

★ Roll Call Number

23-0640

Agenda Item Number

16

Date May 8, 2023

**AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY
PROPERTY INTERESTS FOR THE UNIVERSITY AVENUE – 39TH STREET TO 48TH
STREET IMPROVEMENTS PROJECT BY GIFT, NEGOTIATION,
OR EMINENT DOMAIN**

WHEREAS, the City’s Engineering Department has determined that it is necessary to acquire right-of-way in connection with the University Avenue – 39th Street to 48th Street Improvements Project (hereinafter “Project”); and

WHEREAS, the City’s Real Estate Division of the Engineering Department will acquire the necessary right-of-way for this Project; and

WHEREAS, after the final design is completed and right-of-way needs are determined, the proposed Fair Market Value of the property interests to be acquired will be submitted to the City Council or the City Manager, as applicable, for approval and authorization to proceed with acquisitions; and

WHEREAS, the permanent property interests to be acquired for this project will be used as City right-of-way following acquisition thereof, except for land determined to be excess by the City Engineer.

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

1. That the location of the Project as determined by the City’s Engineering Department is hereby approved; there is a reasonable expectation the City will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits; and the City of Des Moines Real Estate Division be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by gift, negotiation, or condemnation the necessary property interests for construction of the University Avenue – 39th Street to 48th Street Improvements Project, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201 (c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as applicable.
2. That the property will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and that relocation assistance is hereby authorized.
3. That the City Manager is authorized to approve all Fair Market Values for all the property interests needed for the Project. If the property owners agree to convey the property to the City in an amount based on the established fair market value, including an approved administrative settlement, or if a condemnation award is based on the established fair market value or falls within an approved

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settlement amount, the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out these transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to complete these transactions in accordance with standard real estate practices and state law requirements.

4. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.

5. That the City Clerk is hereby authorized and directed to endorse upon the real estate documents for this Project the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

6. That the permanent property interests acquired as part of this Project for use as City right-of-way are hereby dedicated as such, except for land determined to be excess by the City Engineer, with dedication effective upon acquisition and/or closing by gift, negotiation, or eminent domain.

(Council Communication No. 23- 230)

Moved by Gatto to adopt. Second by Boesen.

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	4			1

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.

J. M. Franklin Cownie Mayor

Laura Baumgartner City Clerk