CITY OF WEST DES MOINES
CITY COUNCIL COMMUNICATION

DATE: December 7, 2020

ITEM:

Resolution – Approving Reimbursement Agreement with MidAmerican Energy Company for Natural Gas Main Extension
Utility Service to Future SW Public Safety Station

FINANCIAL IMPACT:

The cost of this work is estimated not to exceed $2,164,225.00 for extending natural gas service from near the South 88th Street & Grand Avenue intersection to the future SW Public Safety Station. The actual costs may vary from estimates and will be determined at the time of construction. These improvements can be paid from account no. 500.000.000.5250.490 with the ultimate funding intended to come from Osmium Urban Renewal Area TIF.

BACKGROUND:

The City is planning to construct the SW Public Safety Station sometime in the future, but the actual timeline is currently unknown. The City has requested that MidAmerican Energy Company extend natural gas service to the SW Public Safety Station in advance of its construction. In the meantime, any development that occurs adjacent to this proposed natural gas main extension will be able to connect to it and utilize it. The natural gas main extension being proposed starts near the South 88th Street & Grand Avenue intersection, running along the west side of South 88th Street to Raccoon River Drive, running along the south side of Raccoon River Drive to SW Grand Prairie Parkway, and running along the west side of SW Grand Prairie Parkway to the approximate location of the future SW Public Safety Station.

MidAmerican Energy Company has not been able to produce the necessary Natural Gas Facilities Construction and Reimbursement Agreement (FCA) to date, but due to the targeted permanent service date of April 2, 2021, MidAmerican Energy Company wishes to execute this Reimbursement Agreement to allow professional engineering services to continue and to allow for the advance purchase of materials needed for the construction of the natural gas main extension in hopes of meeting the targeted permanent service date.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

OUTSTANDING ISSUES: None.

RECOMMENDATION:

City Council Adopt:

- Resolution Approving Reimbursement Agreement with MidAmerican Energy Company for Natural Gas Main Extension.

Lead Staff Member: Brian J. Hemesath, P.E., City Engineer

STAFF REVIEWS

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard J. Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

RESOLUTION APPROVING REIMBURSEMENT AGREEMENT

WHEREAS, the City Council of the City of West Des Moines has heretofore directed the extension of natural gas service for the following described public improvement:

Utility Service to Future SW Public Safety Station
Project No. 0510-060-2015

WHEREAS, a Reimbursement Agreement has been received from MidAmerican Energy Company, a franchised utility, to commence said work; and

WHEREAS, the estimated costs for said work is not to exceed $2,164,225.00.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, that the Reimbursement Agreement from MidAmerican Energy Company be accepted and approved.

PASSED AND APPROVED on this **7th** day of **December, 2020.**

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

REIMBURSEMENT AGREEMENT FOR EQUIPMENT PROCUREMENT AND DESIGN OF NATURAL GAS MAIN EXTENSION

MIDAMERICAN ENERGY COMPANY, an Iowa corporation, its successors and assigns ("Company"), and CITY OF WEST DES MOINES, IOWA ("Customer") (each a "Party" and together, the "Parties"), enter into this Reimbursement Agreement For Equipment Procurement and Design of Company Facilities – WEST DES MOINES MAIN EXTENSION ("Reimbursement Agreement") as of the date of the last signature below (the "Effective Date") and agree as follows:

Recitals

WHEREAS, Customer is planning to construct a facility located in West Des Moines, Iowa south of the Raccoon River along Southwest Grand Prairie Parkway (the "Project") with natural gas service to be provided for such facility by Company;

WHEREAS, Customer desires that Company design and construct a natural gas main to serve the Project (the "Facilities") and the parties are currently negotiating terms for such work which will be included in a "Natural Gas Facilities Construction and Reimbursement Agreement" (the "FCA") and

WHEREAS, Customer desires that Company place orders for material, obtain professional engineering services and perform other work as necessary at this time to meet Customer's desired construction schedule for the Facilities, which schedule will be set forth in the FCA with a tentative target permanent service date thereunder of April 1, 2021;

NOW, THEREFORE, in consideration of the relative promises of Customer and Company to one another and a continuing good-faith obligation to negotiate a mutually agreeable FCA, Customer and Company agree as set forth in this Reimbursement Agreement:

1. Services. Company intends to design and construct the natural gas component of the Facilities utilizing an Engineering/Procurement/Construction ("EPC") approach. The "Services" to be provided by Company under this Reimbursement Agreement include ordering material, internal labor to perform project management and preliminary engineering and acquisition of contract engineering services, which Services include the following activities:

    a. Company will provide internal labor for project management and obtain professional engineering services for Horizontal Directional Drilling (HDD) profiles for the river bore and railroad bore, submitting and approval for railroad crossing permit, and environmental permitting work.

    b. Company will place orders to purchase approx. 16,800' of 6" plastic gas pipe, approx. 1,800' of 6" steel gas pipe, and all fittings associated with this piping. Examples of associated fitting include, but are not limited to elbows, caps, tees, transitions, stoppers, tracer wire, marker posts, test boxes, and anodes.

The Services and their associated estimated preliminary financial commitments are listed in Exhibit A. The timeline for the Services will be set forth in the FCA.

2. Company represents, warrants and covenants that all material ordered by Company under this Reimbursement Agreement will comply with all applicable legal and regulatory requirements, including all federal Executive Orders.

3. Customer's obligations under this Reimbursement Agreement will not exceed the total estimated preliminary financial commitment set forth in Exhibit A, unless otherwise agreed to in writing by both Parties.

4. In the event Customer chooses not to pursue the Project or enter into the FCA, Customer will notify Company of such choice. If the Project is cancelled by Customer, Company shall use commercially reasonable efforts to mitigate expenses incurred by Company, including possible resale of the material. Customer shall, within 60 days of receiving invoices and supporting documentation proving the expenses incurred by Company, reimburse Company for all expenses incurred, which expenses will not exceed the total estimated preliminary financial commitment set forth in Exhibit A.

5. This Reimbursement Agreement shall be effective as of the Effective Date and shall continue until the earlier of: (i) written notice by Customer that it does not wish to pursue the completion of the Project or the FCA, provided Customer has paid all expenses due and owing to Company as set forth in Section 3; (ii) the execution of the FCA; or (iii) 270 days following the Effective Date, upon which it shall be the sole option of Customer to either: (a) terminate the Reimbursement Agreement; or (b) further extend the term of the Reimbursement Agreement for up to an additional 90 days and the date of the extension shall become the new Effective Date under this Reimbursement Agreement. Where this Reimbursement Agreement is terminated pursuant to Section 5, it shall be within the sole discretion of Company to require, by notice pursuant to Section 7, that Customer will, not more than sixty (60) days following receipt of invoices and supporting documentation, reimburse Company for all expenses incurred subject to the cap set out in Exhibit A.

6. This Reimbursement Agreement is for the benefit of each Party, and will be governed by and construed in accordance with the laws of the state of Iowa. Neither Party may assign or otherwise transfer its rights or delegate its duties under this Reimbursement Agreement without prior written consent, and any attempt to do so without consent is void. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES 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 REIMBURSEMENT AGREEMENT. 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.

7. All notices and other communications required or permitted under this Reimbursement Agreement shall be in writing and shall be given by first class mail (or its equivalent),

postage prepaid, registered or certified, return receipt requested, transmitted by facsimile (with the original to immediately follow), e-mail or by hand delivery (including by means of a professional messenger service or overnight mail) to each Party at its notice address. Any such notice or other communication shall be deemed effective when actually received or refused. Either Party may, by similar notice given, change the notice address to which future notices or other communications shall be sent.

Company (Contract Administration)
MidAmerican Energy Company
Director, Key Accounts
3500 104th Street
Urbandale, IA 50322
David.Johnson@midamerican.com

Company (Payments)
MidAmerican Energy Company
Treasury
P. O. Box 8020
Davenport, IA 52808-8020
treasury@midamerican.com

Customer
City of West Des Moines
Engineering Services
4200 Mills Civic Parkway, Suite 2D
West Des Moines, Iowa 50265
Brian.Hemesath@wdm.iowa.gov

Legal Notices

Customer
City of West Des Moines
City Attorney's Office
4200 Mills Civic Parkway, Suite 2E
West Des Moines, Iowa 50265
Richard.Scieszinski@wdm.iowa.gov

Company
MidAmerican Energy Company
General Counsel
666 Grand Avenue, Suite 500
P.O. Box 657
Des Moines, Iowa 50306-0657
Timothy.Whipple@midamerican.com

