

BK: 2018 PG: 2122
Recorded: 7/6/2018 at 10:27:26.0 AM
Fee Amount: \$52.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

Prepared by: Richard J. Scieszinski, City Attorney, PO Box 65320, West Des Moines, IA 50265-0320 (515) 222-3614
Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines IA 50265 (515) 222-3600

SPACE ABOVE THIS LINE FOR RECORDER

PUBLIC UTILITY AND WATER MAIN EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

1. Grant of Easement.

The undersigned **General Manufacturing Co.**, an Iowa corporation, (hereinafter referred to as the "Grantor(s)", owners and/or developers of property upon which this Easement is located), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant and convey to the **City of West Des Moines, Iowa**, a municipal corporation (hereinafter referred to as "the City"), a permanent and perpetual Public Utility and Water Main Easement (hereinafter referred to as the "Easement") upon, over, under, through and across the real property legally described as:

As shown on the attached Public Utility Easement Acquisition Plats marked **Exhibit "1-P"** and **Exhibit 1-P1**, (hereinafter referred to as the "Easement Area") located in the City of West Des Moines, Madison County, Iowa

2. Use and Purpose of Easement.

This Easement shall be granted for the purpose of locating public utilities, and to permit and allow the City and other non-City owned public utilities to enter at any time upon, over, under, through and across the Easement Area as shown on the attached **Exhibit "1-P"** and **Exhibit "1-P1"** and to use as much of the surface and sub-surface thereof to construct, replace, locate, rebuild, enlarge, reconstruct, patrol, repair (including the right to place and build additional utilities and appurtenances thereto as authorized by the City) and to forever maintain said utilities whenever necessary within the Easement(s) granted herein. No structure, obstruction, or building of any kind whatsoever shall be placed upon property that is the subject of this Easement without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed, and subject to the following terms and conditions:

- a) No structure or building of any kind whatsoever shall be erected upon property that is the subject of this Easement without the express written consent of the City. "Structure", "obstruction", or "building" shall not include Grantor's use of the surface for facilities such as drives, parking,

sidewalks, streets, street lights, fences, berms, and landscaping, which if installed or constructed shall be done so at Grantor's sole risk.

- b) The City shall take reasonable steps to ensure that all work performed by the City in the Easement Area will be initiated and completed within a reasonable period. Following completion of the work performed by the City, the Easement Area described herein shall be restored in a good and workmanlike manner to a condition similar to that which existed prior to the performance of work by the City. The City shall also be responsible for removal of all debris, spoils, equipment, etc. used by the City in connection with the work performed in the Easement Area.

During the term of this Easement, the City may make use of gasoline or other fuels for equipment used for constructing, maintaining, or repairing the public improvements, provided the City handles such substances in accordance with all applicable laws, rules, regulations, and ordinances. Use of the Property by City or City's designee(s) will not include, however, the use of any hazardous substance, but if a hazardous substance is used, City shall obtain the written consent of the Grantor prior to its use. City acknowledges and agrees that the Grantor's consent is at the Grantor's sole option and discretion and that such consent will not be unreasonably withheld but may be granted with any conditions or requirements that the Grantor deems appropriate.

During the term of this Easement, City shall be fully liable for all costs and expenses related to the use, storage, removal and disposal of hazardous substances used or kept on the Property, and City shall give immediate notice to the Grantor of any violation or any potential violation of any environmental regulation, rule, statute or ordinance relating to the use, storage or disposal of any hazardous substance.

City, at its sole cost and expense, agrees to remediate, correct or remove from the Property any contamination of the Property caused by any hazardous substances which have been used or permitted by City, its contractors, agents or assigns during the term of this Easement. Remediation, correction or removal shall be done in a safe and reasonable manner, and in conformance with all applicable laws, rules and regulations. City reserves all rights allowed by law to seek indemnity or contribution from any person or entity other than the Grantor who is or may be liable for any such cost and expense.

