

Date July 24, 2017

**RESOLUTION AUTHORIZING AND APPROVING THE RELOCATION OF A PUBLIC INGRESS AND EGRESS EASEMENT ACROSS A PORTION OF VACATED E. 33<sup>RD</sup> STREET AND VACATED E. THOMPSON AVENUE AND A PARTIAL RELEASE OF A PUBLIC UTILITY EASEMENT AND AGREEMENT TO MAINTAIN PRIVATE UTILITIES IN PLACE WITH ST. JOSEPH'S CHURCH**

**WHEREAS**, on June 22, 2009, by Roll Call No. 09-1129, the City Council of the City of Des Moines, Iowa, approved the vacation and conveyance of a small segment of East 33<sup>rd</sup> Street South of E. Thompson Avenue, and E. Thompson Avenue between East 33<sup>rd</sup> Street and East 34<sup>th</sup> Street (Vacated Right-of-Way) to St. Joseph's Church of Des Moines, Polk County, Iowa; and

**WHEREAS**, on June 22, 2009, the City of Des Moines, Iowa, executed a Quit Claim Deed conveying the City Right-of-Way to St. Joseph's Church of Des Moines, Polk County, Iowa; said Quit Claim Deed being subsequently recorded in the office of the Recorder of Polk County, Iowa, on July 30, 2009 in Book 13150 and page 506, and containing the reservation of an easement by the City for the continued use and maintenance of any utilities in place and reservation of a permanent easement for public ingress and egress across the Vacated Right-of-Way; and

**WHEREAS**, a parking lot expansion project and other property improvements made by St. Joseph's Church requires relocation of the public ingress and egress easement area, a partial release of the public utility easement, and an agreement to maintain private utilities in place within Vacated E. Thompson Avenue; and

**WHEREAS**, the relocated public ingress and egress easement area was approved by the City's Community Development Department as part of the site plan approval process; and

**WHEREAS**, St. Joseph's Church has submitted an affidavit signed by a licensed engineer certifying that there are no longer any public utilities within Vacated E. Thompson Avenue and City staff has further verified that any remaining utilities within Vacated E. Thompson Avenue are now private and St. Joseph's Church is responsible for any future maintenance, repair, or replacement of such utilities; and

**WHEREAS**, the public would not be inconvenienced by the relocation of the public ingress and egress easement, or the partial release of the public utility easement.

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

1. The public would not be inconvenienced by, and consideration equal to fair market value has been received for, release of the City's permanent easement for public ingress and egress, across the Vacated Right-of-Way specifically described as follows:

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ALL THAT PART OF VACATED LOT Z, (EAST THOMPSON AVENUE) FOUR MILE, AN OFFICIAL PLAT, LYING SOUTH OF AND ADJOINING LOTS 1077 THRU 1081, OF SAID FOUR MILE, AND LYING NORTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 1082, OF SAID FOUR MILE TO THE INTERSECTION OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 1077, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THAT PART OF VACATED EAST 33<sup>RD</sup> STREET RIGHT-OF-WAY LYING WEST OF AND ADJOINING PART OF LOT Z, OF SAID FOUR MILE, FURTHER DESCRIBED AS FOLLOWS; BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF THE WESTERLY EXTENSION OF LOT 1082 OF SAID FOUR MILE AND THE SOUTHERLY EXTENSION OF THE WEST LINE OF LOT 1077 OF SAID FOUR MILE; THENCE WEST 12.0 FEET; THENCE SOUTH 12.0 FEET; THENCE EAST 12.0 FEET TO THE WEST LINE OF SAID LOT Z, THENCE NORTH ALONG THE WEST LINE OF SAID LOT Z TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

(VACATED BY ORDINANCE NO. 14,863, PASSED June 22, 2009.)

