

## WEST DES MOINES WATER WORK BOARD OF TRUSTEES MEETING COMMUNICATION

**DATE:** October 16, 2017

**ITEM:**

- 4. Construction Project Actions
  - h. Resolution

– Accepting Permanent Easement and Right-of-Way for Water Main

**FINANCIAL IMPACT:**

None

**SUMMARY:**

As part of the development of the Westport Plat 1 development, water mains were extended outside of the roadway right-of-way platted with the project. This easement provides appropriate access and operation rights for the segments of public water main which are outside the platted right-of-way.

**BACKGROUND:**

West Des Moines Water Works requires an access easement to allow staff to access and operate water infrastructure located outside of the public right-of-way.

**RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:**

To Adopt the Resolution Entitled "A Resolution Accepting Permanent Easement and Right-of-Way for Water Main".

Prepared by:

*William J. Mabace*

Approved for Content by:

*J. Wilson*

## **RESOLUTION**

### **A RESOLUTION ACCEPTING PERMANENT ACCESS EASEMENT FOR WATER MAIN AND APPURTENANCES**

**WHEREAS**, Westport Development, LLC, has granted a permanent easement and right-of-way for water main to the West Des Moines Water Works, and

**WHEREAS**, documents conveying the easements have been signed by the property owners and are presented to the Water Works for approval; and

**WHEREAS**, the acquisition of these easements will allow the West Des Moines Water Works access and operation rights for the public water main located outside of platted right-of-way in the development.

### **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE WEST DES MOINES WATER WORKS, AS FOLLOWS:**

That said water main easement is hereby accepted by the West Des Moines Water Works to allow for construction and operation of water distribution system facilities.

**PASSED AND APPROVED** this 16<sup>th</sup> day of October, 2017

**BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS**

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Karen Novak Swalwell  
Chair

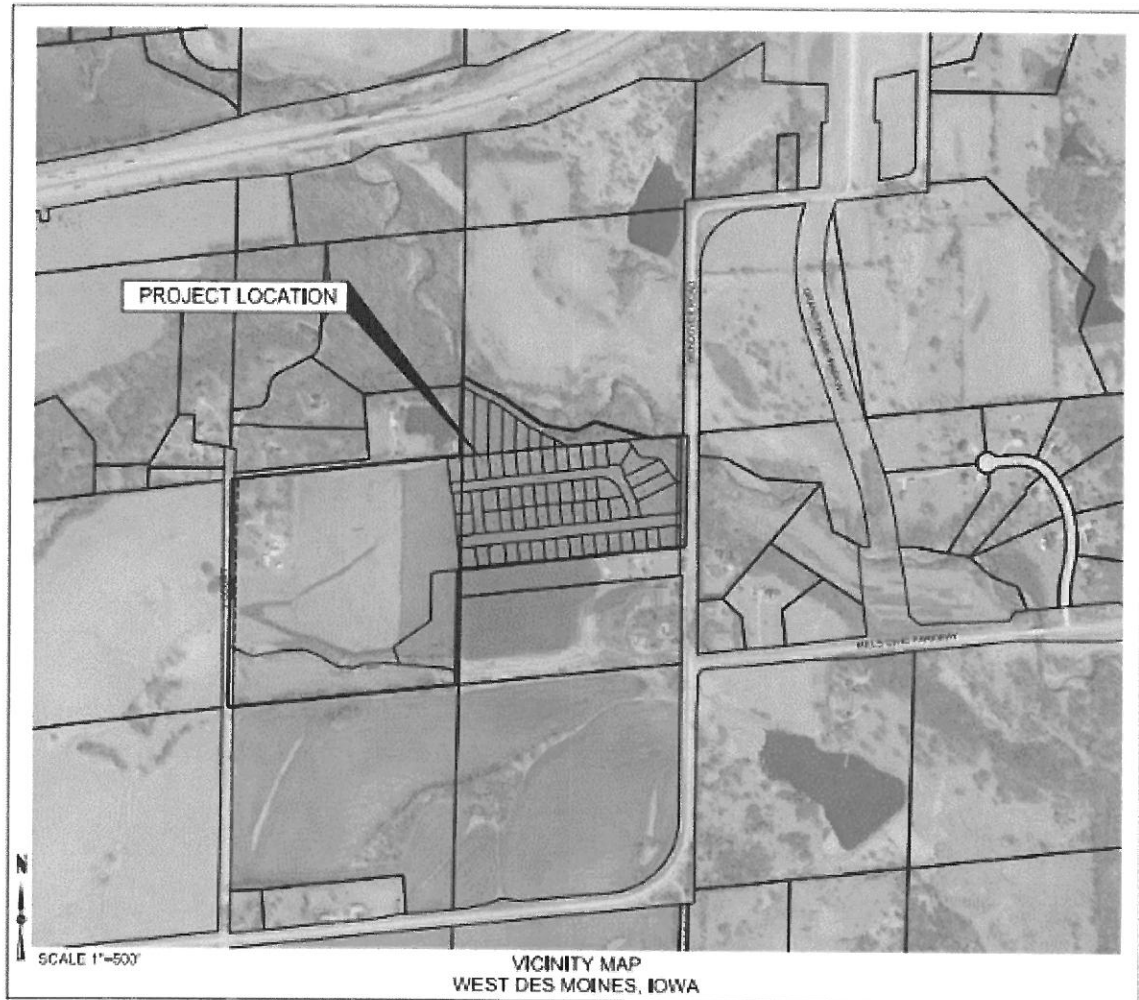
Attest:

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Diana Wilson  
Secretary



## Location Map



Prepared by and return to after recordation:  
Christopher R. Pose, 317 6<sup>th</sup> Ave., Suite 300, Des Moines, IA 50309 (515) 243-8157

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**PERMANENT EASEMENT**  
**AND RIGHT OF-WAY FOR WATER MAIN**

KNOW ALL MEN BY THESE PRESENTS:

THAT Westport Development, LLC, an Iowa limited liability company of the County of Polk, and State of Iowa, hereinafter referred to as the Grantor, in consideration of the sum of one and no/100 Dollar (\$1.00), in hand paid by the CITY OF WEST DES MOINES, an Iowa Municipal Corporation, acting through its Board of Water Works Trustees, hereinafter referred to as City, receipt of which is hereby acknowledged, does sell, grant and convey to the City a permanent water main easement and right-of-way (hereinafter called "Easement") upon, over, under, through, and across the following described real property, and also including the right of ingress and egress over adjoining lands of Grantor, to wit:

A PART OF OUTLOT "X", WESTPORT PLAT 1, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1 OF SAID WESTPORT PLAT 1; THENCE SOUTH 06° 26' 13" EAST ALONG THE EAST LINE OF SAID OUTLOT "X", A DISTANCE OF 39.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 06° 26' 13" EAST ALONG SAID EAST LINE, 15.00 FEET; THENCE SOUTH 83° 33' 47" WEST, 10.00 FEET; THENCE NORTH 06° 26' 13" WEST, 15.00 FEET; THENCE NORTH 83° 33' 47" EAST, 10.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 150 SQUARE FEET.

AND

A PART OF OUTLOT "X", WESTPORT PLAT 1, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 29; THENCE SOUTH 06° 26' 13" EAST ALONG THE EAST LINE OF SAID OUTLOT "X", A DISTANCE OF 47.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 06° 26' 13" EAST ALONG SAID EAST LINE, 15.00 FEET; THENCE SOUTH 83° 33' 47" WEST, 102.00 FEET; THENCE NORTH 06° 26' 13" WEST, 15.00 FEET; THENCE NORTH 83° 33' 47" EAST, 102.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,530 SQUARE FEET.

for the construction of a water main or water mains and appurtenances thereto (hereinafter called the "Facility") and to permit and allow the City, and others working on its behalf, to enter at any time upon and into the easement area described herein, and to use as much of the surface and subsurface thereto as is reasonably needed to construct, replace, reconstruct, inspect, repair, maintain and operate whenever necessary, the Facility within the easement area granted herein, but for no other purpose or use whatsoever.

**THAT** the work of constructing, replacing, relocating, rebuilding, reconstructing, repairing, maintaining and operating said Facility will be done with care and that the surfaces of the ground of the easement and adjoining lands used for ingress and egress shall be restored to substantially their original condition as possible after such work has been completed.

**THAT** no permanent improvement shall be constructed or placed upon the above-described permanent easement by the Grantor and that if any such permanent improvement is constructed or placed thereon, in violation of this easement, the City shall in no way be responsible for any damages thereto resulting from the construction, replacement, reconstruction, inspection, repair, maintenance or operation of the Facility.

**THAT** the within easement grant shall run with the land and be binding upon the heirs, assignees and transferees of the Grantor herein and shall be permanent unto the City.

**GRANTOR** covenants with the City that it holds the above described real property by good and perfect title, free and clear of all liens and encumbrances and that the Grantor has a good right and lawful authority to make and execute this Easement herein. Grantor warrants and defends this Easement against the lawful claims of all persons.

**WORDS** and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

**IN WITNESS WHEREOF**, Grantor has executed this instrument on this 6 day of October, 2017.

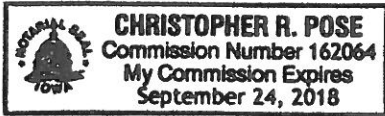
Westport Development, LLC

By: \_\_\_\_\_

Will Van Zee, Manager

STATE OF IOWA           )  
                                      ) SS  
COUNTY OF POLK        )

On this 6 day of October, 2017, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Will Van Zee, Manager of Westport Development, LLC, an Iowa limited liability company.



CRP  
Notary Public in and for the State of Iowa

**CITY OF WEST DES MOINES, IOWA**

I, Diana J. Wilson, General Manager of West Des Moines Water Works, do hereby certify that the within and foregoing Easement was duly approved and accepted by me on behalf of West Des Moines Water Works on the 10, day of OCTOBER, 2017.

Diana J. Wilson  
Diana J. Wilson

General Manager, West Des Moines Water Works, West Des Moines, IA