City agrees to indemnify and hold the Grantor harmless from and against all claims, causes of action, damages, loss, costs, expense, penalties, fines, lawsuits, liabilities, attorney fees and engineering and consulting fees arising out of or in any manner connected with hazardous substances which are caused or created by City, its contractors, agents or assigns on or after the termination of this Easement, including but not limited to injury or death to persons or damage to property, and including any diminution in the value of the Property which may result from the foregoing. This indemnity shall survive the cessation, termination, abandonment or expiration of this Easement.

- c) Unless done at the direction or authority of the City, nothing in this Easement agreement shall obligate the City to perform any work or engage in any repair or restoration of the Easement Area resulting from actions taken by other individuals or entities (i.e., utility companies) other than the City or its contractors. Any individuals or entities (i.e., utility companies) other than the City or its contractors that make use of the Easement shall be deemed to undertake the City's obligations under this Easement and are hereby notified of the same.

- d) It is understood and agreed that the consideration for this Easement includes full compensation to Grantor for acquisition of this Easement as agreed upon by the City and the Grantor.
- e) In considering future requests for the City's consent with respect to "structures", "obstructions", and "buildings" in the Easement Area, City acknowledges and agrees that significant development is likely to occur along the Easement Area, and accordingly, neither the Easement granted herein nor the requirement of obtaining City's consent with respect to such matters shall be used to impede or impair such development if Grantor's proposed action does not unreasonably interfere with the City's use of the Easement.

3. Hold Harmless.

The City shall indemnify and hold the Grantor harmless from and against any loss, expense (including Grantor's attorney fees) or claim asserted by third parties for damage to third party tangible property, or for bodily injury, or both, related to this Easement, unless such damage or injury is attributable to the negligence or willful misconduct of Grantor; provided, Grantor gives the City prompt notice of any such claim and all necessary information and assistance so that the City, at its option, may defend or settle such claim, and Grantor does not take any adverse position in connection with such claim. In the event that any such damage or injury is caused by the joint or concurrent negligence of both parties, the loss, expense or claim shall be borne by each party in proportion to its negligence.

4. Running of Benefits and Burdens.

The terms and conditions of this Easement are binding upon the City and Grantor including, but not limited to, future owners, developers, lessees, or occupants. All provisions of this record, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants, and personal representatives of the parties hereto.

5. Jurisdiction and Venue.

The City and the Grantor agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties shall consent to the district court in and for Madison County, Iowa as proper venue.

6. Words and Phrases.

Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or gender neutral, according to the context.

7. Attorney's Fees.

Either party may enforce this Easement by appropriate action, and the prevailing party shall recover as part of its costs the reasonable attorney fees incurred in such action.

8. Parties.

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor" shall refer to the undersigned, its assigns, successors in interest, or lessees, if any.

9. Integration.

This Easement shall constitute the entire agreement between the parties and no amendments or additions to this Easement shall be binding unless in writing and signed by both parties.

10. Right of Renegotiation.

The City hereby gives notice of Grantor's five-year right to renegotiate construction and maintenance damages not apparent at the time of the signing of this Easement, as required by Section 6B.52 of the Code of Iowa.

11. Paragraph Headings.

The paragraph headings in this Easement are included solely for convenience and shall not affect or be used in connection with the interpretation of this Easement.

Dated this 29th day of JUNE, 2018.

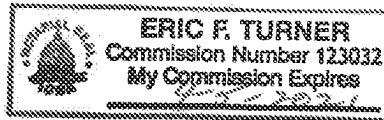
GENERAL MANUFACTURING CO.

By Misty Wittern Lee VP
Misty Wittern Lee, Vice President

STATE OF IOWA)
) SS
COUNTY OF Polk)

This record was acknowledged before me on the 29th day of June, 2018 by Misty Wittern Lee, as Vice President of General Manufacturing Co. a n Iowa corporation, on behalf of whom the record was executed.

Eric F. Turner
NOTARY PUBLIC



CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that acquisition of the within and foregoing Public Utility and Water Main Easement was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. 18-421, passed on June 29, 2018, and that this certificate is made pursuant to the authority of said City Council.

Signed this 29th day of June, 2018.

