

★ Roll Call Number

25-0183

Agenda Item Number

19

Date February 10, 2025

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR RIGHTS WITHIN A PORTION OF 41ST STREET RIGHT-OF-WAY ADJOINING 4109 UNIVERSITY AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO UPTOWN PARTNERS CORP. FOR \$2,041.00

WHEREAS, Uptown Partners Corp., the owner of 4109 University Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate air rights in a portion of 41st Street right-of-way adjoining 4109 University Avenue, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, Uptown Partners Corp., Timothy J. Urban, President, has offered to the City the purchase price of \$2,041.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (“Easement”) over, through and across a portion of 41st Street right-of-way adjoining 4109 University Avenue (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing the balconies and building encroachment for the Uptown Commons apartment building being constructed on the property, which price reflects the fair market value of the Easement as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the 41st Street right-of-way proposed to be vacated, and the City will not be inconvenienced by the vacation of said property and the conveyance of the Easement in such vacated right-of-way.

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 in a portion of 41st Street right-of-way adjoining 4109 University Avenue, legally described as follows:

A 5.00 FOOT WIDE PORTION OF THE 41ST STREET RIGHT OF WAY EAST OF AND ADJACENT TO LOT 1, REPLAT OF E 1/3 OF ERNHURST, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE S00°06'57"E ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 38.84 FEET TO THE POINT OF BEGINNING; THENCE N89°53'03"E, A DISTANCE OF 5.00 FEET; THENCE S00°06'57"E, A DISTANCE OF 106.00 FEET; THENCE S89°53'03"W, A DISTANCE OF 5.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE N00°06'57"W ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 106.00 FEET TO THE POINT OF BEGINNING.

EASEMENT TO BE BETWEEN ELEVATION 198.0 FEET AND 212.5 FEET (CITY OF DES MOINES VERTICAL DATUM)

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EASEMENT CONTAINS 530 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 in such vacated right-of-way, as legally described below, to Uptown Partners Corp. for \$2,041.00, subject to any and all easements, restrictions and covenants of record:

A 5.00 FOOT WIDE PORTION OF THE VACATED 41ST STREET RIGHT OF WAY EAST OF AND ADJACENT TO LOT 1, REPLAT OF E 1/3 OF ERNHURST, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE S00°06'57"E ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 38.84 FEET TO THE POINT OF BEGINNING; THENCE N89°53'03"E, A DISTANCE OF 5.00 FEET; THENCE S00°06'57"E, A DISTANCE OF 106.00 FEET; THENCE S89°53'03"W, A DISTANCE OF 5.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE N00°06'57"W ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 106.00 FEET TO THE POINT OF BEGINNING.

EASEMENT TO BE BETWEEN ELEVATION 198.0 FEET AND 212.5 FEET (CITY OF DES MOINES VERTICAL DATUM)

EASEMENT CONTAINS 530 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 February 24, 2025, 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, 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 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.

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Moved by Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Connie Buesen 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