



.....
Date August 7, 2023.....

RESOLUTION TO DISMISS HEARING FOR 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 FOR \$1,320.00

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter “DART”) wishes to acquire permanent easements on portions of City right-of-way located on the north and south sides of Ingersoll Avenue between 28th 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 on each location; 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, DART and the City Real Estate Division have negotiated the terms of six permanent easements 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 Areas prior to accessing the Easement Areas, and, except in the case of emergency, access to the Easement Areas 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 Areas as shown on approved plans and specifications; and

WHEREAS, DART shall pay to the City \$1,320.00 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 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 Ingersoll Avenue, and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property will not inconvenience the City or public.

WHEREAS, on June 12, 2023, by Roll Call No. 23-0822, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed vacation of said Ingersoll Avenue right-of-way and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property be set for hearing on June 26, 2023 at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, on June 26, 2023, by Roll Call No. 23-0937, it was duly resolved by the City Council of the City of Des Moines, Iowa that the hearing on the proposed vacation of said Ingersoll Avenue right-of-way

Date August 7, 2023

and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property be continued to June 26, 2023 at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa , to allow DART and the City of Des Moines additional time finalize the terms and conditions of the permanent easements; and

WHEREAS, DART and the City of Des Moines have thus far been unable to reach an agreement on the specific terms and conditions of the permanent easements, particularly the insurance and indemnification requirements, and the City Real Estate Division thereby recommends that the public hearing on the vacation of portions of City right-of-way located along Ingersoll Avenue, and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property to DART be dismissed until such time as agreement has been reached between DART and the City of Des Moines on the terms and conditions of the permanent easements and said easements have been signed by DART; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the public hearing for vacation of segments of Ingersoll Avenue right-of-way and the conveyance to DART of the Easements for Bus Shelter Encroachment on City-owned Property, be and is hereby dismissed.

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

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

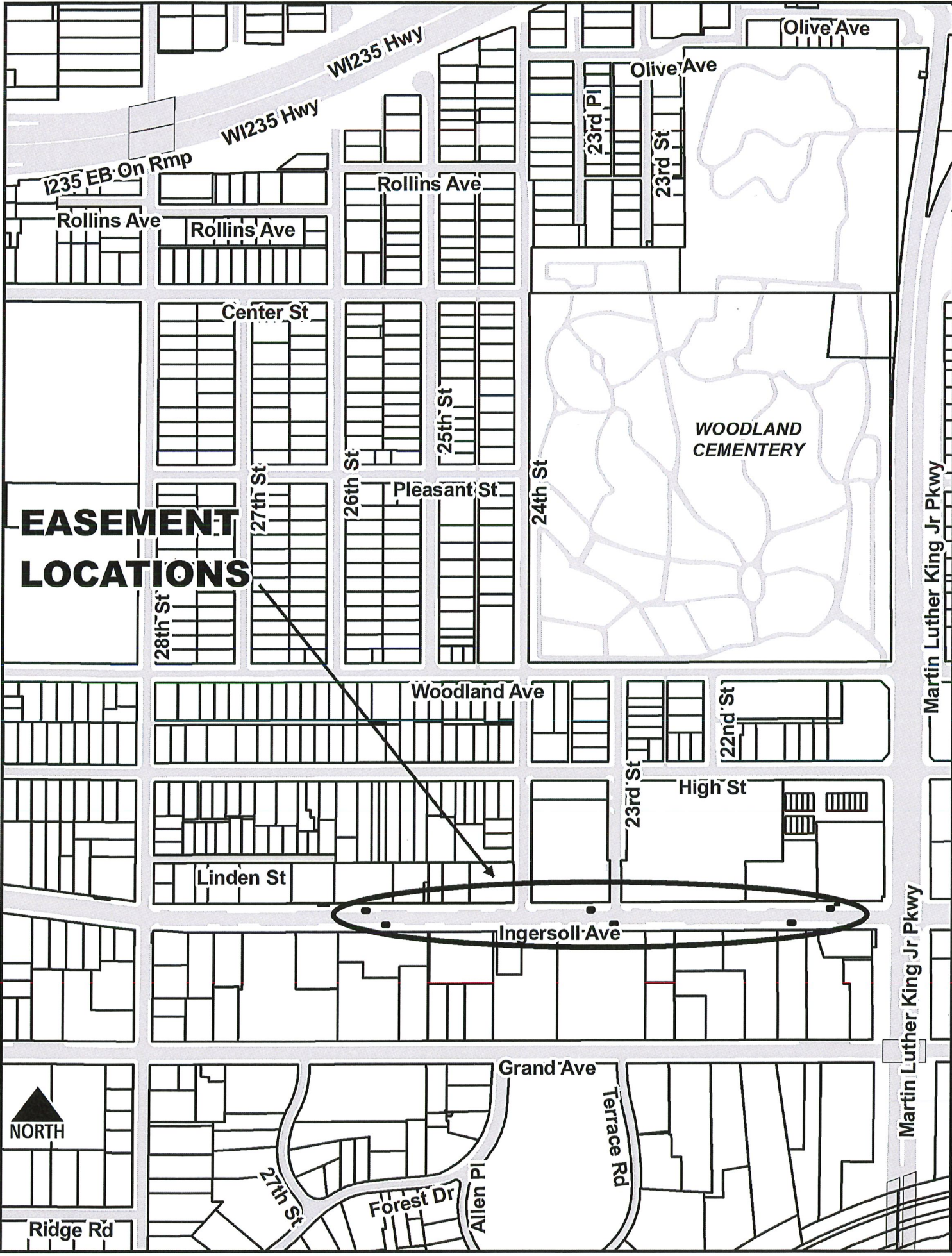
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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, City Clerk



