CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: November 1, 2021

ITEM: Resolution - Approval and Acceptance of Property Interest for the Crossroads Park Improvements Project No. 0510-053-2020

FINANCIAL IMPACT: Minimal recording fees.

SYNOPSIS: The West Des Moines Community School District ("District") has agreed to donate to the City of West Des Moines ("City") needed property interest for the Crossroads Park Improvements which includes installing and maintaining park amenities and improvements, including, but not limited to, soccer field restoration, drainage improvements, sidewalks, bioretention cells, and other associated park improvements (collectively "Park Improvements"). The attached resolution approves the conveyance of needed property interests and, for policy and title purposes, formally accepts the property interests and authorizes the filing of the Easement with the County Recorder.

OUTSTANDING ISSUES (if any): None.

RECOMMENDATION:

Adopt a Resolution approving and accepting the conveyance of property interests to the City of West Des Moines for the Crossroads Park Improvements.

Lead Staff Member: David Sadler, Superintendent of Parks

STAFF REVIEWS

Department Director	Sally Ortgies, Director of Parks and Recreation
Appropriations/Finance	
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 NO._____

AUTHORIZING APPROVAL AND ACCEPTANCE OF PROPERTY INTEREST FOR THE CROSSROADS PARK IMPROVEMENTS

WHEREAS, the West Des Moines Community School District ("District") has agreed to donate needed property interest for the Crossroads Park Improvements which includes installing and maintaining park amenities and improvements, including, but not limited to, soccer field restoration, drainage improvements, sidewalks, bioretention cells, and other associated park improvements; and

WHEREAS, it is the policy of the City of West Des Moines, Iowa, to approve the conveyance of all property interests to the City; and

WHEREAS, a Park Improvement Easement has been presented to the City for approval; and

WHEREAS, it is in the best interest of the citizens of the City to approve and accept the above-described document.

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

1. The document described above conveying property interests to the City of West Des Moines, Iowa, is hereby approved and accepted.

