

Date September 10, 2007

**SET HEARING TO AUTHORIZE AND APPROVE RELEASE OF EASEMENT FOR SANITARY SEWER RIGHT-OF-WAY UPON PROPERTY LOCATED AT 911 29<sup>TH</sup> STREET IN CONJUNCTION WITH THE I-235 SANITARY SEWER RELOCATIONS PROJECT – GROUP 4**

**WHEREAS**, on August 6, 2001 by Roll Call No. 01-2397, the City Council of the City of Des Moines, Iowa authorized the acquisition of all necessary property interests by gift, negotiation, or condemnation for the I-235 Corridor Improvements Project; and

**WHEREAS**, on February 21, 2006, in accordance with City Council policy, the City Manager established Fair Market Value for the following property:

Titleholder:	Michael Dennis Welch
Property Location:	911 29th Street
Property Interests to be Acquired:	Permanent Easement for Sanitary Sewer
Approved Fair Market Value:	\$1,000.00

**WHEREAS**, the City's Real Estate Division was unable to negotiate a settlement on the above described property and thus the City acquired said permanent easement by condemnation; and

**WHEREAS**, on July 10, 2006, by Roll Call No. 06-1325, the City Council of the City of Des Moines, Iowa, authorized the payment of the award of \$1,000 for Permanent Easement for Sanitary Sewer, as determined by the Polk County Compensation Commissioners, plus Sheriff's fees and jury expenses as certified by the Sheriff of Polk County; and

**WHEREAS**, Michael Dennis Welch appealed the award made by the Polk County Condemnation Commissioners in Michael Dennis Welch v. City of Des Moines, Polk County District Court Case No. CL 102703; and

**WHEREAS**, the parties have agreed to a settlement whereby the aforementioned Polk County District Court Case No. CL 102703, will be dismissed with prejudice by Michael Dennis Welch in consideration of payment of \$1,000 along with the abandonment and release of the permanent easement upon said property; and

**WHEREAS**, the City of Des Moines is able to acquire the necessary property interests for the Permanent Easement for Sanitary Sewer from the Iowa Department of Transportation; and

**WHEREAS**, the City has no current need for the sanitary sewer easement upon this specific property, and it is in the City's best interests to agree to the afore-mentioned settlement and release said easement.

Date September 10, 2007

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

1. The City Council of the City of Des Moines, Iowa proposes to release the Permanent Easement for Sanitary Sewer Right-of-Way under and over the following property, more specifically described below:

A perpetual sanitary sewer easement located in the West 145 feet of the South 60 feet of Lot Thirty-nine (39) of the Partioned Plat of Albert S. Kingman Estate in the E 1/2 of the NE 1/4 of Section 6, Township 78 North, Range 24 West of the 5<sup>th</sup> P.M., Polk County, Iowa, now included in and forming a part of the City of Des Moines, Iowa, as recorded in Book 4219 on Page 384 in the Polk County Recorder's Office. Said perpetual easement being more particularly described as follows:

The East 29.00 feet of the West 75.50 feet of the South 7.50 feet and the South 10.50 feet except the East 29.00 feet of the West 75.50 feet of the South 10.50 feet of said Lot 39. Containing 1,440 square feet, more or less.

2. A public hearing shall be held on September 24, 2007 at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at which time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with code section 362.3 of the Iowa Code.

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

APPROVED AS TO FORM:

  
Glenna K. Frank, Assistant City Attorney

Activity ID: 32-2005-001  
2007-08 CIP, Street Improvements  
Page 23, I-235 Storm & Sanitary  
Sewer Improvements, STR197, State  
Loan Funds