CITY OF WEST DES MOINES, IOWA

BY: Ryan T. Jacobson
Ryan T. Jacobson, City Clerk

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that acquisition of the within and foregoing Public Utility and Water Main Easement was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. _____, passed on June 29, 2018, and that this certificate is made pursuant to the authority of said City Council.

Signed this _____ day of _____, 2018.

CITY OF WEST DES MOINES, IOWA

BY: _____
Ryan T. Jacobson, City Clerk

Index Legend

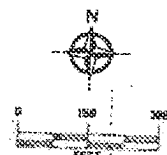
Location:	NW 1/4 of SE 1/4 Section 3, Township 77 N, Range 25 W
Requestor:	City of West Des Moines
Proprietor:	General Manufacturing Corporation
Surveyor:	Jody Budde
Surveyor Company:	Foth Infrastructure & Environment, LLC
Return To:	8191 Birchwood Court, Suite L Johnston, IA 50131 : 515/254-1393

PERMANENT EASEMENT

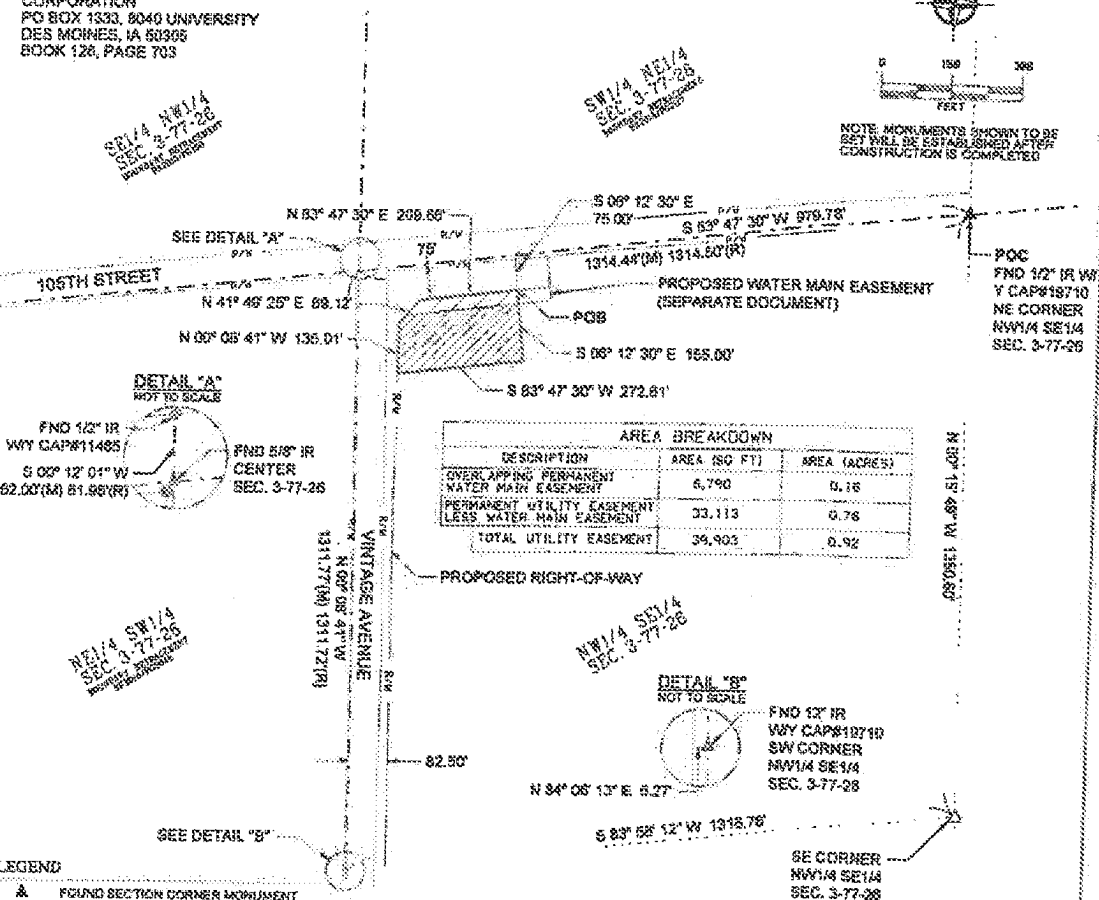
EXHIBIT 1-P

PERMANENT UTILITY EASEMENT BEING CONVEYED TO THE CITY OF WEST DES MOINES
SW GRAND PRAIRIE PARKWAY - VETERANS PARKWAY TO SW MADISON AVENUE
PARCEL 1
CITY CONTRACT NO. 0510-012-2017

