

Date October 2, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR INGRESS AND EGRESS IN A PORTION OF VACATED 41ST STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 545 42ND STREET TO PLYMOUTH CONGREGATIONAL CHURCH OF THE UNITED CHURCH OF CHRIST

WHEREAS, on January 25, 1999, by Roll Call 99-219, the City of Des Moines City Council passed Ordinance No. 13,671 vacating all of the 41st Street right-of-way between Grand Avenue and Ingersoll Avenue; and

WHEREAS, on March 27, 2023, by Roll Call 23-0426, the City of Des Moines City Council voted to approve a Real Estate Purchase Installment Contract with St. Augustin’s Church of Des Moines for that part of vacated 41st Street adjoining 545 42nd Street; and

WHEREAS, Plymouth Congregational Church of the United Church of Christ, owner of 4126 Ingersoll Avenue, Des Moines, Iowa, which property adjoins 545 42nd Street to the north, has requested a Permanent Easement for Ingress and Egress over that portion of the vacated 41st Street lying east of and adjoining 545 42nd Street to permit its customers, invitees, lessees, sub-lessees, employees, agents, licensees, contractors, vendors and suppliers vehicular and pedestrian ingress and egress thereupon; and

WHEREAS, in exchange for the granting of the easement, Plymouth Congregational Church of the United Church of Christ has offered to grant equal vehicular and pedestrian ingress and egress to St. Augustin’s Church of Des Moines over that portion of vacated 41st Street adjoining 4126 Ingersoll Avenue and owned by Plymouth Congregational Church; and

WHEREAS, St. Augustin’s Church of Des Moines, as Contract Buyer, has provided signed consent to the conveyance of a Permanent Easement for Ingress and Egress to Plymouth Congregational Church; and

WHEREAS, there is no known current or future public need for the City Property interest proposed to be conveyed, and the City will not be inconvenienced by its conveyance; and

WHEREAS, on September 11, 2023 by Roll Call No. 23-1245, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on October 2, 2023, 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 convey the Permanent Easement for Ingress and Egress was given to all necessary parties 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 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.

Date October 2, 2023

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of a Permanent Easement for Ingress and Egress to Plymouth Congregational Church of the United Church of Christ over a portion of vacated 41st Street right-of-way lying east of and adjoining 545 42nd 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 City Property interest proposed to be conveyed, and the City will not be inconvenienced by reason of the conveyance of a Permanent Easement for Ingress and Egress over a portion of vacated 41st Street right-of-way lying east of and adjoining 545 42nd Street, Des Moines, Iowa, as legally described below, to Plymouth Congregational Church of the United Church of Christ, and said conveyance is hereby approved:

ALL THAT PART OF VACATED 41ST STREET RIGHT OF WAY BETWEEN INGERSOLL AVENUE AND GRAND AVENUE, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
THE VACATED EAST 59.0 FEET OF THE 66.0 FOOT 41ST STREET RIGHT OF WAY LYING EAST OF AND ADJOINING THE SOUTH 300.0 FEET OF LOT 5, GREENWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA. (VACATED BY ORDINANCE 13671, PASSED JANUARY 25, 1999).

3. The Mayor is authorized and directed to sign the Permanent Easement for Ingress and Egress for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. The City Clerk is authorized and directed to forward the original of the Permanent Easement for Ingress and Egress, 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.

5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Ingress and Egress, 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.

6. 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 Ingress and Egress and copies of the other documents to the grantee.

7. There are no proceeds associated with this grant of easement.

 **Roll Call Number**

Agenda Item Number

65

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Date October 2, 2023

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

_____ City Clerk
Laura Baumgartner

