



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

**DATE:** August 17, 2022

**ITEM:**

4. Consent Agenda
  - d. Resolution – Accepting Permanent Public Easement and Right-of-Way for Water Main – Cascade Apartments Phase 2

**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 – Cascade Apartments Phase 2.”

Prepared by: William J. Mabuce

Approved for Content by: Clay Murphy

**RESOLUTION**

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

**Cascade Apartments Phase 2**

**WHEREAS**, SM Cascades, 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 17<sup>th</sup> day of August 2022.

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

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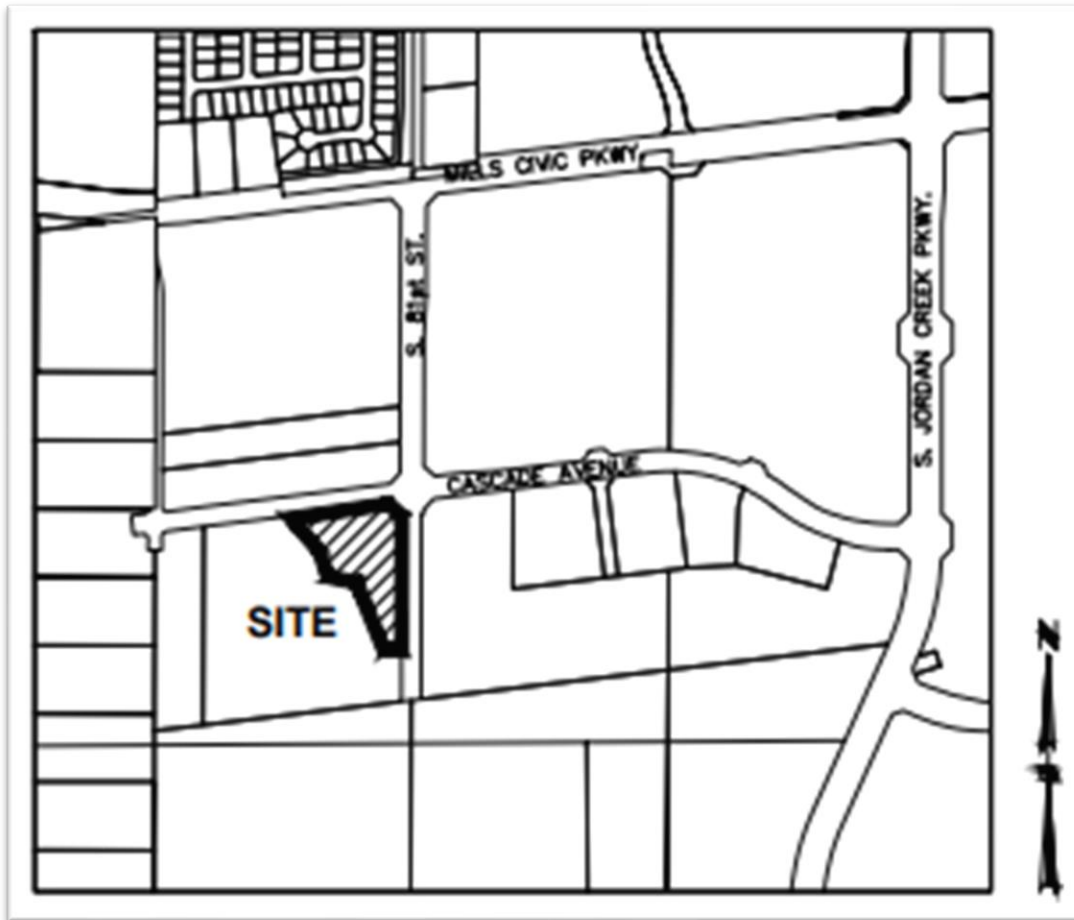
Scott Brennan  
Chair

Attest:

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Christina Murphy  
Secretary

Location Map



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

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

KNOW ALL PERSONS BY THESE PRESENTS:

**THAT SM Cascades, 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.

**Exhibit "A"**

A PART OF LOT 2, THE CASCADES AT JORDAN CREEK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS A 10.00-FOOT-WIDE EASEMENT BEING 5.00 FEET ON EACH SIDE OF THE FOLLOWING CENTERLINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 06°33'54" EAST ALONG THE EASTERLY LINE OF SAID LOT 2, A DISTANCE OF 12.49 FEET; THENCE SOUTH 48°06'03" EAST CONTINUING ALONG SAID EASTERLY LINE, 75.00 FEET; THENCE SOUTH 89°38'08" EAST CONTINUING ALONG SAID EASTERLY LINE, 10.00 FEET; THENCE SOUTH 00°21'52" WEST CONTINUING ALONG SAID EASTERLY LINE, 13.18 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°38'08" WEST, 73.53 FEET TO REFERENCE POINT 'A'; THENCE NORTH 89°38'08" WEST, 12.15 FEET TO A POINT OF TERMINUS; BEGINNING AT REFERENCE POINT 'A'; THENCE SOUTH 00°21'52" WEST, 37.48 FEET TO THE POINT OF TERMINUS AND CONTAINING 0.03 ACRES (1,182 SQUARE FEET).

AND

A PART OF LOT 2, THE CASCADES AT JORDAN CREEK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS A 10.00-FOOT-WIDE EASEMENT BEING 5.00 FEET ON EACH SIDE OF THE FOLLOWING CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 00°21'52" EAST ALONG THE EASTERLY LINE OF SAID LOT 2, A DISTANCE OF 315.44 FEET TO THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 184.00 FEET, WHOSE ARC LENGTH IS 128.95 FEET AND WHOSE CHORD BEARS NORTH 70°39'31" WEST, 126.33 FEET; THENCE NORTH 50°34'53" WEST, 51.87 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 267.50 FEET, WHOSE ARC LENGTH IS 191.61 FEET AND WHOSE CHORD BEARS NORTH 71°06'07" WEST, 187.54 FEET TO REFERENCE POINT 'A'; THENCE NORTH 01°49'19" WEST, 11.54 FEET; THENCE NORTH 24°19'19" WEST, 50.88 FEET TO A POINT OF TERMINUS; BEGINNING AT REFERENCE POINT 'A'; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 267.50 FEET, WHOSE ARC LENGTH IS 60.95 FEET AND WHOSE CHORD BEARS SOUTH 81°51'02" WEST, 60.81 FEET TO THE WESTERLY LINE OF SAID LOT 2 AND THE POINT OF TERMINUS. SAID EASEMENT CONTAINS 0.11 ACRES (4,908 SQUARE FEET).

**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 12 day of July, 2022.

**GRANTOR**  
**SM Cascades, LLC**

By: \_\_\_\_\_  
Name: MICHAEL D. SALZMAN  
Title: MANAGER

**STATE OF VERMONT** )  
 )SS  
**COUNTY OF ADDISON** )

On this 12<sup>th</sup> day of July, 2022, before me, the undersigned, a Notary Public in and for said County and State personally appeared Michael Salzman to me personally known, who, being by me duly sworn did say that he is the Manager, executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of the grantor, by it and by him voluntarily executed.

Joshua Sherman  
Notary Public in and for the State of Iowa Vermont

**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 25, day of July, 2022.

Christina Murphy  
Christina Murphy, PE  
General Manager, West Des Moines Water Works, West Des Moines, Iowa

Notary Public State of Vermont  
Joshua Sherman  
Commission \* No. 0009705 \*  
My Commission Expires 01/31/2023