CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: July 15, 2019

ITEM: Resolution Approval of grant of Underground Electric Easement for the City of West Des Moines Public Services building

FINANCIAL IMPACT: None

SYNOPSIS: An easement necessary for the installation of conduits, wires and cables for the transmission and distribution of electrical services to the West Des Moines Public Services building is being requested from the City by MidAmerican Energy. The attached resolution approves grant of the easement to MidAmerican.

RECOMMENDATION: Approve Resolution granting an Underground Electric Easement to MidAmerican Energy Company for the West Des Moines Public Services building.

Lead Staff Member: Brian Hemesath, City Engineer

STAFF REVIEWS

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

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	None		
Date Reviewed			
Recommendation	Yes	No	Split

RESOLUTION NO. _____

RESOLUTION APPROVING GRANT OF UNDERGROUND ELECTRIC EASEMENT TO MIDAMERICAN ENERGY COMPANY FOR THE CITY OF WEST DES MOINES PUBLIC SERVICES BUIDLING

WHEREAS, the City of West Des Moines is constructing the West Des Moines Public Services building; and

WHEREAS, in conjunction with construction of the building, MidAmerican Energy Company is installing electrical services that will require placement of the services in an easement; and

I

WHEREAS, the City has agreed to grant an easement to MidAmerican Energy, of which a copy of the easement document is attached and shown as Exhibit "A."

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

1. The Underground Electric Easement granting rights to MidAmerican Energy Company for the installation of electric services and shown as the attached Exhibit 'A" is approved.

2. The Mayor is authorized to sign the Easement and the City Clerk is directed to attest to the Mayor's signature.

PASSED AND APPROVED this 15th day of July, 2019.

ATTEST:

_____
Steven K. Gaer, Mayor

_____
Ryan T. Jacobson, City Clerk

Prepared by and return to: Aaron O'Boyle 515-281-2579
MIDAMERICAN ENERGY ATTN: RIGHT-OF-WAY SERVICES PO Box 657, Des Moines, IA 50306-0657

MIDAMERICAN ENERGY COMPANY
UNDERGROUND ELECTRIC EASEMENT

		State of	Iowa	
Folder No.	7406-19	County of	Dallas	
Work Req. No.	2740341	Section	26	
Project No.	A1145	Township	78	North
		Range	26	West of the 5th P.M.

1. For and in consideration of the sum of One and no/100---Dollar ($1.00), and other valuable consideration, in hand paid by MIDAMERICAN ENERGY COMPANY, an Iowa corporation, receipt of which is hereby acknowledged, the undersigned owner(s) **City of West Des Moines, Iowa**, a municipal corporation, its successors and assigns ("Grantor"), does hereby grant to MIDAMERICAN ENERGY COMPANY, its successors and assigns ("Grantee"), a perpetual, non-exclusive easement to construct, reconstruct, operate, maintain, replace or remove underground conduits, wires and cables for the transmission and distribution of electric energy and for communication and electrical controls, including other reasonably necessary equipment incident thereto (collectively "Facilities") under and on the surface of the ground, through and across certain property described below, together with the right of ingress and egress to and from the same, and all the rights and privileges incident and necessary to the enjoyment of this easement ("Easement Area").

DESCRIPTION OF PROPERTY CONTAINING EASEMENT AREA:

Lot 1, West Des Moines Public Service Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa.

EASEMENT AREA:

An underground electric easement over, under, across and through the above described parcel; as generally depicted on Exhibit "A", attached hereto and made a part hereof.

2. Additionally, Grantee shall have the right to remove from the Easement Area described above, any obstructions, including but not limited to, trees, plants, undergrowth, buildings, fences and structures that interfere with the proper operation and maintenance of said Facilities and equipment.

3. Grantor agrees that it will not construct or place any permanent or temporary buildings, structures, fences, trees, plants or other objects on the Easement Area described above or make any changes in ground elevation without written permission from Grantee indicating that said construction or ground elevation changes will not result in inadequate or excessive ground cover, or otherwise interfere with the Grantee's rights to operate and maintain its Facilities.