PROPERTY OWNER:
GENERAL MANUFACTURING
CORPORATION
PO BOX 1333, 8040 UNIVERSITY
DES MOINES, IA 50305
BOOK 126, PAGE 703



NOTE: MONUMENTS SHOWN TO BE
SET WILL BE ESTABLISHED AFTER
CONSTRUCTION IS COMPLETED



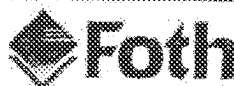
AREA BREAKDOWN		
DESCRIPTION	AREA (SQ. FT.)	AREA (ACRES)
OVERLAPPING PERMANENT WATER MAIN EASEMENT	6,790	0.16
PERMANENT UTILITY EASEMENT LESS WATER MAIN EASEMENT	33,113	0.76
TOTAL UTILITY EASEMENT	39,903	0.92

LEGEND

- ▲ FOUND SECTION CORNER MONUMENT
- △ SET SECTION CORNER MONUMENT
- ⊙ FOUND 1/2" REROD W/ CAP#18710 (UNLESS NOTED)
- SET 5/8" REROD W/ IRON CAP#2247 (UNLESS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORDED DIMENSION
- IRON ROD
- IRON PIPE
- SECTION LINE
- R/W --- RIGHT-OF-WAY LINE
- EXISTING LOT LINE
- P.L. --- PROPERTY LINE
- PERMANENT WATER MAIN EASEMENT
- PERMANENT UTILITY EASEMENT

SURVEY FOR:
CITY OF WEST DES MOINES
4200 MILLS CIVIC PKWY
WEST DES MOINES, IA 50305
PHONE: (515) 222-3480

FOTH PROJECT NO. 18W038-01 DATE: 4/5/2018



Foth Infrastructure & Environment, LLC
8191 Birchwood Court, Suite L
Johnston, IA 50131-2031
Phone: 515-254-1393 Fax: 515-254-1942

SHEET
1 OF 2

FIELD SURVEY COMPLETED: OCTOBER 2017

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

JODY A. BUDDE, P.L.S.
License Number: 22847

My license renewal date is DECEMBER 31, 2019.
Pages or sheets covered by this seal:

4-5-2018
DATE

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PERMANENT EASEMENT

EXHIBIT 1-P

PERMANENT UTILITY EASEMENT BEING CONVEYED TO THE CITY OF WEST DES MOINES
SW GRAND PRAIRIE PARKWAY - VETERANS PARKWAY TO SW MADISON AVENUE

PARCEL 1

CITY CONTRACT NO. 0510-012-2017

PROPERTY OWNER:

GENERAL MANUFACTURING
CORPORATION
PO BOX 1333, 8040 UNIVERSITY
DES MOINES, IA 50305
BOOK 126, PAGE 703

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3,
TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF
SAID SECTION 3, THENCE SOUTH 83° 47' 30" WEST, 879.78 FEET ALONG THE NORTH LINE OF SAID SOUTHEAST
QUARTER; THENCE SOUTH 06° 12' 30" EAST, 75.00 FEET TO A POINT ON THE PROPOSED SOUTH RIGHT-OF-WAY
LINE OF 10TH STREET, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 06° 12' 30" EAST, 155.00
FEET; THENCE SOUTH 83° 47' 30" WEST, 272.61 FEET TO THE PROPOSED EAST RIGHT-OF-WAY LINE OF SW
GRAND PRAIRIE PARKWAY; THENCE NORTH 00° 08' 41" WEST, 136.81 FEET ALONG SAID PROPOSED EAST
RIGHT-OF-WAY LINE; THENCE NORTH 41° 48' 25" EAST, 66.12 FEET TO SAID PROPOSED SOUTH RIGHT-OF-WAY
LINE; THENCE NORTH 83° 47' 30" EAST, 209.66 FEET ALONG SAID PROPOSED SOUTH RIGHT-OF-WAY LINE TO THE
POINT OF BEGINNING.