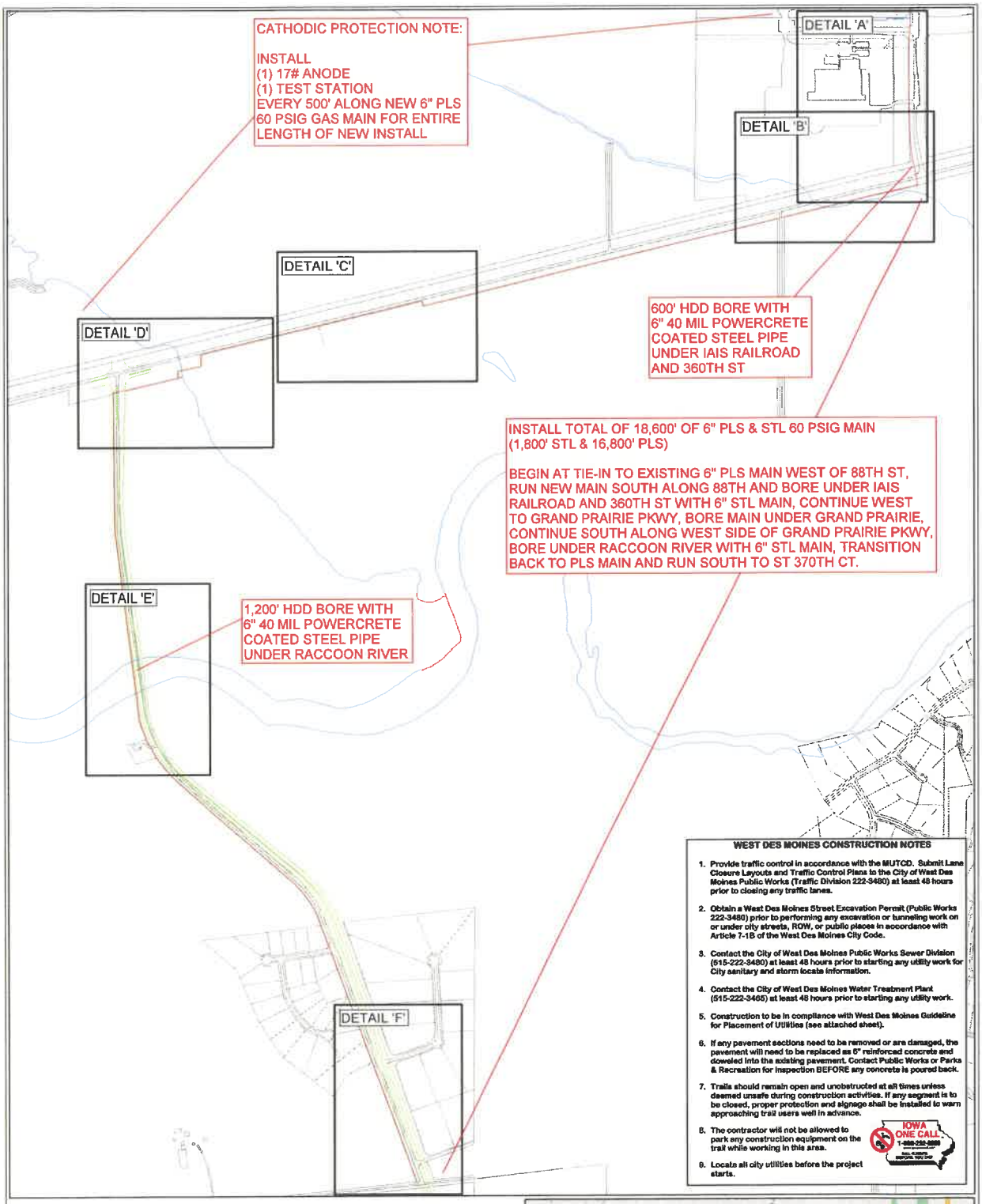
IN WITNESS WHEREOF, Customer and Company have caused this Reimbursement Agreement to be executed by their duly authorized representatives to be effective on the Effective Date.

