

Date February 9, 2015

**SET HEARING FOR VACATION OF A PORTION OF EAST 3RD STREET RIGHT-OF-WAY
ADJOINING 215 EAST 3RD STREET AND CONVEYANCE OF A PERMANENT
ENCROACHMENT EASEMENT TO 215 EAST 3RD STREET, LLC FOR \$100**

WHEREAS, 215 East 3rd Street, LLC is the owner of the real property locally known as 215 East 3rd Street, which property abuts the City right-of-way, and has offered to the City of Des Moines the purchase price of \$100 for the vacation of the City right-of-way and purchase of a permanent encroachment easement interest in the City right-of-way to allow for out-swinging doors into the City right-of-way and placement of decorative planters or other barriers on the City right-of-way adjoining the real property locally known as 215 East 3rd Street, Des Moines, Iowa, which purchase price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, the vacation and conveyance is proposed to be approved subject to the requirements and conditions contained in the Permanent Easement for Encroachment onto City-owned Property, and further subject to continued use and maintenance of any and all existing public utilities within the Easement Area at the time of recording of this Easement, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same.

WHEREAS, the City and the general public will not be inconvenienced by the vacation and conveyance of an easement interest in said property as described herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating the City right-of-way adjoining 215 East 3rd Street, legally described as follows:

Two 3.00 foot x 6.50 foot easements in the right-of-way of East 3rd Street as it is presently established adjoining Parcel B of that Plat of Survey filed in Book 15437 at Page 978 in the Office of the Recorder for Polk County, Iowa, of Lots 3 and 4 in Block 2 of Scott and Dean's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. Said easements being more particularly described as follows:

Easement #1

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 62.08 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08" West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet

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along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet; and

Easement #2

Commencing as a point of reference at the Southwest corner of said Parcel B on the East right-of-way line of East 3rd Street; thence North 15°(degrees) 26'(minutes) 52"(seconds) West, 100.83 feet along the East right-of-way line of said East 3rd Street to the Point of Beginning; thence South 74°33'08" West, 3.00 feet; thence North 15°26'52" West, 6.50 feet; thence North 74°33'08" East, 3.00 feet to the East right-of-way line of said East 3rd Street; thence South 15°26'52" East, 6.50 feet along the East right-of-way line of said East 3rd Street to the point of beginning. Containing 19.50 square feet.

Containing 39.00 square feet in total.

2. That if the City Council decides to vacate the above-described right-of-way, the City of Des Moines proposes to convey an easement in such vacated right-of-way to 215 East 3rd Street, LLC for \$100, subject to all conditions set forth in the Permanent Easement for Encroachment onto City-owned Property and herein above.
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such easement is to be considered shall be on February 23, 2015, 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.
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 Section 362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

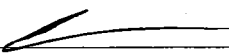
★ Roll Call Number

Agenda Item Number

Date February 9, 2015

Moved by _____ to adopt.

APPROVED AS TO FORM:


Cori Kuhn Coleman
Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MOORE | | | | |
| TOTAL | | | | |

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.