**EASEMENT
LOCATIONS**

WOODLAND
CEMENTERY

NORTH

Martin Luther King Jr Pkwy

Martin Luther King Jr Pkwy

Olive Ave

Olive Ave

W1235 Hwy

W1235 Hwy

I235 EB On Rmp

Rollins Ave

Rollins Ave

Rollins Ave

23rd Pl

23rd St

Center St

25th St

26th St

24th St

Pleasant St

27th St

28th St

Woodland Ave

22nd St

High St

Linden St

23rd St

Ingersoll Ave

Grand Ave

Terrace Rd

27th St

Forest Dr

Allen Pl

Ridge Rd

★ Roll Call Number
23-0937

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**CONTINUANCE OF HEARING FOR 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 FOR \$1,320.00**

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter “DART”) wishes to acquire permanent easements on portions of City right-of-way located on the north and south sides of Ingersoll Avenue between 28th 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 on each location; 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, DART and the City Real Estate Division have negotiated the terms of six permanent easements 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 Areas prior to accessing the Easement Areas, and, except in the case of emergency, access to the Easement Areas 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 Areas as shown on approved plans and specifications; and

WHEREAS, DART shall pay to the City \$1,320.00 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 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 Ingersoll Avenue, and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property will not inconvenience the City or public.

WHEREAS, on June 12, 2023, by Roll Call No. 23-0822, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed vacation of said Ingersoll Avenue right-of-way and the conveyance of said Easements for Bus Shelter Encroachment on City-owned Property be set for hearing on June 26, 2023 at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate said portions of City right-of-way located on the north and south sides of Ingersoll Avenue between 28th Street and Martin Luther King, Jr. Parkway 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

★ Roll Call Number
23-0937

Agenda Item Number 54-47

Date June 26, 2023

WHEREAS, a continuance of the public hearing is needed until the Council meeting on August 7, 2023, to allow DART and the City of Des Moines additional time finalize the terms and conditions of the permanent easements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the public hearing for vacation of segments of Ingersoll Avenue right-of-way and the conveyance of the Easements for Bus Shelter Encroachment on City-owned Property, be and is hereby continued to August 7, 2023 at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

Moved by Mandelbaum to adopt. Second by Gatto.

APPROVED AS TO FORM:

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

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

J. M. Frankin Cownie 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