CITY OF WEST DES MOINES IOWA		**MIDAMERICAN ENERGY COMPANY**	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

Exhibit A
Facilities:
The Services and Associated Estimated Preliminary Financial Commitments

Labor	$ 1,190,169
Material	$ 323,825
Adverse Conditions	$ 125,000
Potential Rock Excavation	$ 50,000
Staking, Shoring, Traffic Control, Permitting	$ 40,000
Horizontal Directional Drilling (HDD) profile for both river bore and railroad bore, Railroad Permit fees, Soil Sampling	$ 58,587
Commitment Cost (Sub Total)	**$ 1,787,581**
Tax Gross Up	$ 376,643
Refundable Advance (Total)	**$ 2,164,225**

The terms and conditions for refund of funds included in the Refundable Advance shall be as set forth in the FCA, consistent with Company's Iowa Gas Tariff No. 1, Section 3, "EXTENSIVE PLANT ADDITIONS, DISTRIBUTION MAIN EXTENSIONS, AND SERVICE LINES."



WEST DES MOINES CONSTRUCTION NOTES

1. Provide traffic control in accordance with the MUTCD. Submit Lane Closure Layouts and Traffic Control Plans to the City of West Des Moines Public Works (Traffic Division 222-3480) at least 48 hours prior to closing any traffic lanes.
2. Obtain a West Des Moines Street Excavation Permit (Public Works 222-3480) prior to performing any excavation or tunneling work on or under city streets, ROW, or public places in accordance with Article 7-1B of the West Des Moines City Code.
3. Contact the City of West Des Moines Public Works Sewer Division (515-222-3480) at least 48 hours prior to starting any utility work for City sanitary and storm locate information.
4. Contact the City of West Des Moines Water Treatment Plant (515-222-3465) at least 48 hours prior to starting any utility work.
5. Construction to be in compliance with West Des Moines Guideline for Placement of Utilities (see attached sheet).
6. If any pavement sections need to be removed or are damaged, the pavement will need to be replaced as 8" reinforced concrete and doweled into the existing pavement. Contact Public Works or Parks & Recreation for inspection BEFORE any concrete is poured back.
7. Trails should remain open and unobstructed at all times unless deemed unsafe during construction activities. If any segment is to be closed, proper protection and signage shall be installed to warn approaching trail users well in advance.
8. The contractor will not be allowed to park any construction equipment on the trail while working in this area.
9. Locate all city utilities before the project starts.

IOWA ONE CALL
1-800-292-8989
WWW.IOWAONECALL.COM
DIAL 48 HOURS BEFORE YOU DIG

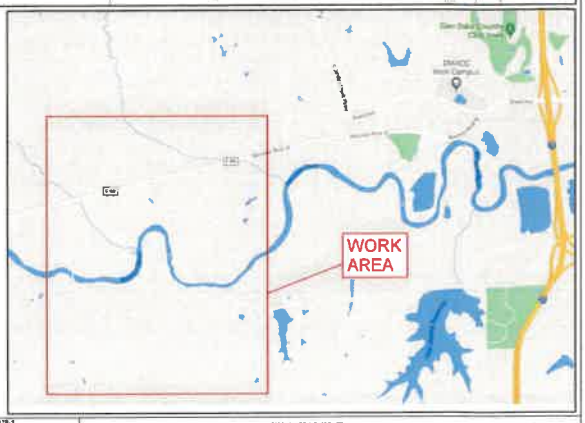
LEGEND

EXISTING 60 PSIG SYSTEM

PROPOSED 60 PSIG SYSTEM

NOTES:

1. UNLESS OTHERWISE NOTED, ALL FEEDS ARE TO BE ASSUMED ONE-WAY.
2. ALL WORK, INCLUDING PRESSURE TESTING AND PURGING ARE TO BE COMPLETED ACCORDING TO MEC GAS STANDARDS.
3. PRESSURE MUST BE MONITORED ON ALL SIDES OF ALL STOPPERING/SQUEEZING POINTS THAT SHOULD MAINTAIN PRESSURE.
4. INSTALLER TO NOTIFY CUSTOMERS OF ANY CONSTRUCTION WORK THAT MAY AFFECT THEIR PROPERTY.



Crew: WDM FIRE STATION
Job: GRAND PRAIRIE PKWY
Crew: WEST DES MOINES
X = 1544945 Y = 647945
WM3_REV 20110218-1
Date: 5/27/2020
Scale: NTS
Designer: WAILES, ANDREW J

DISCLAIMER OF LIABILITY
NOTE: This drawing reflects facilities in place at the time of its preparation and is subject to change at any time. For current facility information please contact Midwestern Energy Company. Further, Midwestern Energy Company disclaims all liability and responsibility for all claims and damages including but not limited to personal injury, death and property damage resulting from any authorized or unauthorized use of or reliance upon the drawing for any purpose.