CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: October 4, 2021

ITEM: Resolution - Opening and closing public hearing and approving conveyance of an easement to MidAmerican Energy Company for underground electric (Hawk Beacon – 41st Street and Mills Civic Parkway Intersection, Project No. 0510-044-2020)

FINANCIAL IMPACT: None at this time

SYNOPIS: MidAmerican Energy Company is requesting a Permanent 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, under and on the surface of the ground needed for a Hawk Beacon located at the intersection of 41st Street and Mills Civic Parkway.

The attached Resolution opens and closes the public hearing and approves the conveyance of property interest to MidAmerican Energy Company following public hearing.

RECOMMENDATION: Approve the Resolution opening and closing public hearing and approving conveying the property interest to MidAmerican Energy Company.

Lead Staff Member: Richard J. Scieszinski, City Attorney

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Dates(s) Published	09/25/21

SUBCOMMITTEE REVIEW (if applicable)

Committee	N/A		
Date Reviewed			
Recommendation			

RESOLUTION NO. _____

RESOLUTION OPENING AND CLOSING PUBLIC HEARING AND APPROVING CONVEYANCE OF PROPERTY INTEREST TO MIDAMERICAN ENERGY

WHEREAS, the City of West Des Moines, Iowa is the owner of Lot 2 in Replat of West Des Moines City/School Campus, an official plat, now including in and forming a part of the City of West Des Moines, Iowa; and

WHEREAS, an Underground Electric Easement is needed by MidAmerican Energy from the City under a portion of the above property for the installation of a Hawk Beacon at the intersection of 41st Street and Mills Civic Parkway, Project No. 0510-044-2020; and

WHEREAS, pursuant to Code of Iowa Sections 362.3 and 364.7, publication of notice regarding conveyance of the property interest has been made; and

WHEREAS, this being the time and place for a public hearing regarding conveyance of the property interest; and

WHEREAS, Staff has reviewed the easement plat; and

WHEREAS, the City Council of the City of West Des Moines, Iowa finds that the conveyance of the Easement to MidAmerican Energy should be approved.

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 conveyance of the property interest has been properly made.

2. The public hearing regarding conveyance of property interest to MidAmerican Energy in the form of a Underground Electric Easement is closed and hereby approved.

3. The Mayor is authorized to sign the conveyance document and the City Clerk is directed to attest to the Mayor's signature.

4. The document shall be filed with the county recorder as appropriate.

PASSED AND APPROVED this 4th day of October, 2021.

ATTEST:

_____
Steven K. Gaer, Mayor

_____
Ryan T. Jacobson, City Clerk

Prepared by and return to: Jill Ingraham 515-242-4070
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.	105892	County of	Polk	
Work Req. No.	DR2870934X	Section	17	
Project No.	_____	Township	78	North
		Range	25	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 2 in Replat of West Des Moines City/School Campus, an official plat, now included in and forming a part of the City of West Des Moines, Iowa.

EASEMENT AREA:

An underground electric easement described as follows:

Said easement area is 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.

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 of 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 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.

9. 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 give 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.

Dated this ____ day of _____, 2021

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 _____, 2021,

by _____as _____of

City of West Des Moines, Iowa, a municipal corporation.

_____
Signature of Notary Public

Dear :

Enclosed please find two copies of a MidAmerican Energy Company underground electric easement located in your property at .

Your timely action is needed in order to expedite the process of providing service to your property. Therefore, please have these easements signed and notarized and return one original to our office for recording. If there is a question about where to get the easement notarized, contact your bank as they should provide notary services. You may keep the copy stamped "Customer Copy" for your records.

If you have any questions concerning this matter, please feel free to contact me at XXX-XXX-XXXX.