2. The City Clerk is directed to certify the Council's approval and acceptance.

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

PASSED AND ADOPTED this 1st day of **November, 2021.**

_____

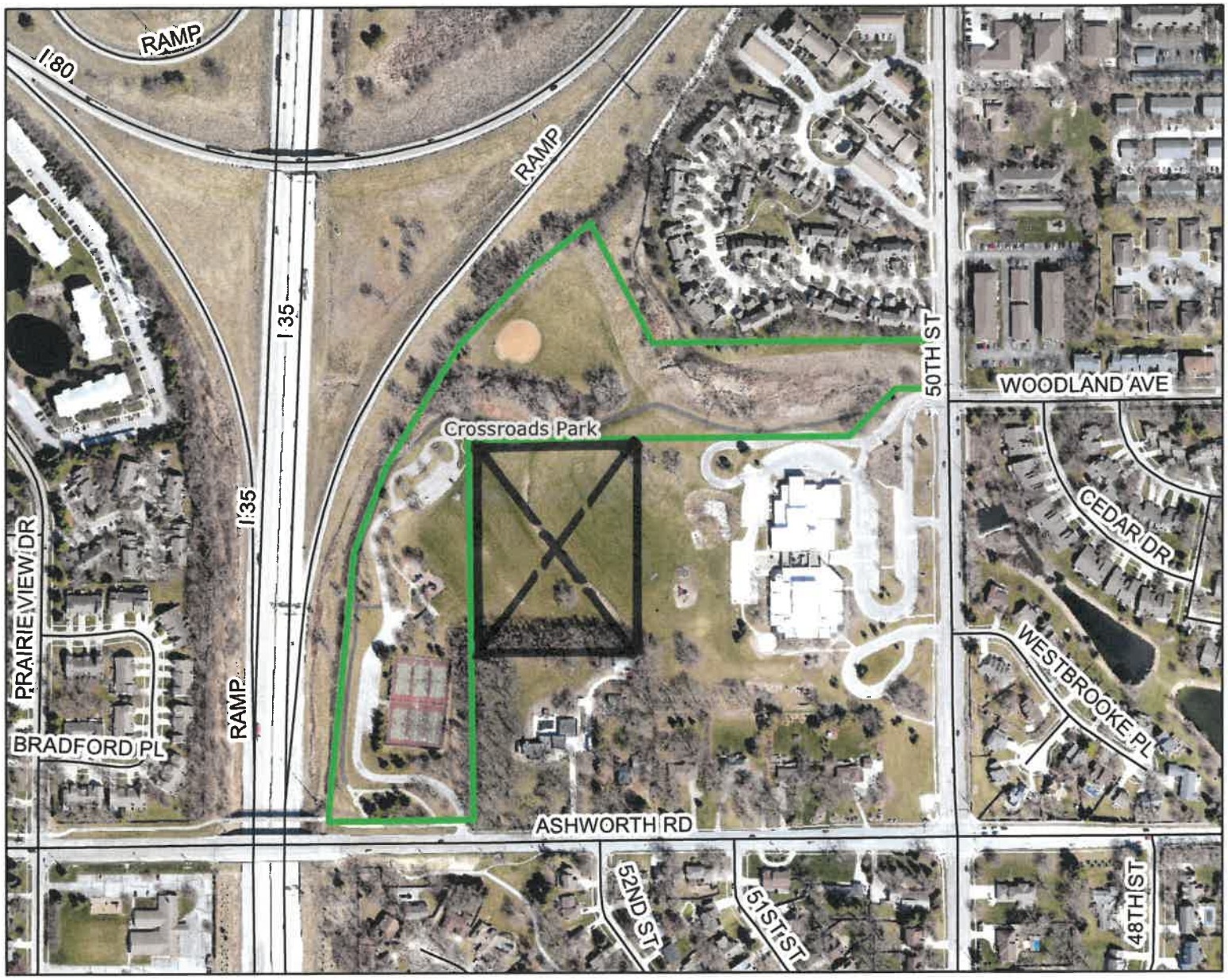
Steven K. Gaer, Mayor

ATTEST:

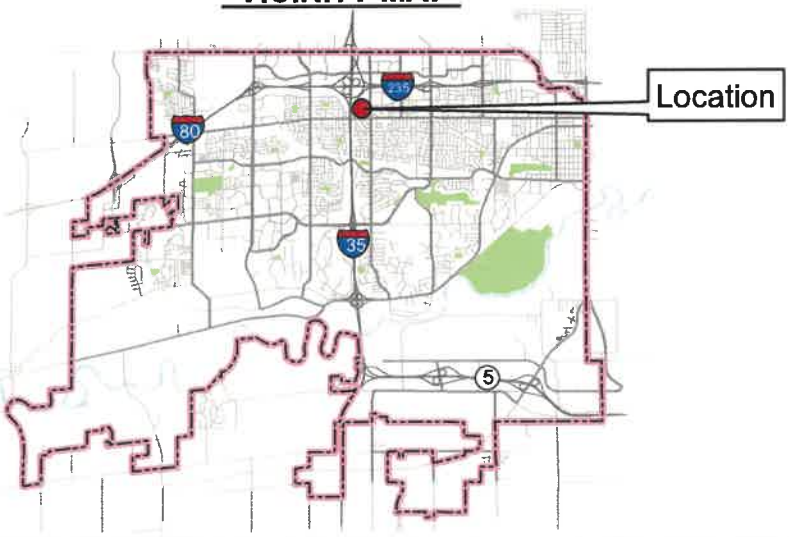
_____

Ryan T. Jacobson

City Clerk



VICINITY MAP



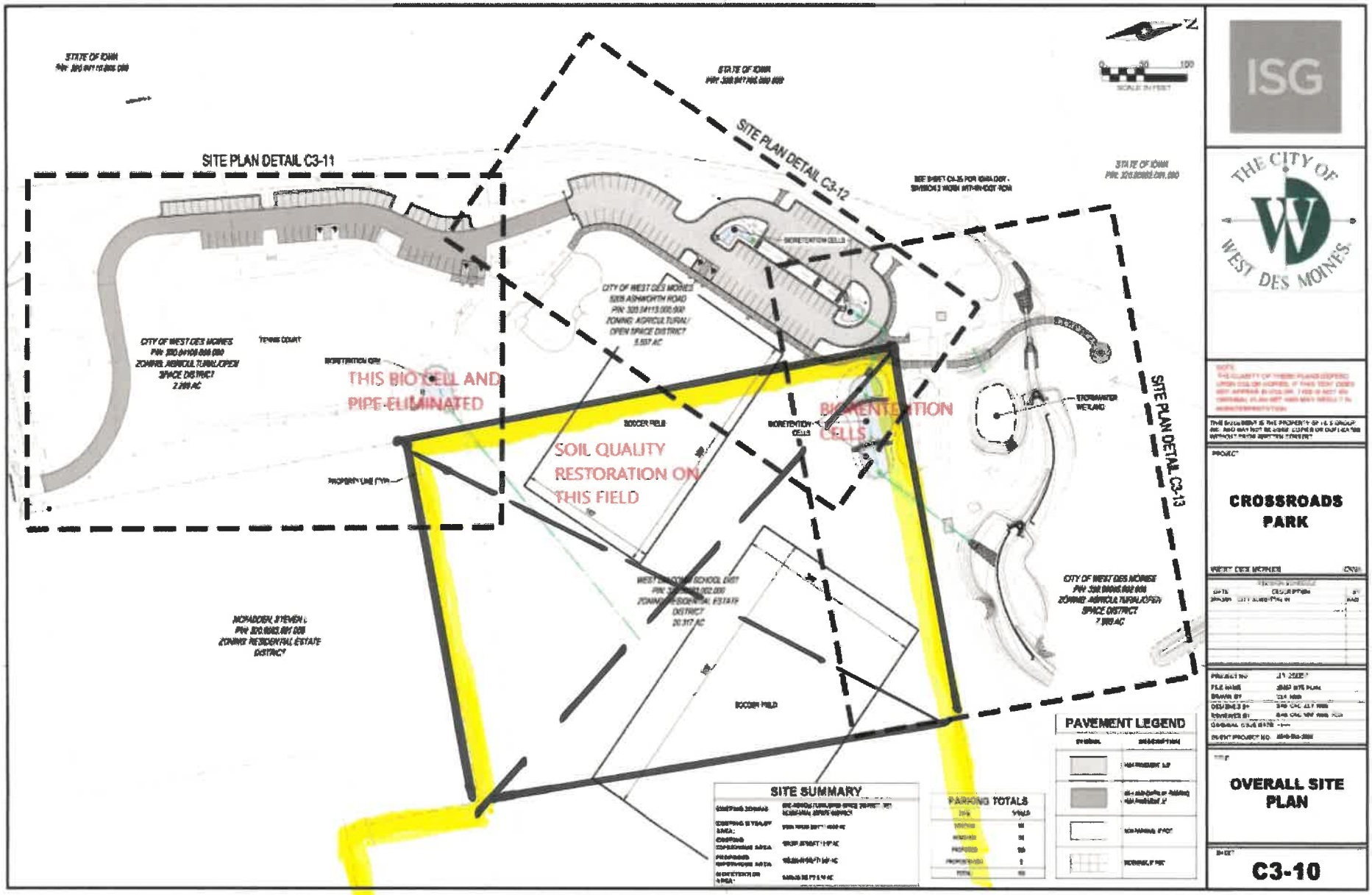
LEGEND

Park Boundary

N

0 400 800 Feet

THE CITY OF WEST DES MOINES	PROJECT:	CROSSROADS PARK PARKING LOT & WATER QUALITY IMPROVEMENTS		
	LOCATION:	5205 ASHWORTH ROAD		
	DRAWN BY: MAA	DATE: 9/14/2021	PROJECT NO.:	SHT. 1 of 1


