

Date..... November 9, 2009.....

**RESOLUTION AUTHORIZING AND APPROVING RELEASE OF EASEMENT
FOR STORM SEWER RIGHT-OF-WAY AND ACCEPTING REPLACEMENT
EASEMENT FOR STORM SEWER RIGHT-OF-WAY FOR PROPERTY
LOCATED AT 2810 35TH STREET FROM MARK GEBAUER**

WHEREAS, on October 27, 1952, by Roll Call No. 3818, the City Council approved and accepted an Easement for Sewer Right-of-Way from Orin F. Wallick, Jr. and Barbara O. Wallick, as recorded in the office of the Recorder of Polk County, Iowa on October 31, 1952 in Book 2546, Page 171; and

WHEREAS, the current property owner identified below desires to construct a new garage on his real property, and through the building permit process it was discovered that the location of the existing storm sewer easement is not positioned parallel with the storm sewer pipe; and

WHEREAS, the City's Engineering and Public Works Departments have determined that it is in the City's best interest to relocate the storm sewer easement so that the easement is positioned parallel with the storm sewer pipe, which will allow the current property owner to construct a new garage; and

WHEREAS, as a condition for the relocation of the existing storm sewer easement as described above, the current property owner has agreed to provide a new storm sewer easement ("replacement easement") to the City; and

WHEREAS, the City will have no current or anticipated need for the existing storm sewer easement upon this specific property upon acceptance of the replacement easement.

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

1. There is no public need for the property interest described below and the public would not be inconvenienced by reason of the release of the existing Easement for Sewer Right-of-Way specifically described as follows:

A Twenty (20) foot strip of ground across Lot 42, Mary Oaks, the center line of said strip being described as follows: Beginning at a point on the south line 100 feet west of the east line thence to a point on the north line 105 feet west of the east line of said Lot 42, Mary Oaks, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

and recorded in the office of the Recorder of Polk County, Iowa on October 31, 1952, in Book 2546, Pages 171-172.

2. That the release of such property interest be and is hereby approved.

3. The attached document conveying the replacement storm sewer easement, recommended for approval and acceptance by the City Engineer, be and is hereby approved and accepted as follows:

★ **Roll Call Number**

Agenda Item Number
13

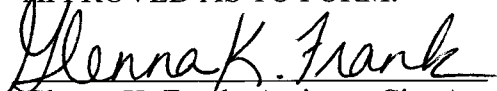
Date November 9, 2009

Property Owner: Mark P. Gebauer
 Property Location: 2810 35th Street
 Document Type: Permanent Easement for Storm Sewer Right of Way
 Consideration: \$ 1.00 plus closing costs

4. The Mayor is authorized and directed to sign the Release and Abandonment of Existing Storm Sewer Easement, and the City Clerk is authorized and directed to attest to the Mayor's signature and to endorse upon the replacement easement listed above the approval and acceptance of this Council.
5. The City Clerk is authorized and directed to forward the original of this Release of Easement and replacement easement 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 and replacement easement to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
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 to the property owner and shall retain the original of the replacement easement in the land records of the City.
8. That the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out the transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to obtain the checks, if any, needed to carry out these transactions and to deliver them to the payees.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Glenna K. Frank, Assistant City Attorney

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

MOTION CARRIED APPROVED

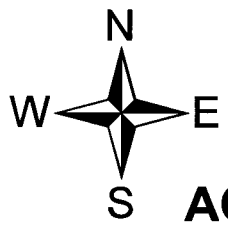
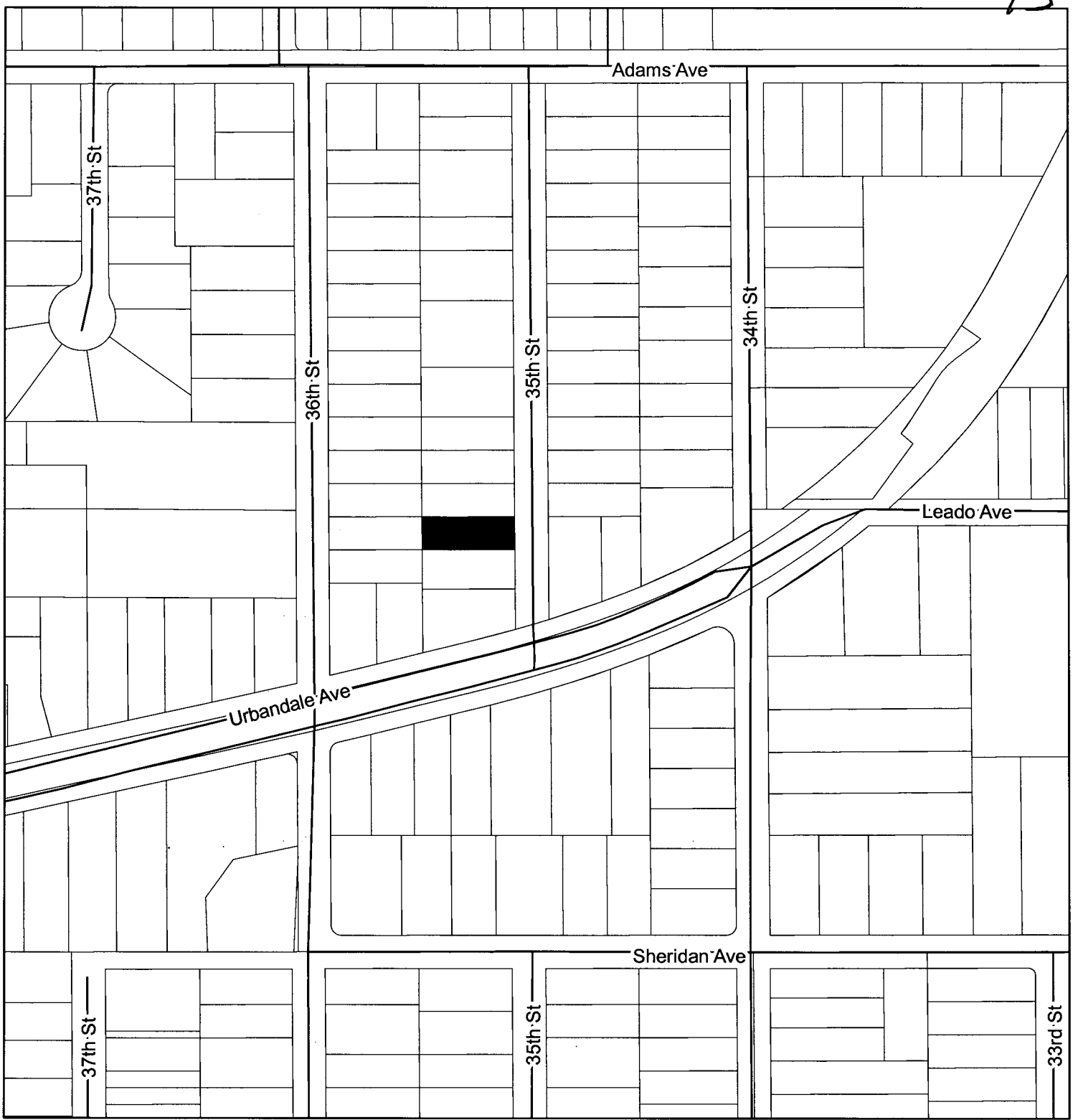
Mayor

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



Legend

 PROJECT LOCATION

**ACCEPTENCE OF STORM SEWER EASEMENT AND
RELEASE OF OLD STORM SEWER EASEMENTS
AT 2810 35TH STREET**