Sincerely yours,

Right-of-Way Services
MidAmerican Energy Company

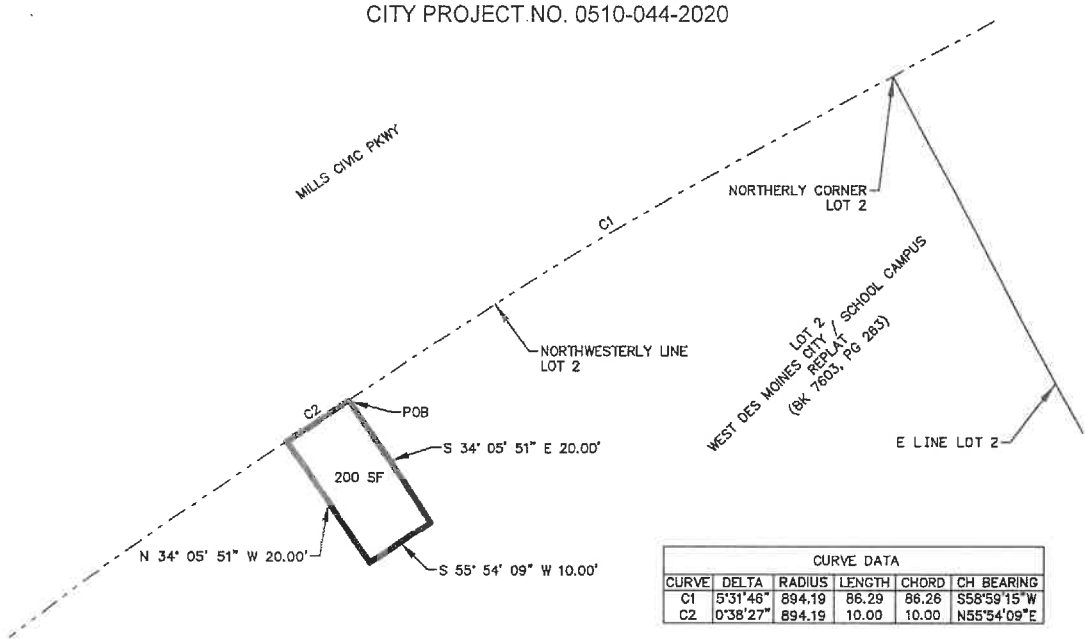
Enclosures

EXHIBIT "A"

INDEX LEGEND	
City/County:	West Des Moines/Polk
Location:	Lot 2 West Des Moines City / School Campus Replat
Parcel ID:	32004883812000
Requestor:	MidAmerican Energy Company
Proprietor:	City of West Des Moines
Surveyor:	Daryl Eiffler, SEH Inc.
Return to:	City of West Des Moines, 4200 Mills Civic Pkwy, West Des Moines, IA 50265

PERMANENT EASEMENT

ELECTRICAL UTILITY EASEMENT BEING CONVEYED TO THE MIDAMERICAN ENERGY COMPANY
HAWK BEACON - 41ST STREET AND MILLS CIVIC PARKWAY INTERSECTION
CITY PROJECT NO. 0510-044-2020



CURVE DATA					
CURVE	DELTA	RADIUS	LENGTH	CHORD	CH BEARING
C1	5°31'46"	894.19	86.29	86.26	S58°59'15"W
C2	0°38'27"	894.19	10.00	10.00	N55°54'09"E

LEGEND

- RIGHT OF WAY
- SECTION LINE
- PROPERTY LINE
- EXISTING UTILITY EASEMENT
- PUBLIC UTILITY EASEMENT LINE
- EASEMENT AREA

DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

INFORMATION SHOWN AS (00) IS RECORD INFORMATION.

N

0 20 40
scale 10 feet

EASEMENT DESCRIPTION;

That part of Lot 2 in the Replat of West Des Moines City / School Campus, an official plat, now included in and forming a part of the City of West Des Moines, Iowa, described as follows:

Commencing at most northerly corner of said Lot 2;
Thence southwesterly 86.29 feet along the northwesterly line of said Lot 2 along a nontangential curve concave to the southeast, having a central angle of 05 degrees 31 minutes 46 seconds, a radius of 894.19 feet, a chord of 86.26 feet and a chord bearing of South 58 degrees 59 minutes 15 seconds West (assumed bearing) to the point of beginning;
Thence South 34 degrees 05 minutes 51 seconds East 20.00 feet;
Thence South 55 degrees 54 minutes 09 seconds West 10.00 feet;
Thence North 34 degrees 05 minutes 51 seconds West 20.00 feet to the northwesterly line of said Lot 2;
Thence northeasterly 10.00 feet along said northwesterly line along a nontangential curve concave to the southeast, having a central angle of 00 degrees 38 minutes 27 seconds, a radius of 894.19 feet, a chord of 10.00 feet and a chord bearing of North 55 degrees 54 minutes 09 seconds East to the point of beginning, containing 200 square feet, more or less, and is subject to recorded and unrecorded easements, restrictions and servitudes, if any.

SEH
PHONE: 641.424.6344
215 NORTH ADAMS AVENUE
MASON CITY, IA 50401-3119
www.sehinc.com

PROJECT NUMBER	156507
DATE PREPARED	JULY 2021
PREPARED BY	D.EIFFLER
CLIENT ALPHA	WDESM

LICENSED PROFESSIONAL LAND SURVEYOR
DARYL EIFFLER
13804
IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY 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.

FOR SEH

8/31/21

DARYL EIFFLER — DATE
LICENSE NUMBER 13804

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2022
SHEETS COVERED BY THIS SEAL: 1

X:\U2\W\WDESM\156507\5-final-dwg\51-drawings\40-Transfrey\Right of Way\planshsets\156507_41St&M_Easement_Exhibit.dgn 8/30/2021 3:53 PM mgjewik