

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR, SUBSURFACE, AND SURFACE RIGHTS WITHIN PORTIONS OF DES MOINES STREET AND EAST 6<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 603 EAST 6<sup>TH</sup> STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY, A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY, AND A PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO HOA ASTON LLC FOR \$30,324**

**WHEREAS**, HOA Aston LLC, the owner of 603 East 6<sup>th</sup> Street, has requested that the City of Des Moines, Iowa (“City”) vacate air, subsurface, and surface rights in portions of Des Moines Street and East 6<sup>th</sup> Street right-of-way adjoining 603 East 6th Street, 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**, HOA Aston LLC has offered to the City the purchase price of \$30,324.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property, a Permanent Easement for Subsurface Building Encroachment on City-Owned Property, and Permanent Easement for Surface Building Encroachment on City-Owned Property (“Easements”) over, through and across portions of Des Moines Street and East 6<sup>th</sup> Street right-of-way adjoining 603 East 6th Street (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing balconies, footings and building encroachment for the apartment building being constructed on the property, which price reflects the fair market value of the Easements as determined by the City’s Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the 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 Easements 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, subsurface, and surface rights in portions of Des Moines Street and East 6<sup>th</sup> Street right-of-way adjoining 603 East 6th Street, legally described as follows:

**AIR RIGHTS**

**AERIAL EXHIBIT ‘A’**

A PART OF THE DES MOINES STREET RIGHT-OF-WAY AND A PART OF THE E 6TH STREET RIGHT-OF-WAY, BOTH ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF

**Date** September 16, 2024

BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE NORTH 74°43'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 23.00 FEET; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 24.02 FEET; THENCE NORTH 14°56'16" WEST, 20.61 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET; THENCE SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 17.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 90 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 54-55 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

**AERIAL EXHIBIT 'B'**

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APPROXIMATE GROUND ELEVATION IS 61-62 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

**AERIAL EXHIBIT 'C'**

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ALONG SAID NORTH RIGHT-OF-WAY LINE, 20.91 FEET TO THE POINT OF BEGINNING AND CONTAINING 42 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 60-61 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

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APPROXIMATE GROUND ELEVATION IS 56-59 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 74 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 144 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

**SUBSURFACE RIGHTS**

**SUBSURFACE EXHIBIT 'A'**

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2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-Owned, a Permanent Easement for Subsurface Building Encroachment on City-Owned Property, and Permanent Easement for Surface Building Encroachment on City-Owned Property in such vacated right-of-way, as legally described below, to HOA Aston LLC for \$30,324.00, subject to any and all easements, restrictions and covenants of record:

**PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY**

**AERIAL EXHIBIT 'A'**

A PART OF THE VACATED DES MOINES STREET RIGHT-OF-WAY AND A PART OF THE VACATED E 6TH STREET RIGHT-OF-WAY, BOTH ADJOINING THE SOUTH HALF OF THE WEST 333.50 FEET OF BLOCK A, RIVER HILLS PLAT THREE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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**PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY**

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**PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY**

**SURFACE EXHIBIT 'A'**

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WEST, 3.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 15 SQUARE FEET.

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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 October 7, 2024, 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.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident of taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. on October 3, 2024 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; E-mail [cityclerk@dmgov.org](mailto: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.



 **Roll Call Number**

**Agenda Item Number**

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Date September 16, 2024

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Moved by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
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, City Clerk

# EASEMENT LOCATIONS

