CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: **March 4, 2019**

ITEM: Resolution Approval of Assignment of Permanent Easement for Road Right-of-Way from the City of West Des Moines, Iowa to the City of Des Moines, Iowa for easement located at the northeast corner of HWY 28 and SW McKinley Avenue to the City of Des Moines, Iowa.

FINANCIAL IMPACT: None.

SYNOPSIS: On or about October 19, 2009, West Des City Council accepted a permanent easement from Cornerstone Family Church of Des Moines, Iowa for construction of the Southwest Connector Improvements Project, n/k/a Veteran's Parkway. This easement was acquired by the City of West Des Moines with the intent of conveying the easement to the City of Des Moines as it is located in Des Moines corporate limits. The attached resolution approves assignment of the easement.

RECOMMENDATION:

Adopt resolution approving Assignment of Permanent Easement for Road Right-of-Way from the City of West Des Moines, Iowa to the City of Des Moines, Iowa.

Lead Staff Member: Richard J. Scieszinski, City Attorney

STAFF REVIEWS

Department Director	Richard J. Scieszinski, City Attorney
Appropriations/Finance	
Legal	
Agenda Acceptance	RTG

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Dates(s) Published	February 23, 2019

SUBCOMMITTEE REVIEW (if applicable)

Committee	None		
Date Reviewed			
Recommendation	Yes	No	Split

Prepared by: Richard J. Scieszinski, City Attorney, PO Box 65320, West Des Moines, IA 50265-0320 (515) 222-3614
Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines IA 50265 (515) 222-3600

SPACE ABOVE THIS LINE FOR RECORDER

RESOLUTION NO. _____

RESOLUTION AUTHORIZING ASSIGNMENT OF PERMANENT EASEMENT FOR ROAD RIGHT-OF-WAY FROM THE CITY OF WEST DES MOINES, IOWA TO THE CITY OF DES MOINES, IOWA, LOCATED AT THE NORTHEAST CORNER OF HWY 28 AND SW MCKINLEY AVENUE TO THE CITY OF DES MOINES, IOWA

WHEREAS, on October 19, 2009, the City Council of the City of West Des Moines, Iowa accepted a permanent easement for road-right-of-way necessary for the construction of the Southwest Connector Improvements Project, n/k/a Veterans Parkway, and recorded said easement on December 9, 2009, in Book 133000, Page 991 in the office of the Polk County, Iowa Recorder ("Easement"); and

WHEREAS, on March 19, 2012, the City Council of the City of West Des Moines, Iowa entered into a 28E Agreement with the City of Des Moines, Iowa and said Agreement was filed with the Iowa Secretary of State on April 13, 2012, #M505139 ("Agreement"); and

WHEREAS, pursuant to the Agreement, the City of Des Moines, Iowa will accept assignment of the Easement; and

WHEREAS, pursuant to Code of Iowa sections 362.3 and 364.7, publication of notice for the assignment was published in the Des Moines Register on February 8, 2019 ; and

WHEREAS, this being the time and place for a public hearing regarding conveyance of the above legally-described property; and

WHEREAS, it is in the best interest of the City to convey the easement to the City of Des Moines, Iowa.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:

1. Pursuant to Code of Iowa Section 364.7, publication of notice regarding the assignment of the Easement has been properly made.

2. The public hearing regarding the assignment of the Easement is closed and assignment of the Easement to the City of Des Moines, Iowa is approved.

3. The Mayor is authorized to sign all documents necessary to assign the property to the City of Des Moines and the City Clerk is directed to attest to his signature.

4. The City Attorney is authorized to take all steps necessary and consistent with the Agreement to assign the Easement.

PASSED AND ADOPTED this ____ day of _____, 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

Prepared by: Greta Truman, Assistant City Attorney, City of West Des Moines, 4200 Mills Civic Parkway, PO Box 65320, West Des Moines, IA 50265, 515-222-3673
Return to: Real Estate Division, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309-1891

ASSIGNMENT OF PERMANENT EASEMENT FOR ROAD RIGHT-OF-WAY FROM THE CITY OF WEST DES MOINES, IOWA TO THE CITY OF DES MOINES, IOWA

WHEREAS, the CITY OF WEST DES MOINES, IOWA, a municipal corporation organized under the laws of the State of Iowa (hereinafter "City") acquired from Cornerstone Family Church of Des Moines, Iowa a Permanent Easement for Road Right-of-Way, which was filed on December 8, 2009, in Book 13300, Page 991 in the office of the Polk County Recorder ("Easement"); and

WHEREAS, City wishes to assign it interest in said Easement to the CITY OF DES MOINES, IOWA, a municipal corporation organized under the laws of the State of Iowa (hereinafter "Des Moines").

NOW THEREFORE, City, in consideration of the sum of One and 00/100 Dollars ($1.00) to be paid by Des Moines, does hereby assign unto Des Moines all City's interest in said Easement, including all its right, title, and interest in and to the roadway therein.

Des Moines hereby accepts said Easement from the City and agrees to comply with all terms and conditions therein, including the assumption of all obligations and liabilities.

Upon execution of this Assignment by both parties, the City shall have no further right, title or interest, including any obligation or liability to the extent either accrue after the date of assignment, in any or all of the Easement whatsoever.

This Assignment shall not be binding until it has received the final approval and acceptance by the respective City Council of each party by Resolution, which approval and acceptance shall be noted on this Assignment.

CITY OF WEST DES MOINES, IOWA
an Iowa municipality

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

COUNTY OF POLK)
) ss
STATE OF IOWA)

This record was acknowledged before me on _____, 2019 by Steven K. Gaer and Ryan T. Jacobson, to me known to be the Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa; that the record was signed on behalf of the City, by authority of its City Council fulfilling its obligations under a 28E Agreement approved by the Council on March 19, 2012 in Resolution 12-03-19-09 and filed with the Secretary of State on April 13, 2012, #M505139; and that the Mayor and City Clerk acknowledged the execution of the record to be their voluntary act and deed and the voluntary act and deed of the City, by it voluntarily executed.

_____
Notary for the State of Iowa

CITY OF DES MOINES, IOWA

The conveyance of the foregoing Assignment of Permanent Easement for Road Right-of-Way is hereby accepted by the City of Des Moines, Iowa. This Acceptance is made by the City Manager under authority delegated to the City by §2-201(e) of the Municipal Code of the City of Des Moines, Iowa, as amended by Ordinance No. 15,639, enacted on January 22, 2018, by the City Council of the City of Des Moines, Iowa.

Date: _____, 20__

City of Des Moines, Iowa

By: _____
Scott Sanders, City Manager

Approved As To Form:

_____
Lisa A. Wieland, Assistant City Attorney