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

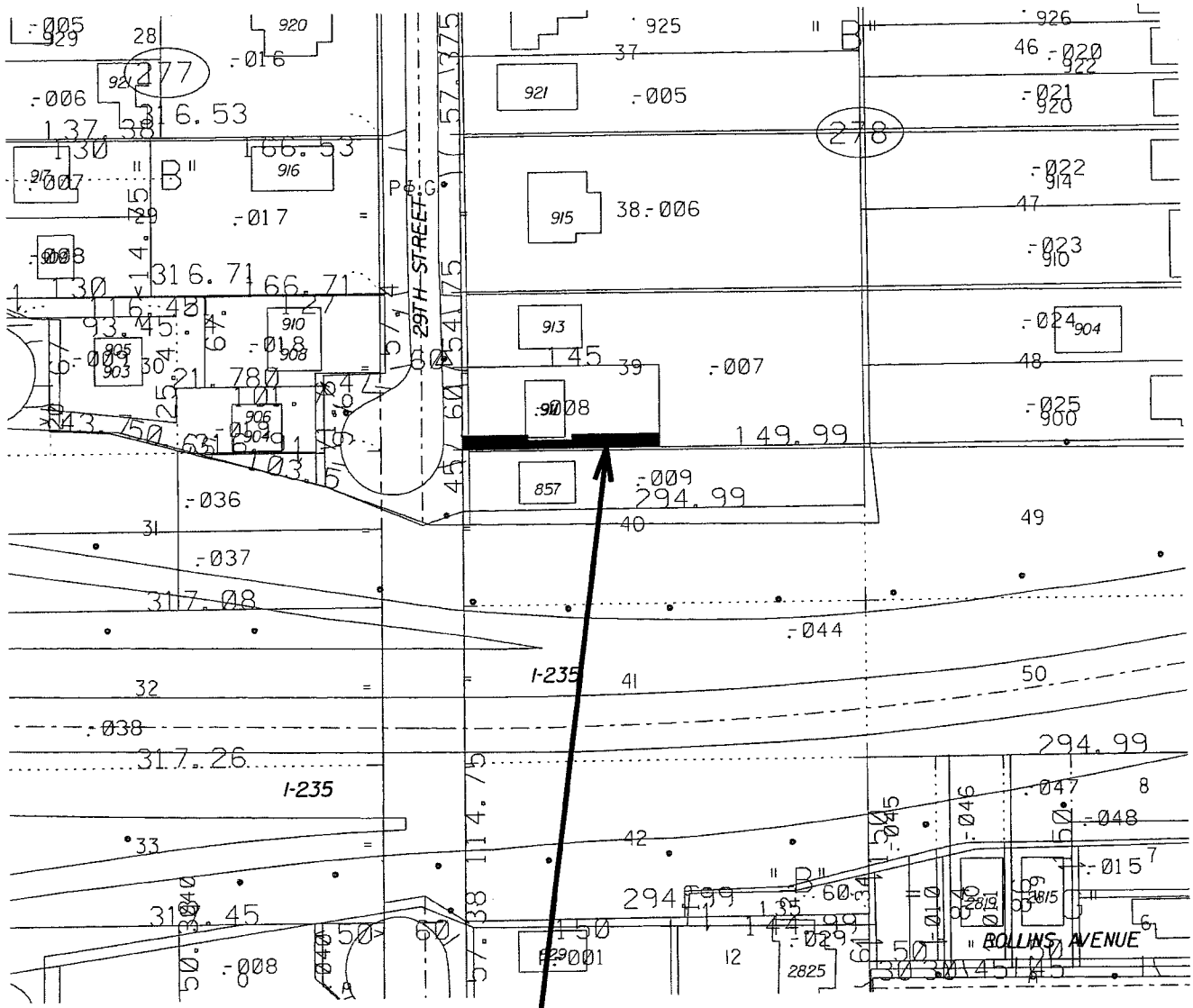
\_\_\_\_\_  
Mayor

**CERTIFICATE**

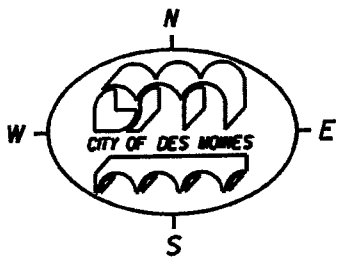
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk



**EASEMENT  
LOCATION**



**PERPETUAL EASEMENT  
911 29TH STREET  
I-235 SANITARY SEWER REL.  
ACTIVITY I.D. 32-2005-001**