


REQUEST FOR ORDINANCE TO RELINQUISH AN EASEMENT

TO: Caroline Martin, City Attorney's Office

FROM: Matt R. Bryner, PE, Director, Right of Way Services 

PROJECT NO: 2020-RELINQ-0000028

DATE: April 29, 2021

SUBJECT: Request for an Ordinance to relinquish 3 separate easements in their entirety as follows: the sanitary sewer easement reserved in Book 1847 Page 320, the sewer easement in its entirety reserved in the Deed of Easement, Book 6987 Page 583, and the storm sewer easement reserved in Ordinance No. 168, Series of 1968. Located at 2535 East 40th Avenue.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request of Iselo 40th Avenue, LLC., dated November 10, 2020 for the relinquishment of the subject easement(s).

This matter has been coordinated with City Councilperson CdeBaca, District 9; Asset Management; Emergency Management; Community Planning & Development; Planning Services; Historic Preservation/Landmark; Denver Water; Denver Fire Department; City Forester; Parks and Recreation; DOTI: ER Transportation and Wastewater, DES Transportation & Wastewater, Construction Engineering, Policy and Planning, TES Signing and Striping, Survey; Colorado Department of Transportation; Regional Transportation District; Comcast; Metro Wastewater Reclamation District; CenturyLink; and Xcel Energy, all of whom have indicated no objection to the proposed easement relinquishment(s).

As a result of these investigations, it has been determined that there is no objection to relinquishing the subject easement(s).

Therefore, you are requested to initiate Council action to relinquish the easement(s) in the following described area(s):

A vicinity map of the subject easement area(s) and a copy of the document(s) creating the easement(s) are attached.

MB:dp

cc: City Councilperson & Aides
City Council Staff – Zach Rothmier
Department of Law – Bradley Beck
Department of Law – Deanne Durfee
Department of Law – Maureen McGuire
Department of Law – Martin Plate
DOTI, Manager's Office – Alba Castro
DOTI, Legislative Services – Jason Gallardo
DOTI, Survey – Paul Rogalla

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services | Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo

at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact him with questions.

Date of Request: April 29, 2021

Please mark one: ☒ Bill Request or ☐ Resolution Request

1. Type of Request:

- ☐ Contract/Grant Agreement ☐ Intergovernmental Agreement (IGA) ☐ Rezoning/Text Amendment
- ☐ Dedication/Vacation ☐ Appropriation/Supplemental ☐ DRMC Change
- ☒ Other: Easement Relinquishment

2. Title: (Start with *approves*, *amends*, *dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Request for an Ordinance to relinquish 3 separate easements in their entirety as follows: the sanitary sewer easement reserved in Book 1847 Page 320, the sewer easement in its entirety reserved in the Deed of Easement, Book 6987 Page 583, and the storm sewer easement reserved in Ordinance No. 168, Series of 1968. Located at 2535 East 40th Avenue.

3. Requesting Agency: Department of Transportation and Infrastructure; Engineering and Regulatory

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Devin Price	Name: Jason Gallardo
Email: devin.price@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for an Ordinance to relinquish 3 separate easements in their entirety as follows: the sanitary sewer easement reserved in Book 1847 Page 320, the sewer easement in its entirety reserved in the Deed of Easement, Book 6987 Page 583, and the storm sewer easement reserved in Ordinance No. 168, Series of 1968. Located at 2535 East 40th Avenue.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: council woman CdeBaca, District 9

8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet****

Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? ☐ Yes ☐ No **Is this an Amendment?** ☐ Yes ☐ No **If yes, how many?** _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount (A)</i>	<i>Additional Funds (B)</i>	<i>Total Contract Amount (A+B)</i>
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? ☐ Yes ☐ No

Source of funds:

Is this contract subject to: ☐ W/MBE ☐ DBE ☐ SBE ☐ XO101 ☐ ACDBE ☐ N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

EASEMENT RELINQUISHMENT EXECUTIVE SUMMARY

Project Title: 2020-RELINQ-0000028 - 2535 E 40th Ave

Property Owner: Iselo 40th Avenue, LLC

Description of Proposed Project: Request for an Ordinance to relinquish 3 separate easements in their entirety as follows: the sanitary sewer easement reserved in Book 1847 Page 320, the sewer easement in its entirety reserved in the Deed of Easement, Book 6987 Page 583, and the storm sewer easement reserved in Ordinance No. 168, Series of 1968. Located at 2535 East 40th Avenue.

