



BK: 2018 PG: 2637
Recorded: 8/14/2018 at 9:17:04.0 AM
Fee Amount: \$52.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

APPLICATION FOR CONDEMNATION

(Type of Document)

Preparer Information: Jason B. Wittgraf, Assistant City Attorney
4200 Mills Civic Parkway
PO Box 65320
West Des Moines, IA 50265
515-222-3614

Taxpayer Information: N/A

Return Document To: City Clerk
City of West Des Moines
PO Box 65320
West Des Moines IA 50265
515-222-3603

Grantors: Nick A. Fasano

Grantees: City of West Des Moines, Iowa

Legal Description: as shown on the attached Exhibits "010-02-F",
"010-03-P" and "010-03-T"

Related documents: N/A

MADISON COUNTY RECORDER
112 N. JOHN WAYNE DRIVE
PO BOX 152
WINTERSET, IA 50273
Phone # 515-462-3771
Fax # 515-462-5006

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

IN THE MATTER OF THE)
CONDEMNATION OF LAND FOR)
DEVELOPMENT PURSUANT TO THE)
VETERANS PARKWAY)
IMPROVEMENT PROJECT, PROJECT)
NUMBER 0510-010-2017, LOCATED)
BETWEEN SW 60TH STREET AND SW)
WILD ROSE LANE, AND LOCALLY)
KNOWN AS 1089 WOODLAND AVENUE,)
CUMMING, IOWA, TITLE HELD BY)
NICK A FASANO.)

APPLICATION FOR CONDEMNATION

by the)

CITY OF WEST DES MOINES, IOWA,)

Applicant.)

RECEIVED
MADISON CO. SHERIFF
WINTERSET, IOWA

AUG 13 2018

913 AM/PM
BY JP

TO: ARTHUR E. GAMBLE, CHIEF JUDGE, FIFTH JUDICIAL DISTRICT

YOU ARE HEREBY NOTIFIED that the Applicant, the City of West Des Moines, Iowa, desires to take, acquire, and condemn a **fee simple interest** and **permanent easement interest** for construction in certain property for development in connection with the **Veterans Parkway Improvement Project**, located between SW 60th Street and SW Wild Rose Lane, approved by the City Council of the City of West Des Moines, Iowa, together with any and all leasehold interests, easement interests, and other legal or equitable interests therein, and together with all structures and appurtenances located upon the properties sought to be condemned as shown in the attached **Acquisition Plat**, which is marked **Exhibit "010-03-F"** and **Storm Sewer Overland Flowage Easement Plat**, which is marked **Exhibit "010-03-P"** by this reference is made a part hereof.

A **temporary easement** for construction is also sought in the name of the **City of West Des Moines, Iowa**, as shown on the attached **Easement Plat**, marked **Exhibit "010-03-T"**, and by this reference made a part hereof.

PROPERTY ADDRESS: 1089 Woodland Avenue, Cumming, Iowa

**LEGALLY DESCRIBED
ON THE ATTACHED EXHIBITS
AND ON THE MADISON COUNTY
ASSESSOR'S WEB SITE AS:**

Parcel No. 011010288003000

The names and addresses of all record owners and holders of liens and encumbrances, as far as shown, are as follows:

Titleholders:

Nick Fasano
1089 Woodland Avenue
Cumming, IA 50061
(515) 554-3055
nicknano@live.com

Gwen C. (Stewart) Fasano
10 N. J F Kennedy Road
East Dubuque, IL 61025
(309) 678-4439
Trooper77@hotmail.com

**Possible
Encumbrancers and
Lienholders:**

Two Rivers Bank & Trust
222 N Main Street
Burlington, IA 52601
Attn: Brian Jass
(319) 753-9100
mortgage@tworivers.bank

BP Pipelines (North America) Inc.
c/o CT Corporation System, Registered Agent
400 E Court Avenue
Des Moines, IA 50309
Joel.Kissel@wolterskluwer.com

