



Date September 29, 2025

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HOLD HEARING FOR VACATION OF AIR AND SUBSURFACE RIGHTS WITHIN PORTIONS OF MURPHY STREET AND SW 14TH STREET RIGHT-OF-WAY ADJOINING 1310 MURPHY 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 \$1,625

WHEREAS, HRC NFS I, LLC, the owner of 1310 Murphy Street, Des Moines, Iowa has requested that the City of Des Moines, Iowa ("City") vacate air and subsurface rights in portions of Murphy Street and SW 14th Street right-of-way adjoining 1310 Murphy 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 \$1,625.00 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 Murphy Street and SW 14th Street right-of-way adjoining 1310 Murphy Street, Des Moines, Iowa (hereinafter "Easement Area") for the purpose of constructing, operating, maintaining and repairing balconies and footings 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; and

WHEREAS, on September 8, 2025, by Roll Call No. 25-1207, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and the conveyance of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property be set for hearing on September 29, 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 the street right-of-way and convey the Easements 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:



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of air and subsurface rights in portions of Murphy Street and SW 14th Street right-of-way adjoining 1310 Murphy Street, Des Moines, Iowa, 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 and subsurface rights in portions of Murphy Street and SW 14th Street right-of-way adjoining 1310 Murphy Street, legally described as follows, and said vacation is hereby approved:

AIR RIGHTS

A PART OF STREET LOT 'B', GRAY'S STATION PLAT 8, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1, SAID GRAY'S STATION PLAT 8; THENCE SOUTH 00°08'06" WEST ALONG THE EAST LINE OF SAID STREET LOT 'B', 29.83 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°08'06" WEST ALONG SAID EAST LINE, 13.00 FEET; THENCE NORTH 89°19'18" WEST, 0.28 FEET; THENCE NORTH 00°40'42" EAST, 13.00 FEET; THENCE SOUTH 89°19'18" EAST, 0.16 FEET TO THE POINT OF BEGINNING AND CONTAINING 3 SQUARE FEET.

APPROXIMATE GROUND ELEVATION IS 20 FEET. THE BOTTOM ELEVATION OF THE EASEMENT AREA IS 30 FEET AND THE TOP ELEVATION OF THE EASEMENT AREA IS 55 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

A PART OF STREET LOT 'A', GRAY'S STATION PLAT 8 AND STREET LOT 'A', GRAY'S STATION PLAT 5, BOTH OFFICIAL PLATS IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1, SAID GRAY'S STATION PLAT 8; THENCE SOUTH 89°19'18" EAST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 20.48 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°40'42" EAST, 0.50 FEET; THENCE SOUTH 89°19'18" EAST, 251.88 FEET; THENCE SOUTH 00°40'42" WEST, 0.50 FEET TO SAID NORTH LINE OF LOT 1; THENCE NORTH 89°19'18" WEST ALONG SAID NORTH LINE, 251.88 FEET TO THE POINT OF BEGINNING AND CONTAINING 126 SQUARE FEET.



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SUBSURFACE RIGHTS

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AND

A PART OF STREET LOT 'A', GRAY'S STATION PLAT 8 AND STREET LOT 'A', GRAY'S STATION PLAT 5, BOTH OFFICIAL PLATS IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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3. The proposed conveyance of the Permanent Easement for Air Space Above City-Owned Property and the Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated street right-of-way, as legally described below, to HRC NFS I, LLC for \$1,625.00, subject to any and all easements, restrictions and covenants of record is hereby approved:

PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY



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



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4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement for Air Space Above City-Owned Property and Permanent Easement for Subsurface Building Encroachment on City-Owned Property, as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.

6. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property and Permanent Easement for Subsurface Building Encroachment on City-Owned Property, together with a certified copy of this resolution and of the affidavit of



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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.

7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property and Permanent Easement for Subsurface Building Encroachment on 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.

8. 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 Permanent Easement for Subsurface Building Encroachment on City-Owned Property, and a copy of the other documents to the grantee.

9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Mandelbaum to adopt. Second by Gatto.

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Connie Boesen

Mayor