

Date January 27, 2025

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR RIGHTS OVER A PORTION OF CARPENTER AVENUE RIGHT-OF-WAY ADJOINING 1900 CARPENTER AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO POLK COUNTY, IOWA FOR \$1.00**

**WHEREAS**, Polk County, Iowa (“Polk County”) the owner of 1900 Carpenter Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate air rights in portions of Carpenter Avenue right-of-way adjoining 1900 Carpenter 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**, Polk County has requested the City convey a Permanent Easement for Air Space Above City-Owned Property (“Easement”) in the vacated right-of-way to Polk County in accordance with Iowa Code Section 364.7(3) for the public purpose of rectifying a roof overhang encroachment on the Polk County Human Services Building; 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 Easement in such vacated right-of-way; and

**WHEREAS**, on January 13, 2025, by Roll Call No. 25-0033, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of street right-of-way and conveyance of the Easement be set down for hearing on January 27, 2025, at 5:00 p.m., in the City Council Chambers, City Hall 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate street right-of-way and convey the Easement was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of the air rights within a portion of Carpenter Avenue adjoining 1900 Carpenter Avenue, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of air rights within a portion of Carpenter Avenue adjoining 1900 Carpenter Avenue, legally described as follows, and said vacation if hereby approved:

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5. Upon final passage of an ordinance vacating said rights-of-way, the City Clerk is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Air Space Above City-Owned Property and copies of the other documents to the grantees.
8. There will be no proceeds associated with the conveyance of this easement.

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

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				
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