Buckeye Pipe Line Transportation LLC
c/o Corporation Service Company, Registered Agent
505 5th Avenue, Suite 729
Des Moines, IA 50309
<https://www.cscglobal.com/global/web/csc/service-form.html>

Madison County Soil & Water Conservation District
a/k/a or f/k/a Madison County Soil Conservation District of
Winterset, Iowa
USDA Service Center
815 East Highway 92
Winterset, IA 50273-2300
(515) 462-2961
email@madison-swcd.org

Warren Water District
1204 E. 2nd Avenue
Indianola, IA 50125
(515) 962-1200
wwd@warrenwaterdistrict.com

MidAmerican Energy Company, an Iowa Corporation
c/o Paul J. Leighton, Registered Agent
4299 NW Urbandale Drive
Urbandale, IA 50322
pjleighton@midamerican.com

Madison County Board of Health
112 N 1st Street
Winterset IA 50273-1575
(515) 462-2636

Gwen C. (Stewart) Fasano
10 N. J F Kennedy Road
East Dubuque, IL 61025
(309) 678-4439
Trooper77@hotmail.com

Madison County Farm Service Agency
USDA Service Center
815 East Highway 92
Winterset, IA 50273-2300
(515) 462-4884
kelly.cain@ia.usda.gov

Taxing Authority:

Madison County, Iowa
Treasurer's Office
112 N. John Wayne Drive
PO Box 152
Winterset, IA 50273
(515) 462-1542
jcorkrean@madisoncoia.us

LAND NECESSARY TO ACHIEVE THE PUBLIC PURPOSE AND LAND PROPOSED TO BE ACQUIRED BY THE PROJECT. Said **fee simple interest, permanent easement interest and temporary easement** shall be used for the public purpose of preparing land for development pursuant to the **Veterans Parkway Improvement Project**, and includes any and all improvements, including fences, trees, and shrubs, located wholly within the land sought in **fee simple title and permanent easement** on the day said land is viewed by the Compensation Commission, except as follows:

Any personal property located on the premises.

The City asserts that the property legally-described above constitutes the necessary minimum amount of land to achieve the purpose herein identified, and that no portion of the property is being acquired as an uneconomic remnant.

GOOD FAITH EFFORTS MADE BY CITY TO NEGOTIATE THE PURCHASE OF THE PROPERTY.

The City represents and warrants that it has undertaken the following activities in attempting to negotiate the purchase of the Property from the Property Owner.

On June 26, 2017, the City Council of the City of West Des Moines, Iowa, adopted Resolution Number 17-06-26-23 declaring its intent to proceed with the **Veterans Parkway Improvement Project, City Project Number 0510-010-2017**, establishing just compensation of the property and authorizing acquisition of the property by condemnation, if necessary.

Based upon an appraisal by Commercial Appraisers of Iowa, Inc, the City's Agent mailed the appraisal and ten-day notice and an Offer to Purchase and Agreement (representing the appraised value of the Property) to the property owner on or about June 12, 2018.

Following the 10-day period, discussion and negotiations were held between the City's agent and the property owner; however, the parties have been unable to reach a resolution for acquisition of the property.

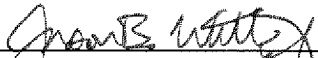
The City will attempt to continue negotiations in hopes of reaching an agreement prior to a condemnation hearing. In the meantime and, due to upcoming construction time lines, it is necessary to initiate condemnation proceedings, of which property owner has been made aware by the final offer mailed July 24, 2018.

YOU ARE, THEREFORE, pursuant to a resolution of the City Council of the City of West Des Moines, Iowa, hereby requested to appoint a Compensation Commission to appraise the damages caused by this appropriation; said Commission to consist of six (6) commissioners who shall be residents of Madison County, Iowa.

YOU ARE FURTHER REQUESTED to give written notice to the City of West Des Moines, Iowa, as soon as the commissioners have been selected.

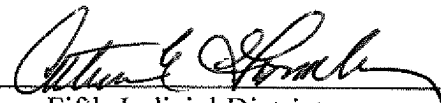
Dated this 8 day of August, 2018.