Background: Applicant is redeveloping entire site per SDP and replacing/relocating sewers per approval from City.

Location Map: Continued on next page



City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/dot
Phone: 720-865-3003

1553A-320
1847-320

11/29/1907

ice, for good and valuable consideration, has granted and conveyed, and by these presents does grant and convey unto the said party of the second part, and its successors, forever, a right of way for the construction and maintenance of a sewer, sewer over, in and along the lands indicated by the following described line, to-wit:

Beginning at a point on the south line of section twenty-three (23), town six (6) south of range eighty-eight (88) west, four (4) feet east of the south-west corner of the southwest quarter (1/4) of the southeast quarter (1/4) of the southeast quarter (1/4) of said section; thence north and parallel with the west line of said quarter (1/4) of said quarter (1/4) of said quarter (1/4) of said section, two hundred and sixty-three (263) feet, more or less, to the south line of thirty-eighth Avenue extended easterly; thence northerly, eighty (80) feet, to the north line of said Avenue, as extended; at a point two (2) feet east of the west line of said quarter (1/4) of said quarter (1/4) of said quarter (1/4) of said section; thence north and parallel with the west line of said quarter (1/4) of said quarter (1/4) of said quarter (1/4) of said section, three hundred and twenty-seven (327) feet, more or less, to the north line of said quarter (1/4) of said quarter (1/4) of said quarter (1/4) of said section.

Also, by these presents, granting and conveying to said party of the second part, and to its successors, forever, the privilege and right of access to said right of way, through its officers, employes and servants, for all purposes of construction, re-construction, maintenance and repair of said sewer.

In Witness Whereof, the said party of the first part has hereunto set his hand and seal this day and year first hereinbefore written.

Henry M. Porter

I, John H. Porter, a Notary Public in and for the City and County of Denver, in the State of Colorado, do hereby certify that Henry M. Porter, who is personally known to me to be the person whose name is subscribed to the above and foregoing deed, appeared before me in person this 4th day of June, 1906, and acknowledged that he executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of June, 1906.

My commission expires Dec. 16-1906.

Witness my hand and notarial seal this 4th day of June, 1906.

Right of Way Deed.	Right of Way Deed.
Walter S. Reesman	Rea Deed, made this 5th day of July, 1906, between
To:	Walter S. Reesman, of the City and County of Denver, and State of Colorado, party of the first part, and
The City and County of Denver.	The City and County of Denver, a municipal corporation of the said State of Colorado, party of the second part.
Filed for Record at 2-	Witnesseth: That the said party of the first part
P.M. Jan'y 29-1907	for and in consideration of the sum of One (1) dollar,
Alison H. Dickery.	to the said party of the first part in hand paid by
Recorder.	the said party of the second part, the receipt whereof is hereby acknowledged

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the following

twenty-three (23) feet
2) feet east of the
east quarter (1/4)
and parallel with the
line (1/4) of said section
south line of thirty
feet, to the north line
the west line of
said section and thence
said quarter (1/4) of
section (32) feet,
quarter (1/4) of said

4) part of the second
of acres to said
for all purposes
said survey
it has hereto
are written
Parties. (Printed)

in and for the
State of Colorado, do
witness to me this
1) foregoing deed,
and acknowledged
it and deeds, for

day of June, 1906.

in H. Porter
Mayor, Public

of July, 1906, by
city and County of Den
the first part, and
municipal corporation
The second part
city of the first part
of one (1) acre,
in land paid by
recognition and

has granted and conveyed, and by these presents does grant and convey unto
the said party of the second part, and to its successors, forever, a right of
way, not exceeding ten (10) feet in width, for the purpose of constructing a
sanitary sewer in the East Side Sanitary Sewer District No. 1, as created
and established by Ordinance No. 76, of the Series of 1906, of the said City
and County of Denver, in, through and along a strip of land being south of
and adjacent to the north line of the northwest quarter of the southeast
quarter of the southeast quarter, and the east one half of the northwest quar-
ter of the southeast quarter of the southeast quarter of Section 23, in Town-
ship 3, South, Range 68 West, along the following described center line, to-wit:

Beginning at a point on the east line of said northwest quarter of the
southeast quarter of the southeast quarter of said Section 23, eleven (11) feet
south of the north line of said ten (10) acre tract, and running thence west,
parallel with and eleven (11) feet south of said north line, nine hundred and
sixty (96) feet, more or less, to the west line of said east one half of the
northwest quarter of the southeast quarter of the southeast quarter of Section
(23), Township 3, South, Range 68 West.

