



WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

DATE: April 19, 2023

ITEM:

- 4. Consent Agenda
 - g. Resolution – Accepting Permanent Public Easement and Right-of-Way for Water Main – Pavilion Park

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 resolution entitled “A Resolution Accepting Permanent Public Easement and Right-of-Way for Water Main – Pavilion Park”

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**

Pavilion Park

WHEREAS, Pavilion Park, LC 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 easement has been signed by the property owners and are presented to the Water Works for approval; and

WHEREAS, the acquisition of this easement 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 19th day of April 2023.

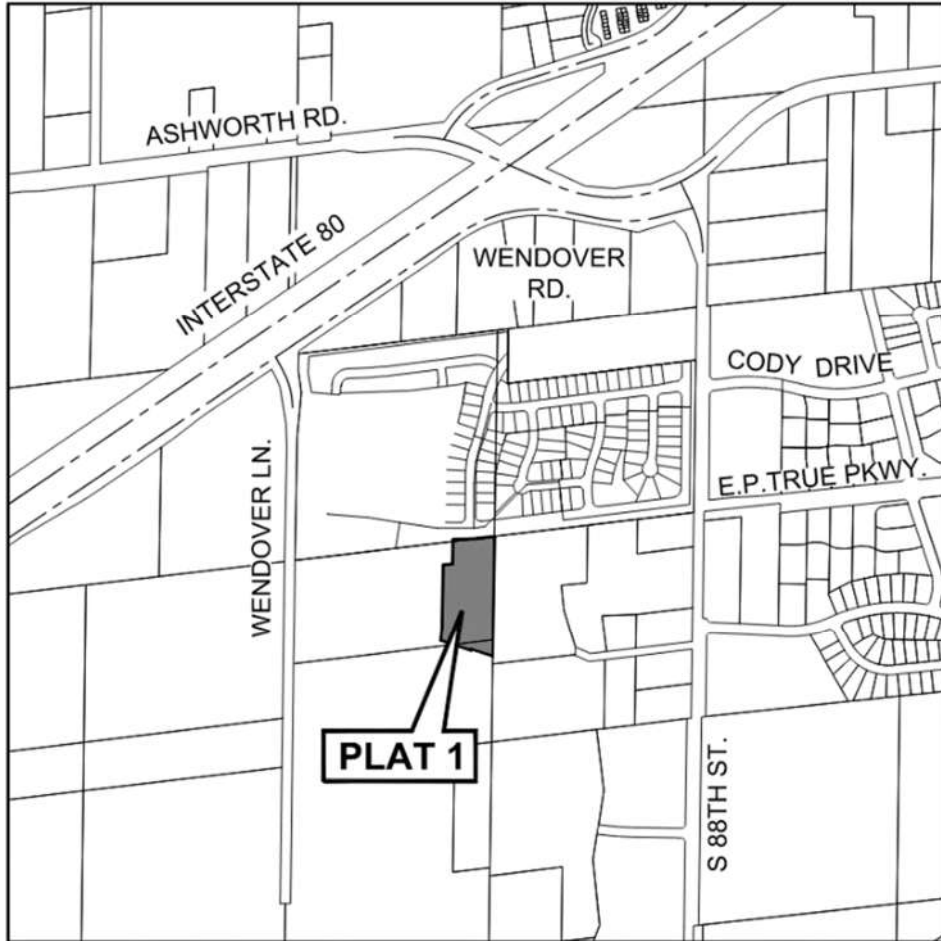
BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

Scott Brennan
Chair

Attest:

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

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

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Pavilion Park, LC, 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 12th day of April, 2023.

GRANTOR
Pavilion Park, LC

By: [Signature]
Name: WILLIAM B. SPENCER
Title: MANAGER

STATE OF IOWA)
)SS
COUNTY OF DALLAS)

On this 12th day of April, 2023, before me, the undersigned, a Notary Public in and for said County and State personally appeared William B. Spencer 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 Pavilion Park, LC 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 12th day of April, 2023.

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

Exhibit "A" – Permanent Easement Description

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, THENCE SOUTH 0°46'05" WEST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, 286.85 FEET; THENCE NORTH 89°13'55" WEST, 336.31 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°40'36" WEST, 20.00 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 1027.00 FEET, WHOSE ARC LENGTH IS 82.61 FEET AND WHOSE CHORD BEARS NORTH 87°01'09" WEST, 82.59 FEET; THENCE NORTH 05°08'45" EAST, 20.00 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 1007.00 FEET, WHOSE ARC LENGTH IS 81.05 FEET AND WHOSE CHORD BEARS SOUTH 87°01'04" EAST, 81.03 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1,637 SQUARE FEET).

AND

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, THENCE SOUTH 0°46'05" WEST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, 815.93 FEET; THENCE NORTH 89°13'55" WEST, 149.78 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 07°36'31" WEST, 96.24 FEET; THENCE NORTH 82°23'29" WEST, 20.00 FEET; THENCE NORTH 07°36'31" EAST, 100.14 FEET; THENCE SOUTH 71°21'07" EAST, 20.38 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (1,964 SQUARE FEET).