION = 155.70 FEET. TOP OF SIGN ELEVATION 163.92 FEET.

2. The City Council of the City of Des Moines, Iowa further proposes to convey a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as legally described below, to Ingersoll Theater, LLC for \$3,200.00, subject to any and all easements, restrictions and covenants of record:

A PART OF VACATED INGERSOLL AVENUE RIGHT-OF-WAY IN DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL '2021-251', AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 19190, PAGE 899 IN SAID CITY OF DES MOINES; THENCE SOUTH 89°02'50" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL '2021-251', A DISTANCE OF 6.91 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°02'50" EAST ALONG SAID SOUTHERLY LINE, 39.29 FEET; THENCE SOUTH 00°57'10" WEST, 2.42 FEET; THENCE SOUTH 58°57'12" WEST, 18.74 FEET; THENCE SOUTH 00°57'10" WEST, 2.89 FEET; THENCE NORTH 89°02'50" WEST, 7.71 FEET; THENCE NORTH 00°57'10" EAST, 2.87 FEET; THENCE NORTH 57°47'37" WEST, 18.34 FEET; THENCE NORTH 00°57'10" EAST, 2.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (354 SQUARE FEET). GROUND ELEVATION = 147.02 FEET. BOTTOM OF SIGN ELEVATION = 155.70 FEET. TOP OF SIGN ELEVATION 163.92 FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on May 19, 2025, said meeting to be held 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 all in accordance with §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

25-0653

Agenda Item Number

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Date May 5, 2025

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Moved by Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Connie Buesen 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