

**SET HEARING FOR APPROVAL OF DOCUMENTS 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 28<sup>th</sup> Street and Martin Luther King, Jr. Parkway, as legally described below (“Easement Areas”), for the purpose of constructing, operating and maintaining DART bus stop shelters; 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 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 \$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, 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 portions of City right-of-way located on the north and south sides of Ingersoll Avenue between 28<sup>th</sup> 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.

**LEGAL DESCRIPTION 100-V2:**

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL 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 SOUTHEAST CORNER OF LOT 4 OF THE OFFICIAL PLAT OF LOT 13 OF THE SOUTHWEST QUARTER (1/4) OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH/ P.M.; THENCE SOUTH 89°(DEGREES) 47'(MINUTES) 35"(SECONDS) WEST, 59.84 FEET ON THE NORTH RIGHT OF WAY LINE OF INGERSOLL AVENUE; THENCE SOUTH 00°30'22" EAST, 21.48 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°30'22" EAST, 7.92 FEET; THENCE SOUTH 89°48'06" WEST, 13.93 FEET; THENCE NORTH 00°21'33" EAST, 7.98 FEET; THENCE SOUTH 89°58'59" EAST, 13.81 FEET TO THE POINT OF BEGINNING CONTAINING 110 SQUARE FEET MORE OR LESS.

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.

**LEGAL DESCRIPTION 100-V3:**

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN LOT A, J. BAMPF PLACE, 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:

REFERRING TO SOUTHEAST CORNER OF LOT 1, IN SAID J. BAMPF PLACE; THENCE SOUTH 89°(DEGREES) 47'(MINUTES) 34"(SECONDS) WEST, 87.98 FEET ON THE SOUTH LINE OF SAID LOT

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1; THENCE SOUTH 00°08'15" WEST, 21.70 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°08'15" WEST, 7.92 FEET; THENCE SOUTH 89°50'13" WEST, 15.70 FEET; THENCE NORTH 00°00'52" EAST, 7.91 FEET; THENCE NORTH 89°48'37" EAST, 15.71 FEET TO THE POINT OF BEGINNING CONTAINING 124 SQUARE FEET MORE OR LESS.

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.

**LEGAL DESCRIPTION 100-V4:**

A PORTION OF THE INGERSOLL AVENUE RIGHT OF WAY ADJOINING LOT 1, ANKENY PLACE, 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 NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89°(DEGREES) 53'(MINUTES) 48"(SECONDS) EAST, 40.19 FEET ON THE NORTH LINE OF SAID LOT 1; THENCE NORTH 00°55'28" EAST, 21.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°55'28" EAST, 6.07 FEET; THENCE NORTH 89°51'30" EAST, 16.19 FEET; THENCE SOUTH 00°09'04" WEST, 6.07 FEET; THENCE NORTH 89°51'58" WEST, 16.27 FEET TO THE POINT OF BEGINNING CONTAINING 99 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.

**LEGAL DESCRIPTION 100-V5:**

A PORTION OF THE INGERSOLL AVENUE RIGHT OF WAY, BEING A PART OF LOT 11 OF THE OFFICIAL PLAT OF LOT 13, OFFICIAL PLAT OF SW 1/4 SEC 5-T78N-R24W, 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 NORTHEAST CORNER OF LOT 6, OFFICIAL PLAT OF LOT 13, OFFICIAL PLAT OF SW1/4 SEC 5-T78N-R24W; THENCE SOUTH 89°(DEGREES) 49'(MINUTES) 36"(SECONDS) WEST, 18.53 FEET ON THE NORTH LINE OF SAID LOT 6; THENCE NORTH 00°22'03" WEST, 21.76 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°22'03" WEST, 5.93 FEET; THENCE NORTH 89°58'17" EAST, 16.07 FEET; THENCE SOUTH 00°00'35" EAST, 5.93 FEET; THENCE SOUTH 89°59'09" WEST, 16.04 FEET TO THE POINT OF BEGINNING CONTAINING 95 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.

**LEGAL DESCRIPTION 100-V6:**

A PORTION OF THE INGERSOLL AVENUE RIGHT OF WAY, BEING A PART OF LOT A AND ADJOINING LOT 4, J. BAMPF PLACE, 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 NORTHEAST CORNER OF SAID LOT 4, THENCE SOUTH 89°(DEGREES) 52'(MINUTES) 11"(SECONDS) WEST, 76.70 FEET ON THE NORTH LINE OF SAID LOT 4; THENCE NORTH 00°21'10" EAST, 21.95 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°55'18" WEST, 16.08 FEET; THENCE NORTH 00°12'23" EAST, 5.83 FEET; THENCE NORTH 89°51'27" EAST, 16.09 FEET; THENCE SOUTH 00°21'10" WEST, 5.85 FEET TO THE POINT OF BEGINNING CONTAINING 94 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 portions of City right-of-way, the City of Des Moines further proposes to convey six Easements for Bus Shelter Encroachment on City-Owned Property in such vacated City right-of-way to Des Moines Area Regional Transit Authority for \$1,320.00.
3. A public hearing shall be held on June 26, 2023, 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

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Agenda Item Number

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Date June 12, 2023

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Moved by Gatto to adopt.
Second by Mandelbaum

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENCE. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and 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
Laura Baumgartner, City Clerk