MOTION CARRIED APPROVED

Mayor

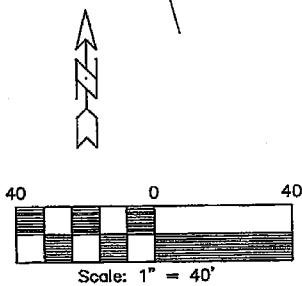
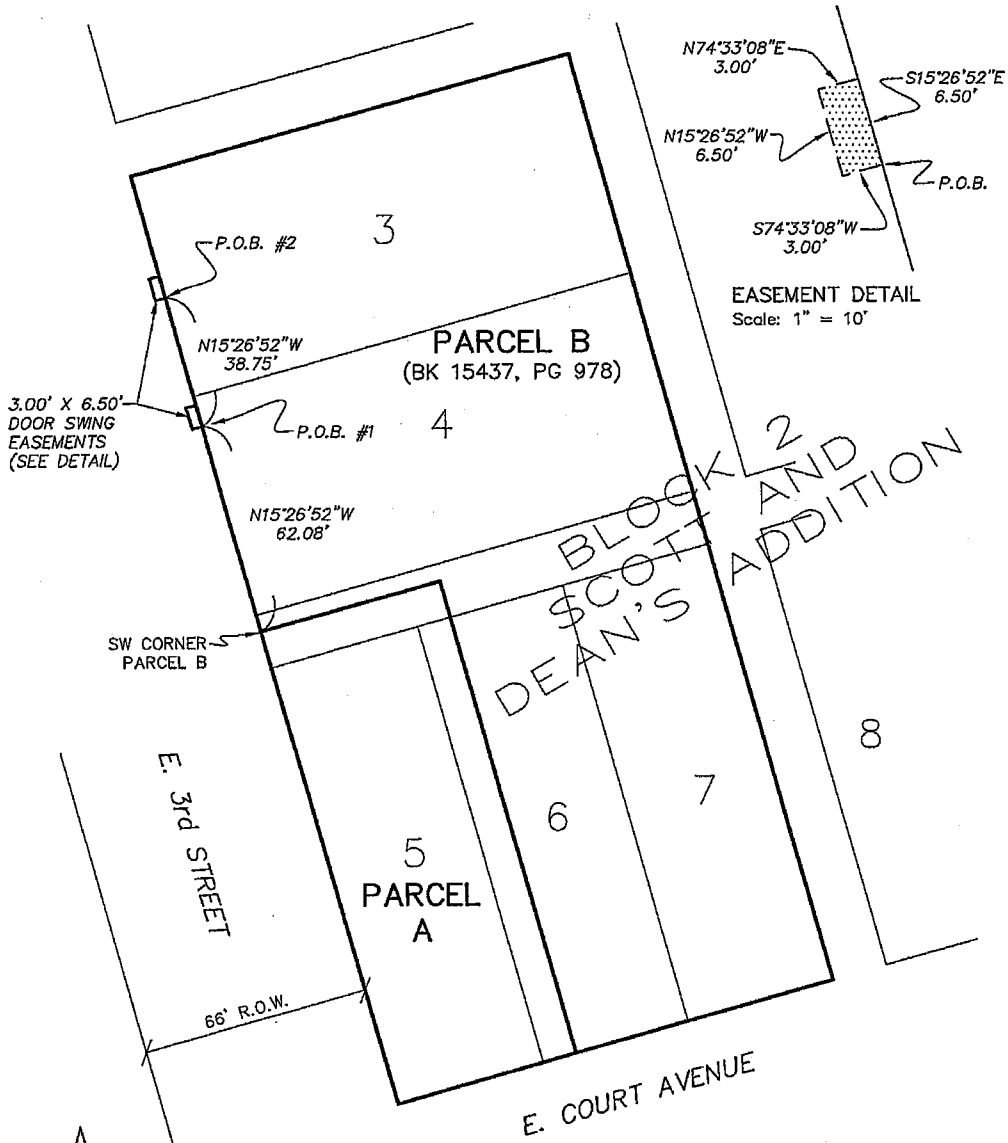
City Clerk

PREPARED BY/RETURN TO:
ENGINEERING RESOURCE GROUP, INC.

2413 GRAND AVE., DES MOINES, IA 50312

(515) 288-4823

EASEMENT EXHIBIT



E78 1-26-15 SHEET 1 OF 2

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| ERG Engineering Resource Group, Inc. 2413 GRAND AVENUE DES MOINES, IOWA 50312 (515) 288-4823 | | |
| EASEMENT EXHIBIT | | |
| FOR: | SCALE: 1" = 40' | DATE: 1/23/2015 |
| DWG: 14-135EASE.DWG | JOB NUMBER: 14-135 | |