

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR AND SUBSURFACE RIGHTS WITHIN PORTIONS OF TUTTLE STREET, SW 13<sup>TH</sup> STREET AND MURPHY STREET RIGHT-OF-WAY ADJOINING 1300 TUTTLE STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO HRC NFS I, LLC FOR \$8,061**

**WHEREAS**, HRC NFS I, LLC, the owner of 1300 Tuttle Street, has requested that the City of Des Moines, Iowa (“City”) vacate air and subsurface rights in portions of Tuttle Street, SW 13<sup>th</sup> Street and Murphy Street right-of-way adjoining 1300 Tuttle 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**, HRC NFS I, LLC has offered to the City the purchase price of \$8,061.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (“Easements”) over, through and across portions of Tuttle Street, SW 13<sup>th</sup> Street and Murphy Street right-of-way adjoining 1300 Tuttle Street (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing balconies and footing for the apartment buildings 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 and subsurface rights in portions of Tuttle Street, SW 13<sup>th</sup> Street and Murphy Street right-of-way adjoining 1300 Tuttle Street, legally described as follows:

AIR RIGHTS

A-1

A PART OF LOT 'C', CENTRAL DES MOINES INDUSTRIAL PARK, 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 NORTHWEST CORNER OF LOT 41, GRAY'S STATION PLAT 5, AN OFFICIAL PLAT; THENCE NORTH 81°10'49" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 'C', 22.59 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°49'11" WEST, 2.00 FEET; THENCE NORTH 81°10'49" EAST, 260.00 FEET; THENCE SOUTH 08°49'11" EAST, 2.00 FEET TO SAID SOUTHERLY LINE; THENCE SOUTH 81°10'49" WEST ALONG SAID SOUTHERLY LINE, 260.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (520 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 20.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 27.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 65.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

A-2

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COMMENCING AT THE NORTHEAST CORNER OF SAID STREET LOT 'A'; THENCE SOUTH 06°58'06" EAST ALONG THE EASTERLY LINE OF SAID STREET LOT 'A', 17.52 FEET; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 856.39 FEET, WHOSE ARC LENGTH IS 54.99 FEET AND WHOSE CHORD BEARS SOUTH 04°59'29" EAST, 54.99 FEET TO THE POINT OF BEGINNING; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 856.39 FEET, WHOSE ARC LENGTH IS 45.18 FEET AND WHOSE CHORD BEARS SOUTH 01°38'25" EAST, 45.18 FEET; THENCE SOUTH 00°08'11" EAST ALONG SAID EASTERLY LINE, 101.50 FEET; THENCE SOUTH 89°51'49" WEST, 3.50 FEET; THENCE NORTH 00°08'11" WEST, 101.50 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 852.89 FEET, WHOSE ARC LENGTH IS 45.00 FEET AND WHOSE CHORD BEARS NORTH 01°38'25" WEST, 44.99 FEET; THENCE NORTH 86°50'54" EAST, 3.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (513 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 20.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 27.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 65.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

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APPROXIMATE GROUND ELEVATION IS 22.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 29.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 67.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

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COMMENCING AT THE NORTHWEST CORNER OF SAID STREET LOT 'B'; THENCE SOUTH 89°19'18" EAST ALONG THE NORTH LINE OF SAID STREET LOT 'B', 18.24 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°19'18" EAST ALONG SAID NORTH LINE, 150.00 FEET; THENCE SOUTH 00°40'42" WEST, 2.00 FEET; THENCE NORTH 89°19'18" WEST, 150.00 FEET; THENCE NORTH 00°40'42" EAST, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (300 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 22.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 29.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 67.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

SUBSURFACE RIGHTS

B-1

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B-2

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THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 856.39 FEET, WHOSE ARC LENGTH IS 18.22 FEET AND WHOSE CHORD BEARS SOUTH 00°44'17" EAST, 18.22 FEET; THENCE SOUTH 00°08'11" EAST ALONG SAID EASTERLY LINE, 105.80 FEET; THENCE SOUTH 89°51'49" WEST, 1.00 FEET; THENCE NORTH 00°08'11" WEST, 105.80 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 857.39 FEET, WHOSE ARC LENGTH IS 18.20 FEET AND WHOSE CHORD BEARS NORTH 00°44'17" WEST, 18.19 FEET; THENCE NORTH 88°39'09" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 124 SQUARE FEET.

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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 Property and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated right-of-way, as legally described below, to HRC NFS I, LLC for \$8,061.00, subject to any and all easements, restrictions and covenants of record.:

PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY

A-1

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AND

PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY

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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.

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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.

Moved by Datto to adopt. Second by Voss.

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	7			

MOTION CARRIED APPROVED  
Connie Brees 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