SITE PLAN DETAIL C3-11
SITE PLAN DETAIL C3-12
SITE PLAN DETAIL C3-13
THIS BIO CELL AND PIPE ELIMINATED
SOIL QUALITY RESTORATION ON THIS FIELD
BIORETENTION CELLS
SOCCER FIELD
TENNIS COURT
STORMWATER WETLAND
PAVEMENT LEGEND
SITE SUMMARY
PARKING TOTALS
ISG
THE CITY OF WEST DES MOINES
CROSSROADS PARK
OVERALL SITE PLAN
C3-10

WEST DES MOINES COMMUNITY SCHOOLS

Regular Board Meeting
10/11/2021 07:00 PM
Stilwell Junior High
1601 Vine Street, West Des Moines, IA 50265
Room 2312/2314

Printed : 10/11/2021 9:14 AM CT

ITEM : IX. Adopt Crossroads Park Water Quality Easement Resolution

Agenda Item Contact(s)
Paul Bobek, Cheif Financial Officer

Recommendation
The Administration recommends that the Board approve the attached resolution for a conveyance of the Crossroads Park Water Quality Easemenet to the City of West Des Moines, Iowa.

Details
The enclosed Resolution was prepared by Ahlers to convey the City of West Des Moines' requested easement shall be granted for the purpose of the City installing and maintaining park amenities and improvements, including, but not limited to soccer field restoration, drainage improvements, sidewalks, bioretention cells, and other associated park improvements (collectively "Park Improvements") on the Property and to allow the City to enter upon and into the Easement Area to install, remove, replace, rebuild, enlarge, reconstruct, add to, patrol, repair, and maintain Park Improvements, including any surrounding landscaping, electrical systems, and necessary utilities, whenever necessary, and to allow the Public to enter to utilize the Easement Area and Park Improvements.

Supporting Documents

Final Park Improvements Easement Agreement (01951069x7F7E1)
Affidavit and Resolution re Disposition of Real Property (01936070x7F7E1)
Second Board Resolution (01936081x7F7E1)

Prepared by: G. Truman, Asst. City Attorney, P.O. Box 65320, West Des Moines, Iowa 50265 (515) 222-3673
Address Tax Statement/Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines IA 50265

SPACE ABOVE THIS LINE FOR RECORDER

PARK IMPROVEMENTS EASEMENT

1. Grant of Permanent Easement

The undersigned, on behalf of the **West Des Moines Community School District**, an Iowa school corporation ("Grantor", owner of property upon which this Easement is located), in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to the **City of West Des Moines, Iowa,** a municipal corporation ("City"), a permanent Park Improvements Easement ("Easement") upon, over, under, through, and across:

> The west three hundred and fifty feet (350') of the parcel of land legally described and recorded in Book 6220, Page 498 in the Office of the Polk County, Iowa Recorder

("Easement Area"), subject to the following terms and conditions:

2. Use and Purpose of Easement

This Easement shall be granted for the purpose of the City installing and maintaining park amenities and improvements, including, but not limited to soccer field restoration, drainage improvements, sidewalks, bioretention cells, and other associated park improvements (collectively "Park Improvements") on the Property and to allow the City to enter upon and into the Easement Area to install, remove, replace, rebuild, enlarge, reconstruct, add to, patrol, repair, and maintain Park Improvements, including any surrounding landscaping, electrical systems, and necessary utilities, whenever necessary, and to allow the Public to enter to utilize the Easement Area and Park Improvements, subject to the following terms and conditions:

a) The Grantor reserves and retains all other property rights in and to the Easement Area, provided, however that the exercise of such rights does not interfere with or endanger any of the Park Improvements located thereon, and the same is in

compliance with all laws and ordinances of the federal, state, county, municipal, and other governmental agency or unit, now in effect or at the time such right is exercised. No building, structure, or improvement of any kind whatsoever shall be erected upon the Easement Area without the express written consent of the City.

b) The City agrees to obtain at its sole cost and expense such permits, licenses, or other authority which may be required from federal, state, county, municipal, or other governmental agency or units exercising jurisdiction over the installation of the Park Improvements before using the Easement or exercising the rights herein provided, and further agrees to comply with and strictly observe any and all laws, rules, and regulations of any such governmental agency or unit.

