

★ Roll Call Number

23-0828

Agenda Item Number

28

Date June 12, 2023

SET DATE OF PUBLIC HEARING ON THE INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT THE E. ARMY POST ROAD AND SE 36TH STREET ROUNDABOUT PROJECT AND TO AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS, INCLUDING AGRICULTURAL LAND, FOR THE 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 E. Army Post Road and SE 36th Street Roundabout Project (hereinafter “Project”); and

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

WHEREAS, under the provisions of Section 6B.2A of the Iowa Code, a governmental body which proposes to acquire agricultural property, by eminent domain for public improvement purposes is required to give notice of a proposed resolution, motion, or other document authorizing such acquisition of property to each property owner and contract purchaser of record (collectively, “Property Owners”) of the meeting at which such proposed authorization will be considered; and

WHEREAS, in accordance with Iowa Code Section 6B.2A, before the City can proceed with acquisition of property, including agricultural property, by eminent domain for the aforementioned Project, the City Council must:

- (a) Give affected persons and members of the public the opportunity to attend the Council meeting and present their views and objections regarding the proposed acquisition of agricultural property for public improvement projects by gift, negotiation or eminent domain.
- (b) Provide notice of the public hearing to all property owners and contract purchasers of record within the timeframes set forth in Iowa Code Sections 6B.2A
- (c) Adopt a resolution to authorize acquisition of agricultural property for the public improvement project by gift, negotiation, eminent domain.

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

1. That a public hearing shall be held on June 26, 2023, 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 to authorize acquisition of private property,

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including agricultural property, by gift, negotiation, or eminent domain for public improvement purposes for the E. Army Post Road and SE 36th Street Roundabout Project.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. June 20, 2023 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the June 26, 2023, meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

2. That the notices of the time and place of the hearing at which the public may present their views and objections regarding the acquisition of property, including agricultural property, for public improvement purposes by gift, negotiation or eminent domain, which notices were previously mailed by the City's Engineering Department - Real Estate Division pursuant to the requirements Iowa Code Section 6B.2A, are hereby ratified and confirmed.

3. That the City Clerk is hereby instructed to cause notice to be published as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, said Notice of Intent to be in substantially the same form.

Moved by Gatto to adopt. Second by Mandelbaum

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
MOTION CARRIED	APPROVED			

J. M. Franke 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

City Clerk