



## Legislation Text

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**File #:** 09-0998, **Version:** 2

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### Resolution to Conditionally Release a Portion of Utilities Easement Reserved in Boulevard Heights Alley Vacation (**8 Votes Required**)

City Council is being asked to approve the following resolution which, upon council approval and the fulfillment of certain conditions, will release a portion of public utilities reserved by council action in the Boulevard Heights Alley Vacation approved on May 29, 2008 in Council Resolution R-08-169.

When the City vacated the alley, we reserved an easement for City utilities that currently run through the vacated area. This reservation of easement will no longer be necessary once the developer moves the utilities elsewhere within the site. This conditional release of the City's reservation of easement will allow development of the parcel to move forward, while protecting the City's interest in the easement. Once the utilities are moved, and all conditions have been met, the City will release out reservation of easement in the vacated alley.

Agree Ann Arbor Jackson LLC, a Delaware Limited Liability Company, a preferred Walgreen's developer, is the developer of property that benefitted from the above-mentioned alley vacation. Agree Ann Arbor Jackson LLC has agreed to enter into an agreement with the City of Ann Arbor in which the City will release a portion of the easement for public utilities that it reserved in Resolution R -08-169, pursuant to the following conditions:

- Developer Walgreen's will relocate only that portion of the City's reserved public and private utilities currently located on its property at its sole expense pursuant to and in compliance with City's standard utility specifications and requirements.
- Developer Walgreen's will relocate City's existing storm sewer to the east side of its new structure at its sole expense and pursuant to and in compliance with City's standard utility specifications and requirements. Developer Walgreen's will relocate City's existing sanitary sewer pipes to both the east and west sides of its new structure at its sole expense and pursuant to and in compliance with City's standard utility specifications and requirements.
- Developer Walgreen's will deliver fully executed easement documents pursuant to the City's standard terms and conditions for the relocated sanitary sewer and storm sewer pipes prior to the City's issuance of Developer's First Certificate of Occupancy.

The City Attorney's Office recommends that this resolution be approved as the reservation of easement will no longer be necessary after the utilities have been moved elsewhere on the site.

Prepared by: Marylou Zimmerman, Legal Assistant

Reviewed by: Stephen K. Postema, City Attorney

Approved by: Roger M. Fraser, City Administrator

Whereas, The City approved at its May 29, 2008 council session, under Resolution R-08-169, the vacation of the Boulevard Heights alley located between Maple Road, Collingwood Drive, Abbott Avenue and Jackson Avenue contingent upon reserving an easement for the private and public utilities in, on and over the vacated alley;

Whereas, Agree Ann Arbor Jackson LLC, a Delaware limited liability corporation, a preferred Walgreen's developer, and as lessee in a ground lease arrangement, is re-developing the land surrounding and including the vacated alley;

Whereas, Agree Ann Arbor Jackson LLC has asked the City to release only that portion of the reserved public utilities located in, on and under Agree Ann Arbor Jackson LLC's property upon the condition that Agree Ann Arbor Jackson LLC will relocate the reserved utilities at its sole expense pursuant to and in compliance with City's standard utility specifications and requirements;

Whereas, Agree Ann Arbor Jackson LLC has agreed to relocate the City's existing sanitary sewer pipes to the east and west sides of its new structure and to relocate the existing storm sewer pipes to the east side of its new structure at its sole expense and pursuant to and in compliance with City's standard utility specifications and requirements; and

Whereas, Agree Ann Arbor Jackson LLC has agreed to deliver to the City fully executed easement documents pursuant to the City's standard terms and conditions for the relocated sanitary sewer and storm sewer pipes prior to the City's issuance of Developer's First Certificate of Occupancy;

RESOLVED, That City Council approve the release of only that portion of the reserved public utilities located in, on and under Agree Ann Arbor Jackson LLC's property described as follows and in the attached Exhibit "A":

Commencing at the Southwest corner of Lot 1 of "Boulevard Heights" as recorded in Liber 6 of Plats, Page 16, Washtenaw County Records, Washtenaw County, Michigan; thence N86°08'30"E 117.94 feet along the South line of Lots 1-4, inclusive, of said "Boulevard Heights" and the North line of a vacated service drive (16 feet wide) to the Southeast corner of said Lot 4 for a PLACE OF BEGINNING; thence continuing N86°08'30"E 235.00 feet along the South line of Lots 5-12, inclusive, of said "Boulevard Heights" and the North line of said vacated service drive; thence S03°51'23"E 8.00 feet; thence N86°08'30"E 47.00 feet along the centerline of said vacated service drive; thence S03°51'23"E 8.00 feet; thence S86°08'30"W 300.00 feet along the North line of Lots 68-73, inclusive, of said "Boulevard Heights" and the South line of said vacated service drive; thence N03°51'23"W 8.00 feet; thence N86°08'30"E 18.00 feet along the centerline of said vacated service drive; thence N03°51'23"W 8.00 feet to the Place of Beginning. Description of a portion of the 16 foot wide vacated alley located in Section 30, T2S, R6E, City of Ann Arbor, Washtenaw County, Michigan

RESOLVED, That the release of the easement for the portion of the reserved utilities as described above is conditioned on Agree Ann Arbor Jackson LLC's relocating the portion of the reserved utilities at its sole expense and pursuant to and in compliance with City's standard utility specifications and requirements;

RESOLVED, That Agree Ann Arbor Jackson LLC will deliver to the City fully executed easement documents pursuant to the City's standard terms and conditions for public utilities prior to the City's issuance of the First Certificate of Occupancy;

RESOLVED, That the Mayor and City Clerk be authorized and directed to sign an agreement with Agree Ann Arbor Jackson LLC and a release of easement reservation consistent with this resolution, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator, or his designee, be authorized to take necessary administrative actions and to execute any documents necessary to complete this transaction and to implement this resolution.