c) The City shall cause all work performed with respect to the Park Improvements to be accomplished with care and in a manner and time that will cause the least interference with the Easement Area, and, immediately after such work, shall cause unimproved portions of the Easement Area to be restored as nearly as possible to the condition existing prior to the entry by the City or its agents; and shall remove from the Easement Area and surrounding land all debris, spoils, and equipment resulting from or used in connection with such work.

d) The City shall have the ability to modify, remove, or replace existing landscaping within the Easement Area as the City deems necessary, including any items that interfere with the Park Improvements. The City shall be responsible for all lawn care within the Easement Area in and around the Park Improvements and maintenance of all Park Improvements.

e) Nothing in this grant of Easement shall obligate the City to perform any work or engage in any repair or restoration of the Easement Area resulting from actions taken by other individuals or entities (e.g., utility companies) other than the City.

3. <u>Hold Harmless</u>

Each party shall defend, 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.

4. <u>Benefits, Burdens and Assignment</u>

All provisions of this Easement, including benefits and burdens, run with the land and are binding upon the City and the Grantor, including but not limited to future owners, developers, lessees, occupants or assignees. Grantor acknowledges and agrees that this

Easement is assignable by the City without consent from the Grantor to a third-party public entity, and assignable by the City with written notice to and consent from the Grantor to a third-party private entity.

5. **Jurisdiction and Venue**

The City and the Grantor agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties shall consent to the jurisdiction of **Polk** County, Iowa.

6. **Lawful Authority**

The Grantor, to the extent it has legal authority to do so, covenants with the City that it holds the above-described legal property by good and marketable title, free and clear of liens, easements, and encumbrances, except any of record, and that the Grantor has a right and lawful authority to make and execute this Easement subject to the provisions of Iowa Code § 297.22 and 297.25. Grantor, to the extent it has legal authority to do so, warrants and defends said Easement against the lawful claims of all persons claiming by, through or under Grantor.

7. **Approval of City**

This Easement shall not be binding until it has received the final approval and acceptance by the City of West Des Moines, Iowa, which approval and acceptance shall be noted on this Easement by the City Clerk.

8. **Attorney Fees**

Either party may enforce this Easement by appropriate action, and the prevailing party shall recover as part of its costs the reasonable attorney fees incurred in such action.

9. **Words and Phrases**

Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or neutral gender, according to the context.

10. **Parties**

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, contractors, successors and assigns. The term "Grantor" shall refer to the West Des Moines Community School District, its assigns, successors in interest, or lessees, if any.

11. **Integration**

This Easement shall constitute the entire agreement between the parties and no amendments or additions to this Easement shall be binding unless in writing and signed by both parties.

12. Paragraph Headings

The paragraph headings in this Easement are included solely for convenience and shall not affect or be used in connection with the interpretation of this Easement.

Dated this 11 day of October, 2021.

WEST DES MOINES COMMUNITY SCHOOL DISTRICT,
An Iowa school corporation

Lonnette M Dafney
Board President

Margaret Epstein
Board Secretary

STATE OF IOWA)
)ss
COUNTY OF POLK)

On October 11, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa personally appeared ~~Jennifer Ulie-Wells~~ Lonnette Dafney and Margaret Epstein, to me personally known, who, being by me duly sworn, did say that they are the Board President and Board Secretary, respectively, of the School Board of the West Des Moines Community School District; that the instrument was signed on behalf of the school district, by the authority of the West Des Moines Community School District; and that the Board President and Board Secretary, as such officers, acknowledged the execution of the instrument to be their voluntary act and deed of the school district, by it and by them voluntarily executed.

ALEX KOENEN
Notarial Seal - Iowa
Commission Number 811444
My Commission Expires Jul 5, 2024

Notary, State of Iowa

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that acquisition of the within and foregoing Easement was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. _____, passed on the ____ day of _____, 2021, and that this certificate is made pursuant to the authority of said City Council.

Signed this _____ day of _____, 2021.

CITY OF WEST DES MOINES, IOWA

BY: _____
Ryan T. Jacobson, City Clerk