4. In consideration of such grant, Grantee agrees that it will repair or pay for any damage which may be caused to crops, fences, or other property, real or personal of the Grantor by the construction, reconstruction, maintenance, operation, replacement or removal of the Facilities (except for damage to property placed subsequent to the granting of this easement) that Grantee determines interferes with the operation and maintenance of the Facilities and associated equipment. The cutting, recutting, trimming and removal of trees, branches, saplings, brush or other vegetation on or adjacent to the Easement Area is expected and not considered damage to the Grantor.

5. Additionally, when Grantor provides or installs duct/conduit for said Facilities, this grant shall cover and include all Facilities installed as a part of the Easement Area.

6. Grantor certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly, on behalf of, any such person, group, entity or nation. Grantor hereby agrees to defend, indemnify and hold harmless the Grantee from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

7. Each of the provisions of this easement shall be enforceable independently of any other provision of this easement and independent of any other claim or cause of action. In the event of any matter of dispute arising out of or related to this easement, it is agreed between the parties that the law of the jurisdiction and location where this easement is recorded (including statute of limitation provisions) will govern the interpretation, validity and effect of this easement without regard to the place of execution or place of performance thereof, or any conflicts or law provisions. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS EASEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

8. Grantor hereby relinquishes all rights of dower, homestead and distributive share in and to the property and waives all rights of exemption as to any of the property. Grantor understands that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this easement, voluntarily gives up any right to this protection for this property with respect to claims based upon this easement.

9. Grantor warrants to Grantee that Grantor holds title to the Easement Area in fee simple and Grantor has good and lawful authority to grant the rights provided in this easement.

10. Each party shall indemnify and hold the other party harmless from and against any loss, expense or claim asserted by third parties for damage to third party tangible property, or for bodily injury, or both, related to this Agreement, to the extent such damage or injury is attributable to the negligence or willful misconduct of the indemnitor; provided, indemnitee gives the indemnitor prompt notice of any such claim and all necessary information and assistance so that indemnitor, at its option, may defend or settle such claim, and indemnitee does not take any adverse position in connection with such claim. In the event that any such damage or injury is caused by the joint or concurrent negligence of both parties, the loss, expense or claim shall be borne by each party in proportion to its negligence.

(Acknowledgments on following page)

Dated this ____ day of _____, 20__

City of West Des Moines, Iowa a municipal corporation

Signed: _____

Printed: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss
COUNTY OF _____)

This record was acknowledged before me on _____, 20___,

by _____ as _____ of
City of West Des Moines, Iowa, a municipal corporation.

_____
Signature of Notary Public

"EXHIBIT A"

INDEX LEGEND

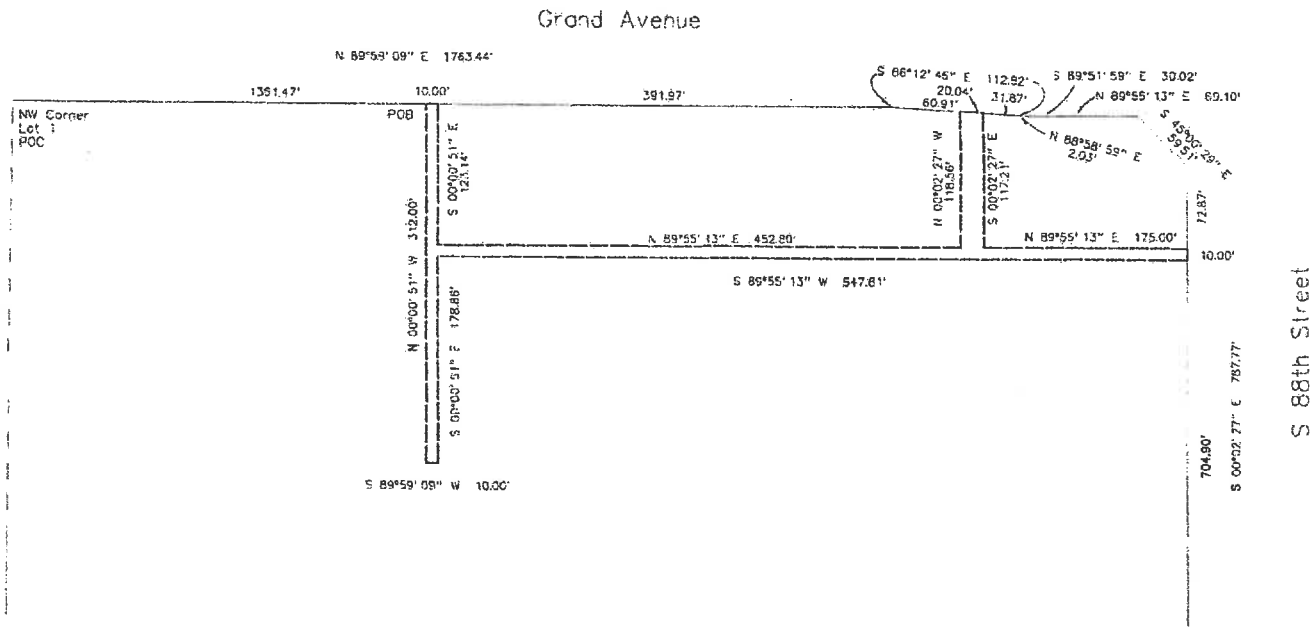
COUNTY: Dallas
SITE ADDRESS: 8850 Grand Avenue
CITY: West Des Moines
SUBDIVISION NAME:
West Des Moines Public Service Plat 1
BLOCK: LOT(S): 1
PROPRIETOR: City of West Des Moines
REQUESTED BY: City of West Des Moines
SURVEYOR NAME: Vincent E. Piagentini