2. The release of permanent easement for public ingress and egress be and is hereby approved and the City of Des Moines, Iowa furthermore hereby approves and accepts the replacement easement for public ingress and egress across the property specifically described as follows:

A PARCEL OF LAND LOCATED IN FOUR MILE, AN OFFICIAL PLAT, IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHEAST CORNER OF LOT 1094 OF SAID FOUR MILE AND SAID CORNER IS ON THE WEST RIGHT OF WAY OF EAST 34TH STREET, THENCE NORTH 0° 04' 27" EAST, ALONG SAID RIGHT OF WAY, 15.42 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST, 122.63 FEET; THENCE NORTH 0° 00' 00" EAST, 94.38 FEET; THENCE NORTH 89° 58' 45" WEST, 153.73 FEET, TO A POINT ON THE EAST RIGHT OF WAY OF EAST 33RD STREET; THENCE NORTH 0° 00' 21" EAST, ALONG SAID RIGHT OF WAY 24.00 FEET; THENCE SOUTH 89° 58' 45" EAST, 177.73 FEET; THENCE SOUTH 0° 00' 00" EAST, 94.37 FEET; THENCE NORTH 90° 00' 00" EAST, 98.66 FEET, TO A POINT ON THE WEST RIGHT OF WAY OF SAID EAST 34TH STREET; THENCE SOUTH 0° 04' 27" WEST, 24.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.20 ACRES(8898.0 S.F.) MORE OR LESS.

3. The public would not be inconvenienced by reason of the partial release of the City's public utility easement within Vacated E. Thompson Avenue in exchange for an agreement for ownership and maintenance of such utilities in place specifically described as follows:
4. All that part of Vacated Lot Z, (East Thompson Avenue) Four Mile, an Official Plat, lying South of and adjoining Lots 1077 thru 1081, of said Four Mile, and lying North of the westerly extension of the North line of Lot 1082, of said Four Mile to the intersection of the southerly extension of the West line of said Lot 1077, all now included in and forming a part of the City of Des Moines, Polk County,

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Iowa. The partial release of the public utility easement and agreement for ownership and maintenance of such utilities is hereby approved and accepted.

5. The replacement with a permanent easement for public ingress and egress over and across the following described property is hereby approved and accepted and the Mayor is authorized and directed to sign the Release and Replacement of Perpetual Public Ingress and Egress Easement and the Partial Release of Public Utility Easement and Agreement to own and Maintain Utilities in Place, and the City Clerk is authorized and directed to attest to the Mayor's signature:

A PARCEL OF LAND LOCATED IN FOUR MILE, AN OFFICIAL PLAT, IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1081 OF SAID FOUR MILE AND SAID CORNER IS ON THE WEST RIGHT-OF-WAY OF EAST 34TH STREET, THENCE ON AN ASSUMED BEARING OF SOUTH 00°00'31" WEST, ALONG SAID RIGHT-OF-WAY, 160.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90°00'00" WEST, 122.38 FEET; THENCE NORTH 00°00'00" EAST, 94.38 FEET; THENCE NORTH 89°58'45" WEST, 153.73 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY OF EAST 33RD STREET; THENCE NORTH 00°00'21" EAST, ALONG SAID RIGHT-OF-WAY 24.00 FEET; THENCE SOUTH 89°58'45" EAST, 177.73 FEET; THENCE SOUTH 00°00'00" EAST, 94.37 FEET; THENCE NORTH 90°00'00" EAST, 98.39 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY OF SAID EAST 34TH STREET; THENCE SOUTH 00°00' 31" WEST, 24.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.20 ACRES(8,898 S.F.) MORE OR LESS.

6. The City Clerk is authorized and directed to forward the original of the Release and Replacement of Perpetual Public Ingress and Egress Easement and the Partial Release of Public Utility Easement and Agreement to Own and Maintain Utilities in Place, together with a certified copy of this resolution, 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 Release and Replacement of Perpetual Public Ingress and Egress Easement and the Partial Release of Public Utility Easement and Agreement to Maintain Utilities in Place, together with a certified copy of this resolution, 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 a copy of the Release and Replacement of Perpetual Public Ingress and Egress Easement and the Partial Release of Public Utility Easement and Agreement to Own and Maintain Utilities in Place to St. Joseph's Church.