CITY OF WEST DES MOINES, IOWA



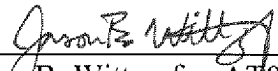
Jason B. Wittgraf AT0008642
Assistant City Attorney
4200 Mills Civic Parkway
P.O. Box 65320
West Des Moines, IA 50265
Phone: (515) 222-3613
Facsimile: (515) 273-0601
E-mail: jason.wittgraf@wdm.iowa.gov

Received in my office this 9th day of August, 2018.



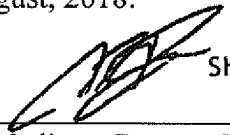
Chief Judge, Fifth Judicial District

In accord with Iowa Code Section 6B.3(3), I, the undersigned, certify under penalty of perjury and pursuant to the laws of the State of Iowa that this Original Application for Condemnation has been approved by the Chief Judge of the Fifth Judicial District.



Jason B. Wittgraf AT0008642
Assistant City Attorney

Filed in my office at Winterset, Iowa, this 13th day of August, 2018.



SHERIFF
Sheriff of Madison County, Iowa

INDEX LEGEND

COUNTY: MADISON

TRS: SECTION 2, T77N, R26W

ALIQUOT PART: SE 1/4 SE 1/4

PROPRIETOR: NICK A. FASANO

REQUESTED BY: CITY OF WEST DES MOINES

SURVEYOR: JOHN DEWEY

COMPANY: MCCLURE ENGINEERING

RETURN TO: JOHN DEWEY
1360 NW 121ST ST STE A
CLIVE, IA 50325 / 515-964-1229

ACQUISITION PLAT

EXHIBIT 010-03-F

IN THE SE 1/4 SE 1/4 OF SECTION 2, TOWNSHIP 77 NORTH, RANGE 26
WEST, OF THE 5TH P.M., MADISON COUNTY, IOWA.

LEGAL DESCRIPTION

BEING A PART OF THE SE 1/4 OF THE SE 1/4 OF SECTION 2, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE 5TH P.M., MADISON COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4 OF THE SE 1/4 OF SAID SECTION 2; THENCE ALONG THE WEST LINE OF SAID SE 1/4 OF THE SE 1/4, S00°37'57"E, 22.92 FEET; THENCE N75°49'47"E, 160.71 FEET TO A POINT ON THE NORTH LINE OF SAID SE 1/4 OF THE SE 1/4; THENCE ALONG SAID NORTH LINE, S83°59'34"W, 156.94 FEET TO THE POINT OF BEGINNING. SAID AREA CONTAINING 0.04 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

THIS ACQUISITION PLAT IS BEING PREPARED FOR THE CONSTRUCTION OF VETERANS PARKWAY.

POINT OF BEGINNING
NW CORNER SE 1/4 SE 1/4
SECTION 2-77-26
FD 1/2" REBAR
YPC CAP ILLEGIBLE

FLINN FARMS LLC
TRUSTEE WARRANTY DEED
BK 2014 PG 2825

NE CORNER SE 1/4 SE 1/4
SECTION 2-77-26
FD 1/2" REBAR
OPC ILLEGIBLE

PROPRIETORS.