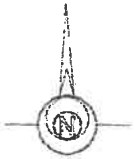
PREPARED BY & RETURN TO: ABACI CONSULTING INC. 101 NE CIRCLE DR., GRIMES, IA 50111, PH.(515)986-5048

ELECTRICAL EASEMENT DESCRIPTION AND LAYOUT

All that part of Lot 1 in West Des Moines Public Service Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa, more particularly described as follows:
Beginning at the Northwest Corner of said Lot 1, thence North 89°59' 09" East, along the North line of said Lot 1, a distance of 1361.47 feet, to the Point of Beginning; thence continuing North 89°59' 09" East, along the North line of said Lot 1, a distance of 10.00 feet; thence South 00°00' 51" East, a distance of 123.14 feet; thence North 89°55' 13" East, a distance of 452.80 feet, thence North 00°02' 27" West, a distance of 118.56 feet, to a point on the North line of said Lot 1; thence South 86°12' 46" East, along the North line of said Lot 1, a distance of 20.04 feet; thence South 00°02' 27" East, a distance of 117.21 feet; thence North 89°55' 13" East, a distance of 175.00 feet, to a point on the East line of said Lot 1; thence South 00°02' 27" East, along the East line of said Lot 1, a distance of 10.00 feet; thence South 89°55' 13" West, a distance of 647.81 feet; thence South 00°00' 51" East, a distance of 178.86 feet, thence South 89°59' 09" West, a distance of 10.00 feet; thence North 00°00' 51" West, a distance of 312.00 feet to the Point of Beginning, and containing 11,951 square feet or 0.27 acres of land, more or less.

SPACE ABOVE FOR USE BY RECORDER OFFICE





0 100 200
Scale 1" = 100'

DRAWING DATE: 5-19-19 DRAFTER: VP PROJECT NO: 19132 WDM 0510-027-2017

I HEREBY CERTIFY THAT THIS SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

6/3/19

VINCENT E. PIAGENTINI, IOWA LIC. NO 15982 DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2020.

ADDITIONAL PAGES CERTIFIED (NONE UNLESS INDICATED HERE)

VINCENT E. PIAGENTINI LICENSED 15982 IOWA PROFESSIONAL LAND SURVEYOR

SYMBOLS LEGEND:

R RECORDED DISTANCE
M MEASURED DISTANCE
C CALCULATED DISTANCE
● CORNER MONUMENT FOUND
○ SET 1/2" IR YC 15982 UNLESS NOTED
▲ SECTION CORNER FOUND
△ SECTION CORNER SET 1/2" IR YC 15982 UNLESS NOTED
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
YC YELLOW CAP
IR IRON ROD
IP IRON PIPE

ABACI CONSULTING, INC.
CIVIL ENGINEERING - LAND SURVEYING
101 NE CIRCLE DR., GRIMES, IOWA 50111, PH. (515)986-5048