9. There are no proceeds associated with this transaction.

★ Roll Call Number

Agenda Item Number

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

APPROVED AS TO FORM:

Ann DiDonato  
Ann DiDonato, Assistant City Attorney

RSW

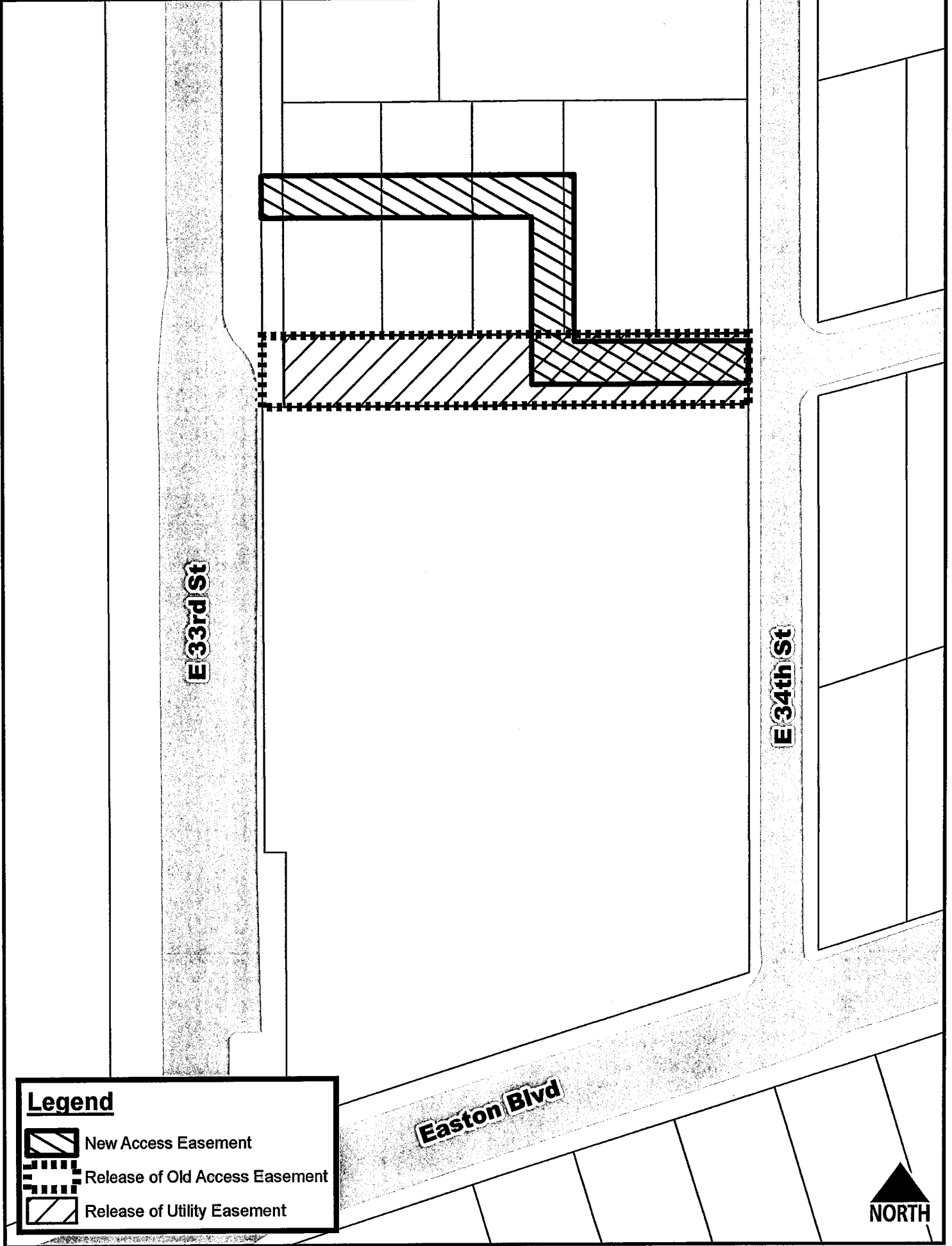
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____			Mayor	

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



**Legend**

-  New Access Easement
-  Release of Old Access Easement
-  Release of Utility Easement

