

Date March 22, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 6TH AVENUE RIGHT-OF-WAY ADJOINING 1230 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT TO ANAWIM A/K/A ANAWIM HOUSING, INC. FOR \$575.00

WHEREAS, on March 4, 2021, the City Plan and Zoning Commission voted to approve a request from Urban Campus Apartments LLLP, holder of an option to purchase the property at 1230 6th Avenue, to vacate the air and subsurface rights within the west 3 feet of 6th Avenue right-of-way adjoining 1230 6th Avenue to allow for construction of structural footings, roof overhang and architectural elements as part of its 5-story, Storefront Type “6th Avenue Flats” building project; and

WHEREAS, Anawim a/k/a Anawim Housing, Inc., owner of property at 1230 6th Avenue, has offered to the City of Des Moines (“City”) the purchase price of \$575.00, which represents \$115.00 for the Permanent Easement for Air Space Above City-Owned Property, and \$460.00 for the Permanent Easement for Subsurface Building Encroachment on City-owned Property, for the purchase of such easement interests in the vacated 6th Avenue right-of-way adjoining 1230 6th Avenue, Des Moines, Iowa (hereinafter “Property”), to allow for building footings, overhangs and architectural element encroachments into the vacated right-of-way, which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

WHEREAS, the Permanent Easement for Air Space Above City-owned Property and Permanent Easement for Subsurface Building Encroachment On City Property will run with the land and remain in place when Anawim a/k/a Anawim Housing, Inc. conveys 1230 6th Avenue to Urban Campus Apartments LLLP; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Subsurface Building Encroachment On City Property therein.

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

- 1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating air rights and subsurface rights in a portion of 6th Avenue right-of-way adjoining 1230 6th Avenue, Des Moines, Iowa, legally described as follows:

Air Rights

A PART OF LOTS 35 THROUGH LOT 38, GRAND PARK, AN OFFICIAL PLAT AND A PART OF THE RIGHT OF WAY OF 6TH AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Date March 22, 2021

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 35; THENCE NORTH 89°55'34" WEST ALONG THE NORTH LINE OF SAID LOT 35, A DISTANCE OF 3.00 FEET TO THE NORTHWEST CORNER OF THE ACQUISITION PLAT RECORDED IN BOOK 17667 PAGE 87-89; THENCE SOUTH 00°12'17" EAST ALONG THE WEST LINE OF SAID ACQUISITION PLAT, 1.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°47'43" EAST, 4.00 FEET; THENCE SOUTH 00°01'48" EAST, 164.00 FEET; THENCE SOUTH 89°47'43" WEST, 3.50 FEET TO SAID WEST LINE; THENCE NORTH 00°12'17" WEST ALONG SAID WEST LINE, 164.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 615 SQUARE FEET AND LYING BETWEEN ELEVATIONS 137.00 FEET AND 165.00 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 116.50 FEET).

Subsurface Rights

A PART OF LOTS 35 THROUGH LOT 38, GRAND PARK, AN OFFICIAL PLAT AND A PART OF THE RIGHT OF WAY OF 6TH AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 35; THENCE NORTH 89°55'34" WEST ALONG THE NORTH LINE OF SAID LOT 35, A DISTANCE OF 3.00 FEET TO THE NORTHWEST CORNER OF THE ACQUISITION PLAT RECORDED IN BOOK 17667 PAGE 87-89; THENCE SOUTH 00°12'17" EAST ALONG THE WEST LINE OF SAID ACQUISITION PLAT, 1.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°47'43" EAST, 4.00 FEET; THENCE SOUTH 00°01'48" EAST, 164.00 FEET; THENCE SOUTH 89°47'43" WEST, 3.50 FEET TO SAID WEST LINE; THENCE NORTH 00°12'17" WEST ALONG SAID WEST LINE, 164.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 615 SQUARE FEET.

- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Subsurface Building Encroachment On City-Owned Property, as legally described and to the grantees and for the consideration identified below:

Grantee: Anawim a/k/a Anawim Housing, Inc.

Consideration: \$575.00

Legal Description:

Air Space Easement

A PART OF LOTS 35 THROUGH LOT 38, GRAND PARK, AN OFFICIAL PLAT AND A PART OF THE VACATED RIGHT OF WAY OF 6TH AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Date March 22, 2021

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 35; THENCE NORTH 89°55'34" WEST ALONG THE NORTH LINE OF SAID LOT 35, A DISTANCE OF 3.00 FEET TO THE NORTHWEST CORNER OF THE ACQUISITION PLAT RECORDED IN BOOK 17667 PAGE 87-89; THENCE SOUTH 00°12'17" EAST ALONG THE WEST LINE OF SAID ACQUISITION PLAT, 1.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°47'43" EAST, 4.00 FEET; THENCE SOUTH 00°01'48" EAST, 164.00 FEET; THENCE SOUTH 89°47'43" WEST, 3.50 FEET TO SAID WEST LINE; THENCE NORTH 00°12'17" WEST ALONG SAID WEST LINE, 164.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 615 SQUARE FEET AND LYING BETWEEN ELEVATIONS 137.00 FEET AND 165.00 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 116.50 FEET).

Subsurface Easement

A PART OF LOTS 35 THROUGH LOT 38, GRAND PARK, AN OFFICIAL PLAT AND A PART OF THE VACATED RIGHT OF WAY OF 6TH AVENUE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 35; THENCE NORTH 89°55'34" WEST ALONG THE NORTH LINE OF SAID LOT 35, A DISTANCE OF 3.00 FEET TO THE NORTHWEST CORNER OF THE ACQUISITION PLAT RECORDED IN BOOK 17667 PAGE 87-89; THENCE SOUTH 00°12'17" EAST ALONG THE WEST LINE OF SAID ACQUISITION PLAT, 1.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°47'43" EAST, 4.00 FEET; THENCE SOUTH 00°01'48" EAST, 164.00 FEET; THENCE SOUTH 89°47'43" WEST, 3.50 FEET TO SAID WEST LINE; THENCE NORTH 00°12'17" WEST ALONG SAID WEST LINE, 164.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 615 SQUARE FEET.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on April 5, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie’s March 15, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor’s February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

★ Roll Call Number

21-0456

Agenda Item Number

14

Date March 22, 2021

Please click this URL to join. <https://dmgov-org.zoom.us/j/82012968607?pwd=emFUNWVKUVYzRzVsU0tRMVVR6TkVPQT09>
Passcode: 853086

Or join by phone:

Dial:

US: +1 312 626 6799 or 877 853 5257 (Toll Free)

Webinar ID: 820 1296 8607

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. April 1, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PCW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

J. M. Frankin Cownie
Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

P. Kay Cmelik City Clerk