



WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

DATE: October 16, 202

ITEM:

4. Consent Agenda
 - f. Resolution – Accepting Amended, Restated and Substituted Permanent Public Easement and Right-of-Way for Water Main – Lot 33, Village of Ponderosa

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.

The applicant has modified their site plan requiring amendment of the previously recorded easement.

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.

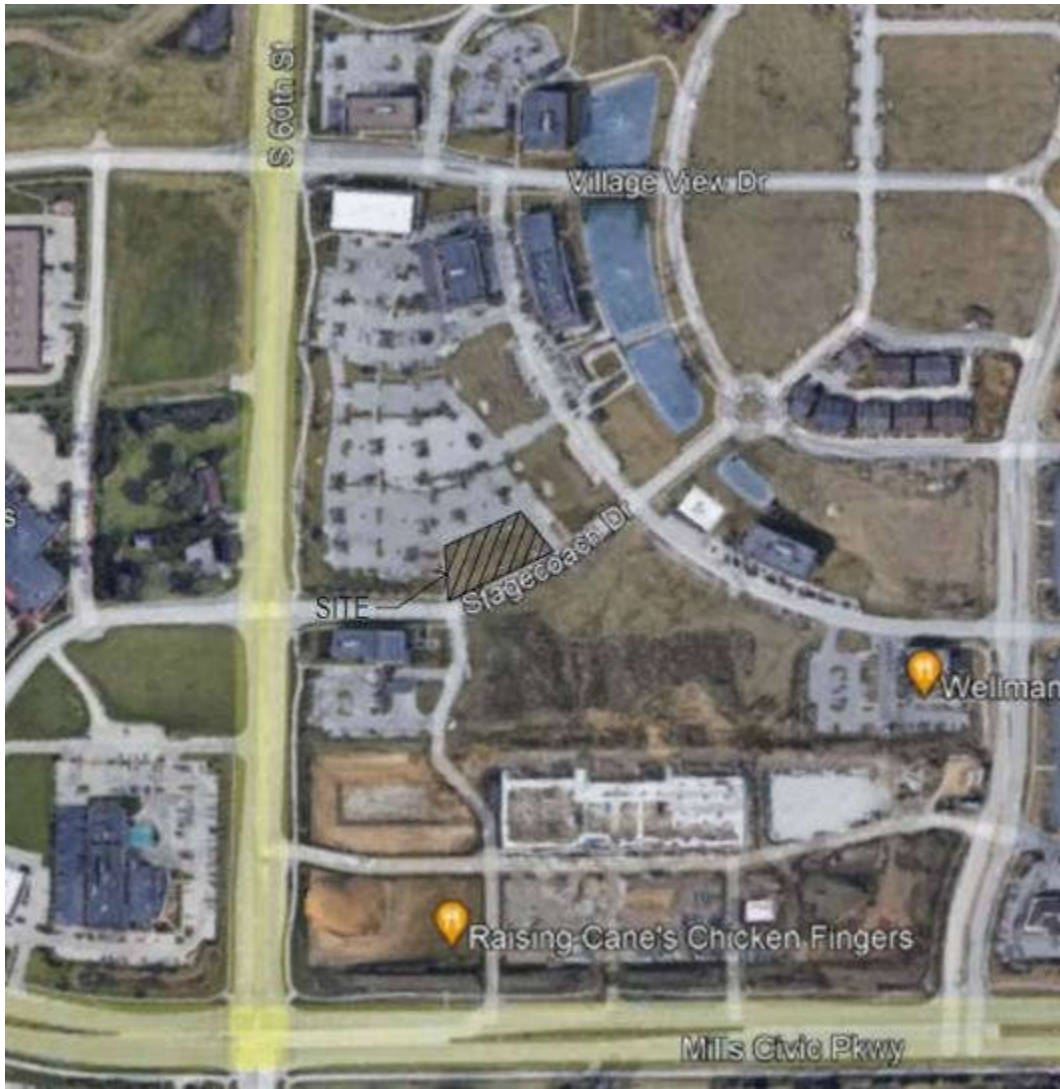
RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To adopt the resolution titled “Accepting Permanent Public Easement and Right-of-Way for Water Main – Village of Ponderosa Building I.”

Prepared by: William J. Mabuce

Approved for Content by: Clara Murphy

Location Map



RESOLUTION

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

(Lot 33, Village of Ponderosa)

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

WHEREAS, the applicant's site plan has changed requiring modifications to the existing easement (Polk County Book 18984, Page 506-508), 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 16th day of October 2023.

BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

Scott Brennan
Chair

Attest:

Christina Murphy
Secretary

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

AMENDED, RESTATED AND SUBSTITUTED
PERMANENT PUBLIC EASEMENT
AND RIGHT-OF-WAY FOR WATER MAIN

KNOW ALL PERSONS BY THESE PRESENTS:

THAT LENL, LLC, 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:

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.

THIS Amended, Restated and Substituted Permanent Public Easement and Right-of-Way for Water Main is given to amend and replace that certain Permanent Public Easement and Right-of-Way for Water Main filed on February 11, 2022 in Book 18984, Page 506-508 to correct the legal description.

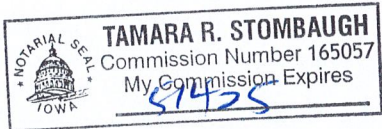
IN WITNESS WHEREOF, Grantor has executed this instrument on this 2nd day of October, 2023.

**GRANTOR
LENL, LLC**

By: _____
Name: Jim Bergman
Title: Managing Member of its Authorized Member

STATE OF IOWA)
)SS
COUNTY OF SCOTT)

On this 2nd day of October 2023, before me, the undersigned, a Notary Public in and for said County and State personally appeared Jim Bergman, to me personally known, who, being by me duly sworn did say that he is the Member, 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.



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 5th day of October, 2023.

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

Exhibit "A" – Permanent Easement Description

A 10.00 foot wide easement over, under and across Lot 33, The Village of Ponderosa, an Official Plat, West Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the northeast corner of said Lot 33; thence S63°11'58"W along the north line of said Lot 33, a distance of 51.38 feet to the point of beginning; thence S36°40'12"E, a distance of 55.56 feet; thence 53°25'45"E, a distance of 51.00 feet to the east line of said Lot 33; thence S37°08'10"E along the east line of said Lot 33, a distance of 10.00 feet; thence S53°25'45"W, a distance of 51.08 feet; thence S36°40'12"E, a distance of 90.22 feet to the south line of said Lot 33; thence southwesterly along a 269.00 foot radius curve concave northwesterly, a distance of 10.02 feet, said curve having a chord bearing of S56°24'35"W and a chord length of 10.01 feet; thence N36°40'12"W, a distance of 58.14 feet; thence S53°05'14" W, a distance of 18.17 feet; thence N23°28'48"W, a distance of 10.28 feet; thence N53°05'14"E, a distance of 15.83 feet; thence N36°40'12"W, a distance of 88.84 feet to the north line of said Lot 33; thence N63°11'58"E along the north line of said Lot 33, a distance of 10.15 feet to the point of beginning.