And then in and through a part of the northwest quarter of the south-
west quarter of Section 24, in Township 3, South, Range 68 West, along the
following described center line, to-wit:

Beginning at a point sixty (60) feet north and fifteen (15) feet east of the
southwest corner of said northwest quarter of the southwest quarter of Sec-
tion 24, and running thence north parallel with said fifteen (15) feet east
of the west line of said forty (40) acre tract, seven hundred and seventy-
two (772) feet, more or less, to the south line of the right of way of the
Kansas Pacific Railway Company as described in Deeds recorded in Book 31 at
page 181 of the records now in the office of the Recorder of the said City
and County of Denver, the right of way being described therein, through
and along what would be the east side of said street, in the said
City and County of Denver, if the said street was extended south through
said tract of land.

And then in and through a part of the northwest quarter of the
northwest quarter of Section 24, in Township 3, South, Range 68 West,
along the following described center line, to-wit:

Beginning at a point sixty (60) feet north and ten (10) feet west
of the southeast corner of said northwest quarter of the southwest
quarter of Section 24, and running thence north, parallel with and
ten (10) feet west of the east line of said forty (40) acre tract, seven
hundred and seventy (770) feet, more or less, to a point ten (10) feet
west of said east line, which is the center line of forty-second Avenue
provided said street would intersect the same, thence west ten (10) feet to
the said east line of said northwest quarter of the northwest quarter
of Section 24, the same being in, through and along the line of the
alley running north and south between Thompson Street and Stanton
Street of the said city were extended through said tract of land in
the years of Blocks 62 and 63, West Addition to Swansea.

All situate, lying and being in the City and County of Denver, and
State of Colorado.

Provision with the right to maintain, operate and repair the said sewer in accordance with the ordinances of the said City and County of Denver.

Provided, however, That the said party of the second part shall construct and complete the said sewer within a reasonable time and shall not do any unnecessary damage to the said lands and premises and shall repair all trenches and excavations made in the construction and maintenance of said sewer so as to leave the ground in as good condition as before said right of way is introduced upon any excavations made therein; and.

Provided further, That the said party of the second part shall, at all times have, hold and keep the said party of the first part, his heirs, executors, administrators and assigns, wholly free and harmless of and from all loss, cost, damage and injury to said premises, or to person or property, by reason of the construction, maintenance and operation of said sewer and along said right of way.

In Witness Whereof, The said party of the first part has hereunto set his hands and seal the day and year first herein above written.

Walter S. Sherman, {Printed Name}

State of Colorado.

City and County of Denver.

I, Alfred Herma, a Notary Public, in and for the said City and County, in the State aforesaid, do hereby certify that Walter S. Sherman, whose name is subscribed to the foregoing Deed, appeared before me this day in person and acknowledged that he signed, created and delivered the said instrument of writing as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and official seal this 2nd day of July, A. D. 1906.

My commission will expire February 16, 1907.

{Notary Seal}

Alfred Herma

Notary Public

First Blank Deed.

Hattie Lucia Carpenter

In

Richard A. Parker

Filed for record at

P. M. Jan. 27, 1907

Alfred H. Vining

Recorder.

Winfield W. Booth, deceased, late of the City and County of Denver, and State of Colorado, parties of the first part, and Charles A. Parker, of the City and County of Denver, and State of Colorado, parties of the second part, Witnesses:

A. K. H.

W. R. S. J. Fowler, of the City and County of Denver, and State of Colorado, was duly appointed administrator of the estate of Winfield W. Booth, deceased, by the County Court of the City and County of Denver, and State of

Colorado.

Witness my hand and seal this 2nd day of July, A. D. 1906.

Alfred Herma

Notary Public

My commission will expire February 16, 1907.

{Notary Seal}

Alfred Herma

Notary Public

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DEED OF EASEMENT

6987 583

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SEP 14 1951

KNOW ALL MEN BY THESE PRESENTS:

THAT WESTERN ELECTRIC COMPANY, INCORPORATED, a corporation duly organized and existing under and by virtue of the laws of New York, for and in consideration of One (\$1.00) Dollar and other good and valuable considerations, in hand paid, does hereby grant and convey to the City and County of Denver, a municipal corporation duly organized and existing under and by virtue of the Constitution of the State of Colorado, an easement and right-of-way for sewers over, upon, across, in, through and under the following described real property situate in the City and County of Denver, State of Colorado, to wit:

The East 15 feet of that part of the NW 1/4 of the SW 1/4 of Section 24, Township 3 South, Range 68 West, lying between the North line of 40th Avenue and the South line of 42nd Avenue, or any part thereof.

