



WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

DATE: August 17, 2022

ITEM:

4. Consent Agenda
 - c. Resolution – Accepting Permanent Public Easement and Right-of-Way for Water Main – Grace Creek Apartments

FINANCIAL IMPACT:

None

SUMMARY:

This action will approve the easement documents allowing for Water Works access and operation of water main and appurtenances installed outside the 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 resolutions titled “Accepting Permanent Public Easement and Right-of-Way for Water Main – Grace Creek Apartments.”

Prepared by: William J. Mabuce

Approved for Content by: Clara Murphy

RESOLUTION

**A RESOLUTION ACCEPTING PERMANENT PUBLIC EASEMENT
AND RIGHT-OF-WAY FOR WATER MAIN**

Grace Creek Apartments

WHEREAS, Curly Top, LLC has granted a permanent public 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 to access and operate water main and appurtenances serving this area which could not be located in public right-of-way.

**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 17th day of August 2022.

BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

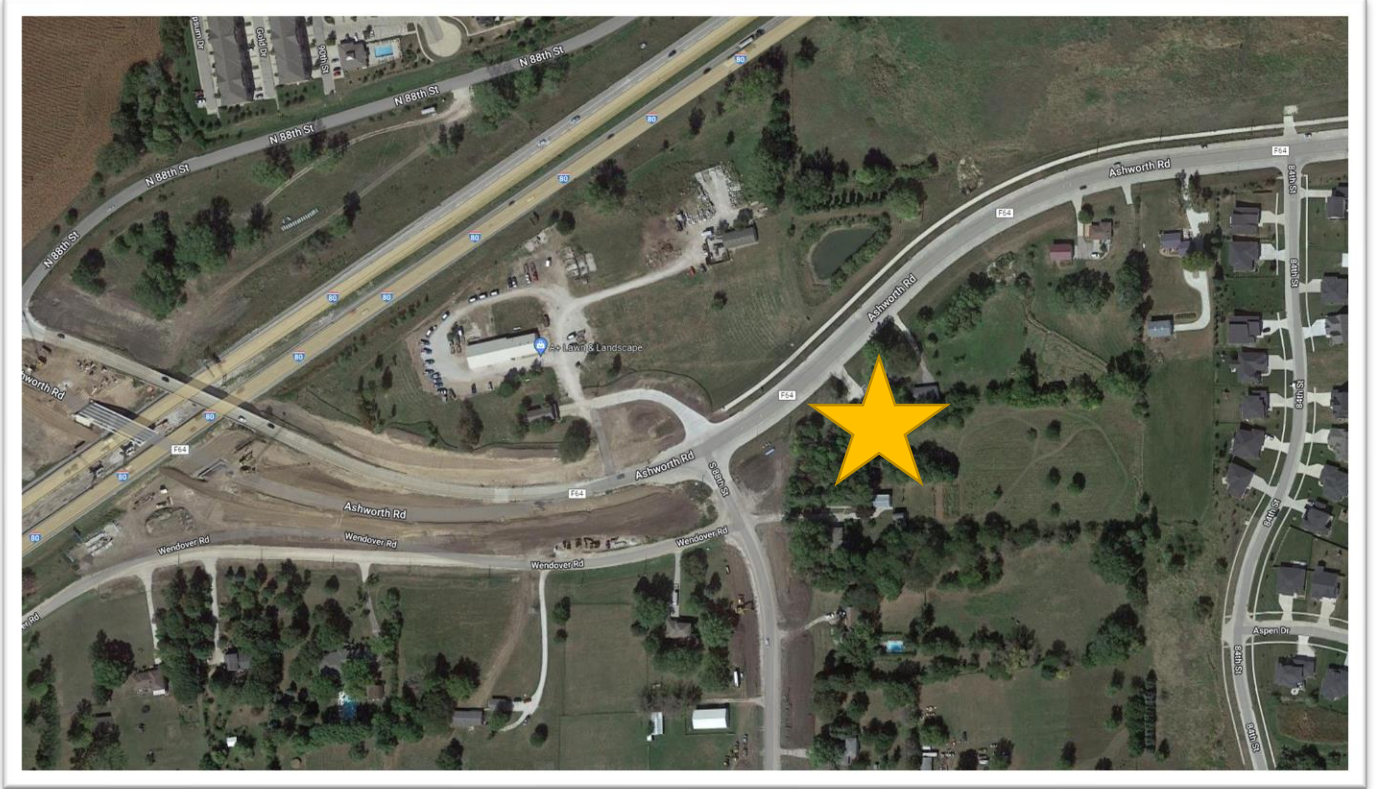
Scott Brennan
Chair

Attest:

Christina Murphy
Secretary

Location Map

8710 Ashworth Road



Prepared by and return to after recordation:

W. Mabuice, West Des Moines Water Works, 1505 Railroad Avenue, West Des Moines, IA 50265, (515) 222-3510

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

KNOW ALL PERSONS BY THESE PRESENTS:

THAT CURLY TOP, LLC, of the County of Dallas, 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:

See Attached Exhibit "A"

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 without the written consent of the City 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.

