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Date September 24, 2007

HOLD HEARING TO AUTHORIZE AND APPROVE RELEASE OF EASEMENT FOR SANITARY SEWER RIGHT-OF-WAY UPON PROPERTY LOCATED AT 911 29TH 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; and

WHEREAS, on September 10, 2007, by Roll Call No.07-_____, the City set a hearing to consider the release of said permanent easement for sanitary sewer right-of-way on property located at 911 29th Street, Des Moines, Iowa; and

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WHEREAS, due notice of said proposal to convey this interest in real property 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 this release of easement, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of this property as described below are hereby overruled and the hearing is closed.
2. There is no public need for the property interest described below and the public would not be inconvenienced by reason of the release of this Permanent Easement for Sanitary Sewer Right-of-Way specifically described as follows:

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 ½ of the NE ¼ of Section 6, Township 78 North, Range 24 West of the 5th 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.

3. That the release of such property interest be and is hereby approved.
4. The Mayor is authorized and directed to sign the Release of Easement for Sanitary Sewer Right-Of-Way and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of this Release of Easement, together with a certified copy of this resolution and of the affidavit of 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Release of Easement, 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.

★ Roll Call Number

Agenda Item Number

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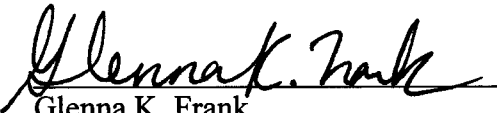
Project Name: I-235 Sanitary Sewer Relo Group 4 - Welch Page 3

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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Release of Easement and copies of the other documents to the grantees.

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

RM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

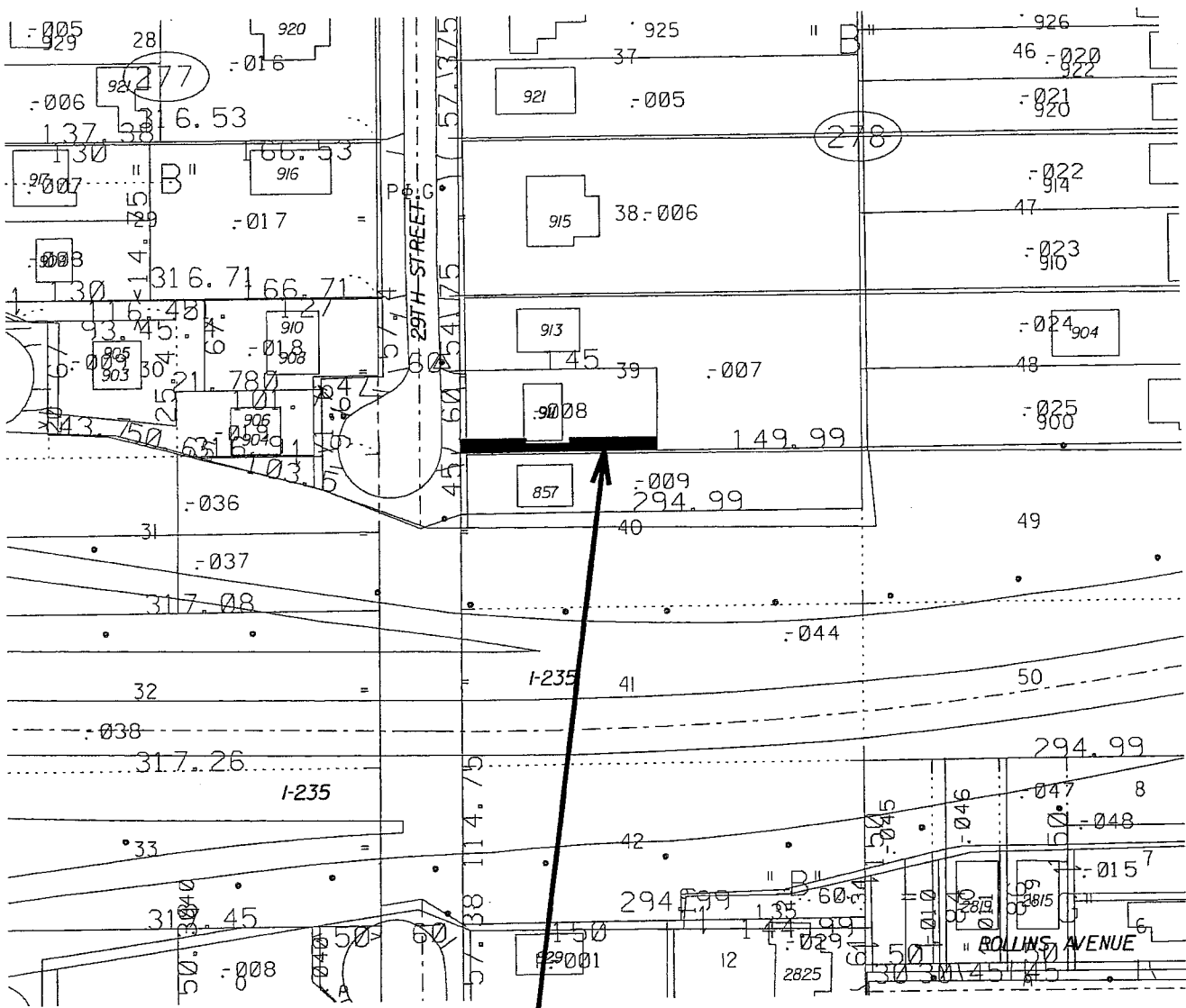
CERTIFICATE

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.

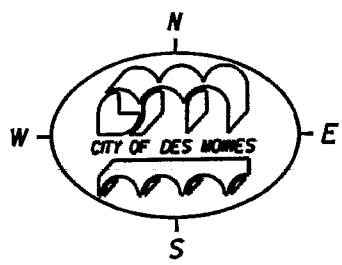
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

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**EASEMENT
LOCATION**



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