

Date June 9, 2025

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SET HEARING FOR VACATION OF AIR RIGHTS WITHIN A PORTION OF EAST 6TH STREET RIGHT-OF-WAY ADJOINING 603 EAST 6TH STREET, AND TO CORRECT THE VACATION OF AIR, SUBSURFACE, AND SURFACE RIGHTS WITHIN PORTIONS OF DES MOINES STREET AND EAST 6TH STREET RIGHT-OF-WAY ADJOINING 603 EAST 6TH STREET, AND CONVEYANCE OF A CORRECTED PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO HOA ASTON LLC

WHEREAS, HOA Aston LLC, the owner of 603 East 6th Street, requested that the City of Des Moines, Iowa ("City") vacate air, subsurface, and surface rights in portions of Des Moines Street and East 6th 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, on October 7, 2024, by Roll Call No. 24-1378, the City Council approved the conveyance 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 over, through and across portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street to HOA Aston LLC for the purchase price of \$30,324.00; and

WHEREAS, on October 7, 2024, by Roll Call No. 24-1380, the City Council of the City of Des Moines voted to pass Ordinance No. 16,388 vacating air, subsurface, and surface rights in portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street as part of a HOA Aston LLC building project; subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, subsequent to passing Ordinance No. 16,388, HOA Aston LLC requested to change the location of the air rights located in the East 6th Street right-of-way, leading to the need to repeal said ordinance, pass a new ordinance to vacate the properly described right-of-way, and conveyance of a Corrected Permanent Easement for Air Space Above City-Owned Property ("Easement"); 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.

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 repealing Ordinance No. 16,388 and adoption of an ordinance permanently vacating air, subsurface, and surface rights in

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portions of Des Moines Street and East 6th Street right-of-way adjoining 603 East 6th Street, Des Moines, Iowa, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned:

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 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'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY 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:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 26.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 23.00 FEET; THENCE NORTH 15°17'00" WEST, 3.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 23.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 SQUARE FEET.

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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COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 81.66 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 2.00 FEET; THENCE SOUTH 74°43'00" WEST, 20.91 FEET; THENCE NORTH 15°17'00" WEST, 2.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST 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.

AERIAL EXHIBIT 'D'

A PART OF THE E 6TH STREET RIGHT-OF-WAY 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:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 14°56'16" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET, 23.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 98.93 FEET; THENCE SOUTH 75°03'44" WEST, 1.00 FEET; THENCE NORTH 14°56'16" WEST, 98.93 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 99 SQUARE FEET.

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'

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 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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COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 21.35 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°28'55" EAST, 7.00 FEET; THENCE SOUTH 74°43'00" WEST, 315.00 FEET; THENCE NORTH 14°56'16" WEST, 146.00 FEET; THENCE NORTH 75°03'44" EAST, 3.00 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, 138.98 FEET; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 311.93 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.06 ACRES (2,622 SQUARE FEET).

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COMMENCING 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, 0.89 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 5.00 FEET; THENCE NORTH 15°17'00" WEST, 3.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 15 SQUARE FEET.

SURFACE EXHIBIT 'B'

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COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 27.87 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 3.00 FEET; THENCE SOUTH 74°43'00" WEST, 5.00 FEET; THENCE NORTH 15°17'00" 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.

SURFACE EXHIBIT 'C'

A PART OF THE DES MOINES STREET RIGHT-OF-WAY 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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COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 74°43'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 112.65 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°17'00" EAST, 3.50 FEET; THENCE SOUTH 74°43'00" WEST, 126.90 FEET; THENCE NORTH 15°17'00" WEST, 3.50 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 74°43'00" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 126.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (444 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Corrected Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as legally described below, to HOA Aston LLC, 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:

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.

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COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE WEST 333.50 FEET; THENCE SOUTH 14°56'16" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF E 6TH STREET, 23.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 14°56'16" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 98.93 FEET; THENCE SOUTH 75°03'44" WEST, 1.00 FEET; THENCE NORTH 14°56'16" WEST, 98.93 FEET; THENCE NORTH 75°03'44" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 99 SQUARE FEET.

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3. That the meeting of the City Council at which the repeal of Ordinance No. 16,388, the adoption of said corrected ordinance vacating the above-described right-of-way, and conveyance of a Corrected Permanent Easement Air Space Above City-Owned Property are to be considered shall be on June 30, 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. There will be no proceeds associated with this transaction.

Moved by _____ to adopt. Second by _____

APPROVED AS TO FORM:

/s/ Grant Hyland
Grant Hyland, 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