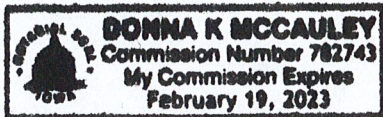
IN WITNESS WHEREOF, Grantor has executed this instrument on this 8 day of August, 2022.

GRANTOR
CURLY TOP, LLC

By: [Signature]
Name: Tim Mauro
Title: Managing Member

STATE OF IOWA)
)SS
COUNTY OF DALLAS)

On this 8th day of August, 2022, before me, the undersigned, a Notary Public in and for said County and State personally appeared Tim Mauro, to me personally known, who, being by me duly sworn did say that he is the Managing Member, executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of the Managing Member by it and by him voluntarily executed.



[Signature]
Notary Public in and for the State of Iowa

CITY OF WEST DES MOINES, IOWA

I, Christina Murphy, PE, 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 8th day of August, 2022.

[Signature]
Christina Murphy, PE.
General Manager, West Des Moines Water Works, West Des Moines, Iowa

Exhibit "A" – Permanent Easement Description

COMMENCING AT THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH PM, DALLAS COUNTY IOWA; THENCE NORTH 83°56'50" EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER, A DISTANCE OF 543.33 FEET; THENCE SOUTH 00°53'12" WEST, A DISTANCE OF 116.89 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF ASHWORTH ROAD, AS PRESENTLY ESTABLISHED, SAID POINT ALSO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 895.00 FEET AND A CENTRAL ANGLE OF 11°50'05" AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 57°38'58" WEST 184.54 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 184.87 FEET TO A THE POINT OF BEGINNING OF SAID EASEMENT; THENCE SOUTH 40°25'08" EAST, A DISTANCE OF 25.39 FEET; THENCE SOUTH 85°25'08" EAST, A DISTANCE OF 11.15 FEET; THENCE SOUTH 40°25'08" EAST, A DISTANCE OF 98.45 FEET; THENCE SOUTH 29°10'08" EAST, A DISTANCE OF 37.90 FEET; THENCE SOUTH 17°55'08" EAST, A DISTANCE OF 19.73 FEET; THENCE SOUTH 72°04'52" WEST, A DISTANCE OF 14.00 FEET; THENCE NORTH 17°55'08" WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 72°04'52" EAST, A DISTANCE OF 4.00 FEET; THENCE NORTH 17°55'08" WEST, A DISTANCE OF 8.75 FEET; THENCE NORTH 29°10'08" WEST, A DISTANCE OF 35.93 FEET; THENCE NORTH 40°25'08" WEST, A DISTANCE OF 93.32 FEET; THENCE NORTH 85°25'08" WEST, A DISTANCE OF 11.15 FEET; THENCE NORTH 40°25'08" WEST, A DISTANCE OF 29.85 FEET THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ASHWORTH ROAD, SAID POINT ALSO ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 895.00 FEET AND A CENTRAL ANGLE OF 0°38'26" AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 51°26'46" EAST 10.01 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE, A DISTANCE OF 10.01 FEET TO THE POINT OF BEGINNING.

AND

COMMENCING AT THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH PM, DALLAS COUNTY IOWA; THENCE NORTH 83°56'50" EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER, A DISTANCE OF 543.33 FEET; THENCE SOUTH 00°53'12" WEST, A DISTANCE OF 116.89 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF ASHWORTH ROAD, AS PRESENTLY ESTABLISHED, SAID POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 895.00 FEET AND A CENTRAL ANGLE OF 16°51'51" AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 55°08'05" WEST 262.48 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 263.43 FEET; THENCE SOUTH 46°42'09" WEST TANGENT TO SAID CURVE, A DISTANCE OF 187.85 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE SOUTH 35°03'29" EAST, A DISTANCE OF 9.09 FEET; THENCE NORTH 54°56'31" EAST, A DISTANCE OF 109.25 FEET; THENCE SOUTH 35°03'29" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 54°56'31" WEST, A DISTANCE OF 109.25 FEET; THENCE SOUTH 35°03'29" EAST, A DISTANCE OF 70.93 FEET; THENCE SOUTH 80°03'29" EAST, A DISTANCE OF 16.31 FEET; THENCE NORTH 54°56'31" EAST, A DISTANCE OF 17.67 FEET; THENCE SOUTH 35°03'29" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 54°56'31" WEST, A DISTANCE OF 21.82 FEET; THENCE NORTH 80°03'29" WEST, A DISTANCE OF 24.59 FEET; THENCE NORTH 35°03'29" WEST, A DISTANCE OF 92.72 FEET THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ASHWORTH ROAD; THENCE NORTH 46°42'09" EAST, A DISTANCE OF 10.10 FEET TO THE POINT OF BEGINNING.