

**SET HEARING TO CORRECT THE VACATION OF AIR RIGHTS WITHIN PORTIONS OF EAST 16TH STREET AND EAST GRAND AVENUE RIGHT-OF-WAY ADJOINING 1600 EAST GRAND AVENUE AND CONVEYANCE OF A CORRECTED PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO FRANCISCO J. PLESENT LIVING TRUST AND MARIA ARACELI PENA**

**WHEREAS**, Francisco J. Plesent Living Trust, Contract Seller, and Maria Araceli Pena, Contract Buyer, owners of 1600 East Grand Avenue, Des Moines, Iowa, requested that the City of Des Moines, Iowa ("City") vacate air rights in portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand 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**, on February 23, 2026, by Roll Call No. 26-0262, the City Council approved the conveyance of a Permanent Easement for Air Space Above City-Owned Property, over, through and across portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue to Francisco J. Plesent Living Trust and Maria Araceli Pena for the purchase price of \$100.00; and

**WHEREAS**, on February 23, 2026, by Roll Call No. 26-0264, the City Council of the City of Des Moines voted to pass Ordinance No. 16,540 vacating air rights in portions of East 16th Street and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

**WHEREAS**, subsequent to passing Ordinance No. 16,540, an error was found in the legal description for the air rights located in the East 16<sup>th</sup> Street and East Grand Avenue 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. 16,540, and adoption of an ordinance permanently vacating air rights in portions of East 16th Street

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and East Grand Avenue right-of-way adjoining 1600 East Grand Avenue, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned:

VACATION EXHIBIT "A":

A PART OF THE E 16TH STREET RIGHT-OF-WAY, ADJOINING THE WEST PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 125.0 FEET OF SAID LOT 1; THENCE SOUTH 14°53'24" EAST, 59.67 FEET ALONG THE WEST PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 25°06'36" WEST, 2.59 FEET; THENCE SOUTH 14°53'24" EAST, 4.69 FEET; THENCE SOUTH 54°53'24" EAST, 2.59 FEET; NORTH 14°53' 24" WEST, 8.67 FEET TO THE BEGINNING, AFTERWARDS AND CONTAINING 11.13 SQUARE FEET.

APPROXIMATE ELEVATION ABOVE GROUND TO THE BOTTOM OF THE BAY WINDOW IS 14.22' FEET WITH THE TOP OF THE BUMP OUT ARE APPROXIMATELY 12.44' ABOVE THAT. ELEVATIONS ARE NOTED FROM GRADE.

VACATION EXHIBIT "B":

A PART OF THE E GRAND AVENUE RIGHT-OF-WAY, ADJOINING THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 75°06'36" EAST, 11.33 FEET, ALONG THE SOUTH PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 69°53'24" EAST, 2.62 FEET; THENCE NORTH 75°06'36" EAST, 5.05 FEET; THENCE NORTH 40°06'36" EAST, 2.62 FEET; SOUTH 75°06' 36" WEST, 9.33 FEET, TO THE BEGINNING, AFTERWARDS AND CONTAINING 10.79 SQUARE FEET.

APPROXIMATE ELEVATION ABOVE GROUND TO THE BOTTOM OF THE BAY WINDOW IS 14.38' FEET WITH THE TOP OF THE BUMP OUT ARE APPROXIMATELY 12.44' ABOVE THAT. ELEVATIONS ARE NOTED FROM GRADE.

- 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 Francisco J. Plesent Living Trust, Contract Seller, and Maria Araceli Pena, Contract Buyer, subject to any and all easements, restrictions and covenants of record:

EASEMENT AREA "A":

A PART OF THE VACATED E 16TH STREET RIGHT-OF-WAY, ADJOINING THE WEST PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY

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

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 125.0 FEET OF SAID LOT 1; THENCE SOUTH 14°53'24" EAST, 59.67 FEET ALONG THE WEST PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 25°06'36" WEST, 2.59 FEET; THENCE SOUTH 14°53'24" EAST, 4.69 FEET; THENCE SOUTH 54°53'24" EAST, 2.59 FEET; NORTH 14°53' 24" WEST, 8.67 FEET TO THE BEGINNING, AFTERWARDS AND CONTAINING 11.13 SQUARE FEET.

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EASEMENT AREA "B":

A PART OF THE VACATED E GRAND AVENUE RIGHT-OF-WAY, ADJOINING THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 58, STEWART'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY IOWA, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 75°06'36" EAST, 11.33 FEET ALONG THE SOUTH PROPERTY LINE, TO THE POINT OF BEGINNING; THENCE SOUTH 69°53'24" EAST, 2.62 FEET; THENCE NORTH 75°06'36" EAST, 5.05 FEET; THENCE NORTH 40°06'36" EAST, 2.62 FEET; SOUTH 75°06' 36" WEST, 9.33 FEET TO THE BEGINNING, AFTERWARDS AND CONTAINING 10.79 SQUARE FEET.

APPROXIMATE ELEVATION ABOVE GROUND TO THE BOTTOM OF THE BAY WINDOW IS 14.38' FEET WITH THE TOP OF THE BUMP OUT ARE APPROXIMATELY 12.44' ABOVE THAT. ELEVATIONS ARE NOTED FROM GRADE.

3. That the meeting of the City Council at which the repeal of Ordinance No. 16,540, 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 April 20, 2026, said meeting to be held at 5:00 p.m., in the City Council Chamber, T.M. Franklin Cownie City Administration Building, 1200 Locust Street, 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.

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5. There will be no proceeds associated with this transaction.

Moved by Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Grant Hyland
Grant Hyland, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, BARRON, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL.

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.

Connie Boesen Mayor

Laura Baumgartner City Clerk