SAID TRACT CONTAINS 38,803 SQUARE FEET OR 0.89 ACRES MORE OR LESS, INCLUDING 8,790 SQUARE FEET OR
0.18 ACRES OF PERMANENT WATER MAIN EASEMENT.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA
SPCS SOUTH ZONE, US SURVEY FOOT.

FIELD SURVEY COMPLETED: OCTOBER 2017

SURVEY FOR:

CITY OF WEST DES MOINES
4200 MILLS CIVIC PKWY
WEST DES MOINES, IA 50265
PHONE: (515) 222-3480



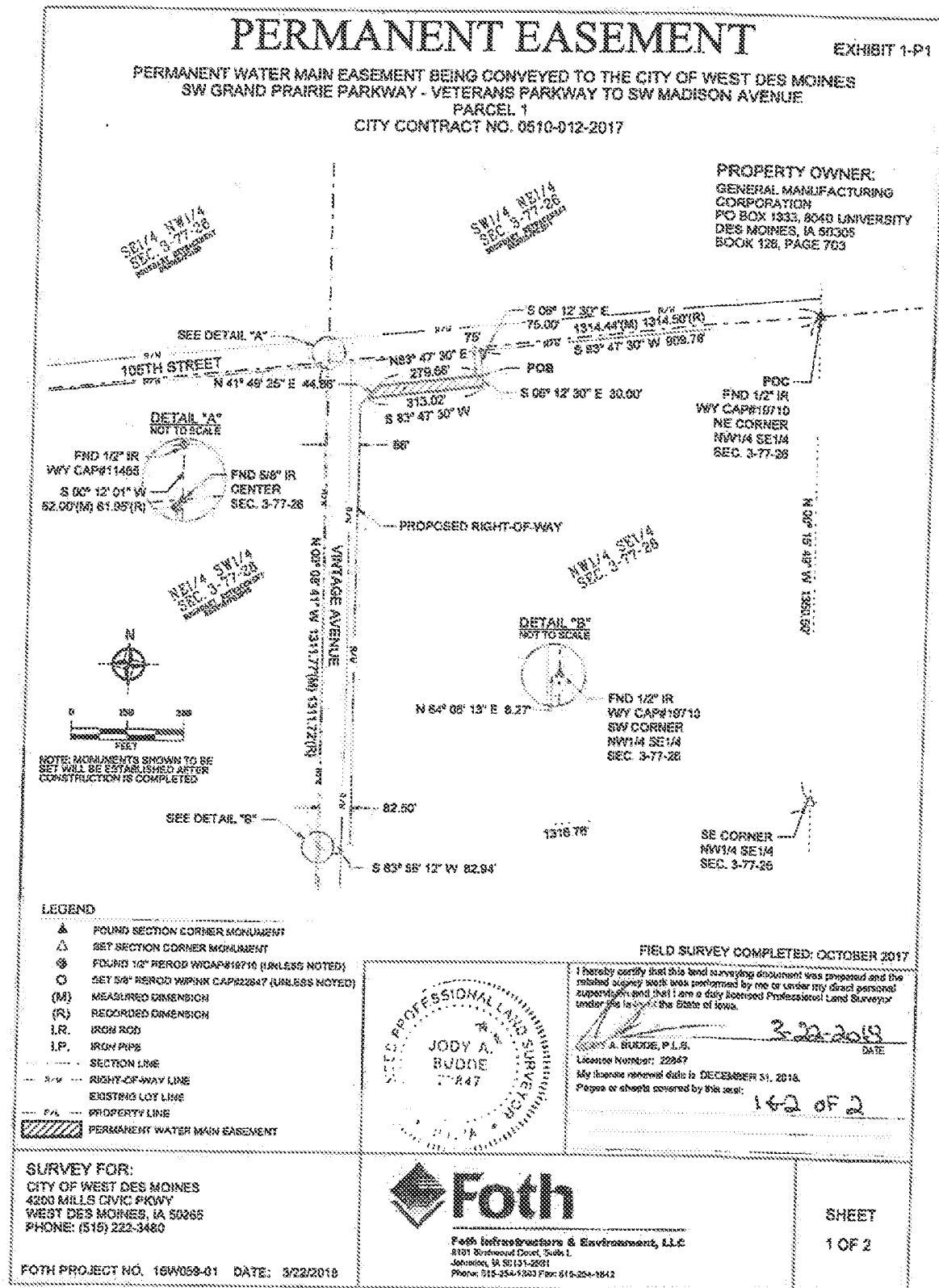
Foth Infrastructure & Environment, LLC
6181 Shoshone Court, Suite L
Jordan, IA 50151-0931
Phone: 515-254-1200 Fax: 515-254-1542

