

Date March 18, 20234

HOLD 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.

WHEREAS, on March 4, 2024, by Roll Call No. 24-0331, 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 Easement for Bus Shelter Encroachment on City-owned Property be set for

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Date March 18, 20234

hearing on March 18, 2024 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 sides of Ingersoll Avenue between 23th 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

WHEREAS, in accordance with City Council direction, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the Easement for Bus Shelter Encroachment on City-owned Property in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.
2. The public would not be inconvenienced by reason of the vacation of portions of City right-of-way located on the north and south sides of Ingersoll Avenue between 23th Street and Martin Luther King, Jr. Parkway, subject to the reservation of easements therein, legally described as follows, and said vacation is hereby approved:

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.

3. That the conveyance of an Easement for Bus Shelter Encroachment on City-owned Property in each such vacated right-of-way location, as described below, to Des Moines Area Regional Transit Authority for a

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Date..... March 18, 20234.....

fee of \$220.00, be and is hereby approved, subject to the reservation of easement therein, and further subject to the negotiated terms of the permanent easements as set forth herein above:

LEGAL DESCRIPTION 100-P1:

A PORTION OF VACATED 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.

4. The Mayor is authorized and directed to sign each Easement for Bus Shelter Encroachment on City-owned Property for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said right-of-way, and upon proof of payment of the \$220.00 fee the City Clerk is authorized and directed to forward the original Easements, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Easements, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easements and copies of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

40

Date March 18, 2023

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.

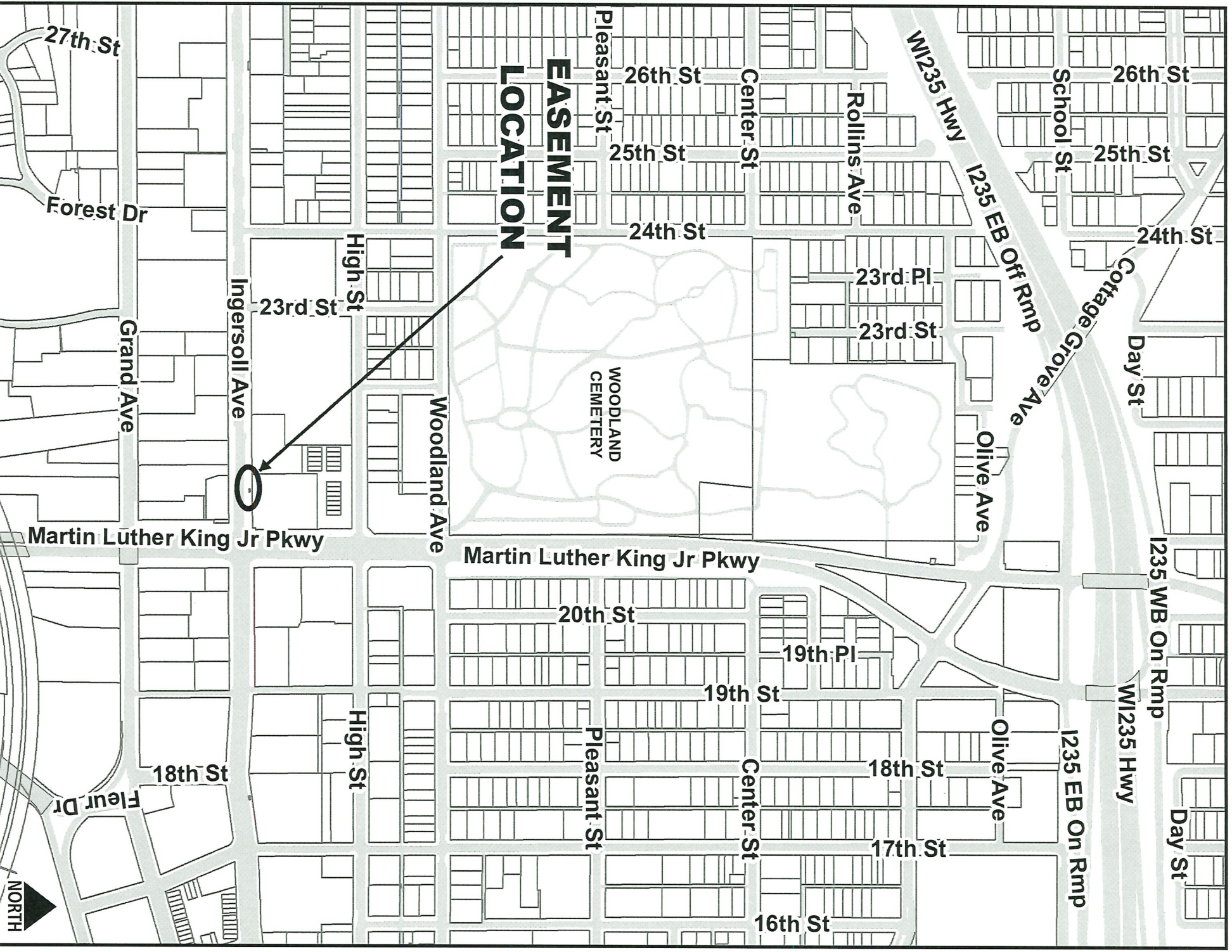
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

 Laura Baumgartner, City Clerk

**EASEMENT
LOCATION**



WOODLAND
CEMETERY



48