And the Grantor hereby releases the limitation contained in Paragraph numbered 1 of the deed from Grantor to Grantee dated October 8, 1947, wherein the said land was conveyed for use as a public alley without the right to construct or maintain sewers and their appurtenances in said land.

Signed and delivered this 24th day of August, A.D. 1951.

WESTERN ELECTRIC COMPANY, INCORPORATED

ATTEST:

By

Vice President

Assistant Secretary

STATE OF NEW YORK)
CITY AND) ss
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this 24th day of August, A.D. 1951 by F.W. BERWIRTH as Vice President and by G.A. KNIWEEL as ASSISTANT Secretary of Western Electric Company, Incorporated, a corporation.

Witness my hand and seal

JOSEPH A. KNEDEL
Notary Public, State of New York
No. 12-28323

Qualified in New York County

My Commission Expires
and Expires and Resigns County Clerk
Commission Expires March 15, 1952

Notary Public

As to Form

City and County Office

APPROVED FOR RECORDING

LAND OFFICE

C. Thompson

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DEED OF EVIDENCE

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MAY 31 1968

BY AUTHORITYORDINANCE NO. 168COUNCILMAN'S BILL NO. 182

SERIES OF 1968

INTRODUCED BY COUNCILMEN

Caldwell, Kelly & Marranzino

A BILL

FOR AN ORDINANCE VACATING CERTAIN PARTS OF THE SYSTEM OF THOROUGHFARES OF THE MUNICIPALITY, i. e., VACATING CERTAIN DESCRIBED PARTS OF 41ST AND 42ND AVENUES AND A CERTAIN ALLEY ADJOINING FIRST ADDITION TO SWANSEA, SUBJECT TO CERTAIN RESERVATIONS.

WHEREAS, the Manager of Public Works of the City and County of Denver has found and determined that the public use, convenience and necessity no longer require those certain portions of those avenues and that certain alley hereinafter described and, subject to approval by ordinance, has vacated the same with the reservations hereinafter set forth; now, therefore,

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the action of the Manager of Public Works in vacating the following described portions of certain avenues and a certain alley in the City and County of Denver, State of Colorado, to-wit:

41st Avenue and 42nd Avenue from the West line of Clayton Street to the West line of First Addition to Swansea and

An alley consisting of the East fifteen feet of the Northwest one-quarter of the Southwest one-quarter of Section 24, Township Three South, Range 68 West of the Sixth Principal Meridian, from the North line of 40th Avenue to the Southerly line of the right of way of the Union Pacific Railroad Company;

be and the same is hereby approved and the described portions of those certain avenues and the described alley are hereby vacated and declared vacated; provided, however, that said vacation shall be subject to the following conditions and reservations:

There is reserved to the City and County of Denver
the continued use and the right to maintain and operate an existing
storm sewer over the following part of the vacated alley:

The East fifteen feet of the Northwest one-quarter of the
Southwest one-quarter of Section 23, Township Three South,
Range 68 West of the Sixth Principal Meridian, from the North
line of 40th Avenue to a line which is twenty feet South of and
parallel with the North line of 41st Avenue extended Westerly.

Section 2. The Council finds this Ordinance is necessary for the
immediate preservation of the public health and public safety and determines
that it shall take effect immediately upon its final passage and publication.

PASSED BY the Council May 27 1968

Carl F. H. Taylor President
APPROVED: Tom Garrison Mayor May 29 1968
ATTEST: F. J. Dugan Clerk and Recorder, Ex-Officio
Clerk of the City and County
of Denver

PUBLISHED IN The Daily Journal May 24 1968 and May 31 1968

I have made the findings and determinations set
forth in the above and foregoing draft or form
of a proposed Bill for An Ordinance and, subject
to approval by ordinance, have vacated and do
hereby vacate those certain portions of those
streets and that certain alley therein described,
subject to the reservations therein set forth
and request the Council of the City and County
of Denver to approve such vacation, subject to
such reservations by the enactment of an ap-
propriate ordinance. I approve said draft or
form of a proposed Bill for An Ordinance and
recommend the introduction and passage thereof.

Edwin M. Nichols
Manager of Public Works

PREPARED BY: Mar. P. Lall City Attorney

APPROVED: W. H. L. Planning Director

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