SHEET

2 OF 2

FOTH PROJECT NO. 18W059-01 DATE: 4/5/2018

Index Legend	
Location:	NW 1/4 of SE1/4 Section 3, Township 77 N, Range 26 W
Requestor:	City of West Des Moines
Proprietor:	General Manufacturing Corporation
Surveyor:	Jody Budde
Surveyor Company:	Foth Infrastructure & Environment, LLC
	8191 Birchwood Court, Suite L Johnston, IA 50131 (515) 254-1353



PERMANENT EASEMENT

EXHIBIT 1-P1

PERMANENT WATER MAIN EASEMENT BEING CONVEYED TO THE CITY OF WEST DES MOINES
SW GRAND PRAIRIE PARKWAY - VETERANS PARKWAY TO SW MADISON AVENUE

PARCEL 1
CITY CONTRACT NO. 0510-012-2017

PROPERTY OWNER:

GENERAL MANUFACTURING
CORPORATION
PO BOX 1333, 8040 UNIVERSITY
DES MOINES, IA 50305
BOOK 126, PAGE 703

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3,
TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER
OF SAID SECTION 3; THENCE SOUTH 83° 47' 30" WEST, 809.78 FEET ALONG THE NORTH LINE OF THE
SOUTHEAST QUARTER OF SAID SECTION 3; THENCE SOUTH 06° 12' 31" EAST, 75.00 FEET ALONG THE
PROPOSED SOUTH RIGHT-OF-WAY LINE OF 105TH STREET TO THE POINT OF BEGINNING; THENCE SOUTH 06°
12' 30" EAST, 30.60 FEET; THENCE SOUTH 83° 47' 30" WEST, 313.02 FEET TO THE PROPOSED EAST
RIGHT-OF-WAY LINE OF SW GRAND PRAIRIE PARKWAY; THENCE NORTH 41° 48' 25" EAST, 44.88 FEET ALONG
SAID PROPOSED EAST RIGHT-OF-WAY LINE TO SAID PROPOSED SOUTH RIGHT-OF-WAY LINE; THENCE NORTH
83° 47' 30" EAST, 279.68 FEET ALONG SAID PROPOSED SOUTH RIGHT-OF-WAY LINE TO THE POINT OF
BEGINNING.

SAID TRACT CONTAINS 8,690 SQUARE FEET OR 0.20 ACRES MORE OR LESS.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011)
IA SPCS SOUTH ZONE, US SURVEY FOOT

FIELD SURVEY COMPLETED: OCTOBER 2017

SURVEY FOR:

CITY OF WEST DES MOINES
4200 MILLS CIVIC PKWY
WEST DES MOINES, IA 50265
PHONE: (515) 222-3480

FOTH PROJECT NO. 18W059-01 DATE: 3/22/2018



Foth

Foth Infrastructure & Environment, LLC
8191 Birchwood Court, Suite L
Joliet, IL 60131-2851
Phone: 815-254-1383 Fax: 815-254-1642

SHEET

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