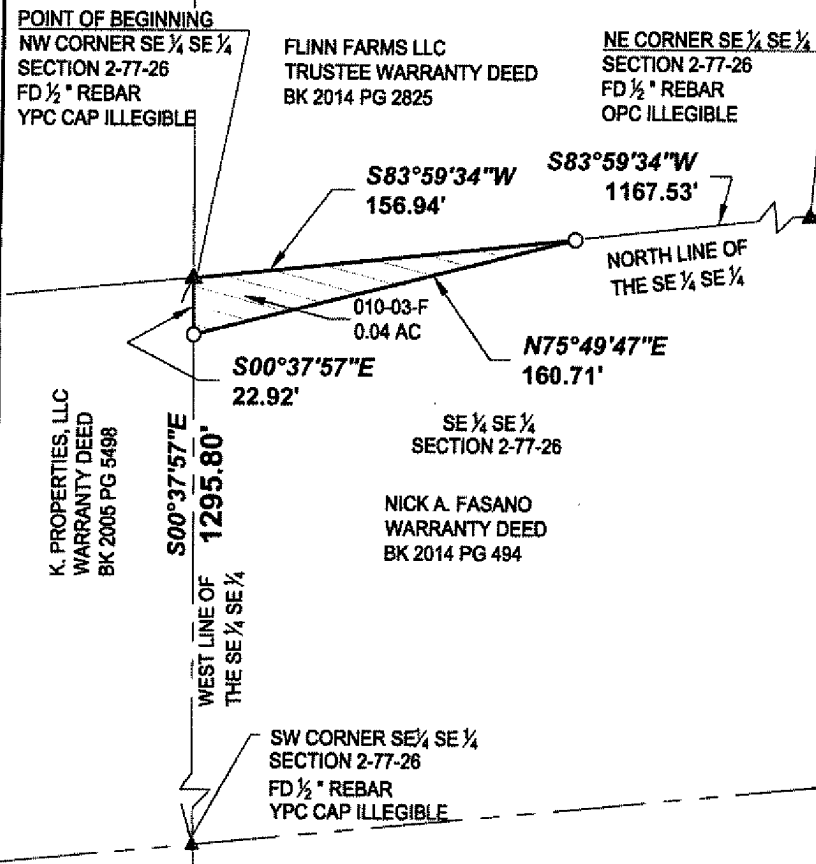
NICK A. FASANO
1089 WOODLAND AVE.
CUMMING, IA 50061

REQUESTED BY:

CITY OF WEST DES MOINES
4200 MILLS CIVIC PARKWAY
WEST DES MOINES, IOWA 50265

AREA SUMMARY:

1791 SQUARE FEET



GENERAL LEGEND

BOUNDARY LINE
PROPERTY LINE
EXIST PROPERTY LINE
SECTION LINE
EASEMENT LINE
EXIST EASEMENT LINE

MONUMENTS FOUND:

▲ - SECTION CORNER
(TYPE AS NOTED)

MONUMENTS SET:

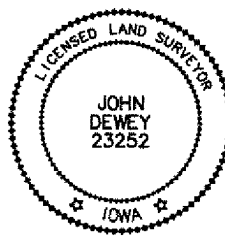
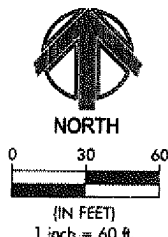
○ - 1/2" REBAR
WITH OPC #23252

ABBREVIATIONS:

R.O.W. - RIGHT-OF-WAY
BK, PG - BOOK AND PAGE
(M) - MEASURED DISTANCE/ANGLE
(R) - RECORD DISTANCE/ANGLE
P.U.E. - PUBLIC UTILITY EASEMENT
BPC - BLUE PLASTIC CAP
YPC - YELLOW PLASTIC CAP
OPC - ORANGE PLASTIC CAP
GPC - GREEN PLASTIC CAP
P.O.B. - POINT OF BEGINNING
P.O.C. - POINT OF COMMENCEMENT

McCLURE
ENGINEERING
building strong

1360 NW 121st Street, STE A
Clive, Iowa 50325
515-964-1229
fax 515-964-2370



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNATURE:

JOHN DEWEY

DATE: 5-23-18

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2019

PAGES OR SHEETS COVERED BY THIS SEAL: THIS SHEET

DATE SURVEYED: 01/03/2018

DRAWING PATH: N:\Projects\WDM 20616017\Survey

INDEX LEGEND

COUNTY: MADISON

TRS: SECTION 2, T77N, R26W

ALIQUOT PART: SE $\frac{1}{4}$ SE $\frac{1}{4}$

PROPRIETOR: NICK A. FASANO

REQUESTED BY: CITY OF WEST DES MOINES

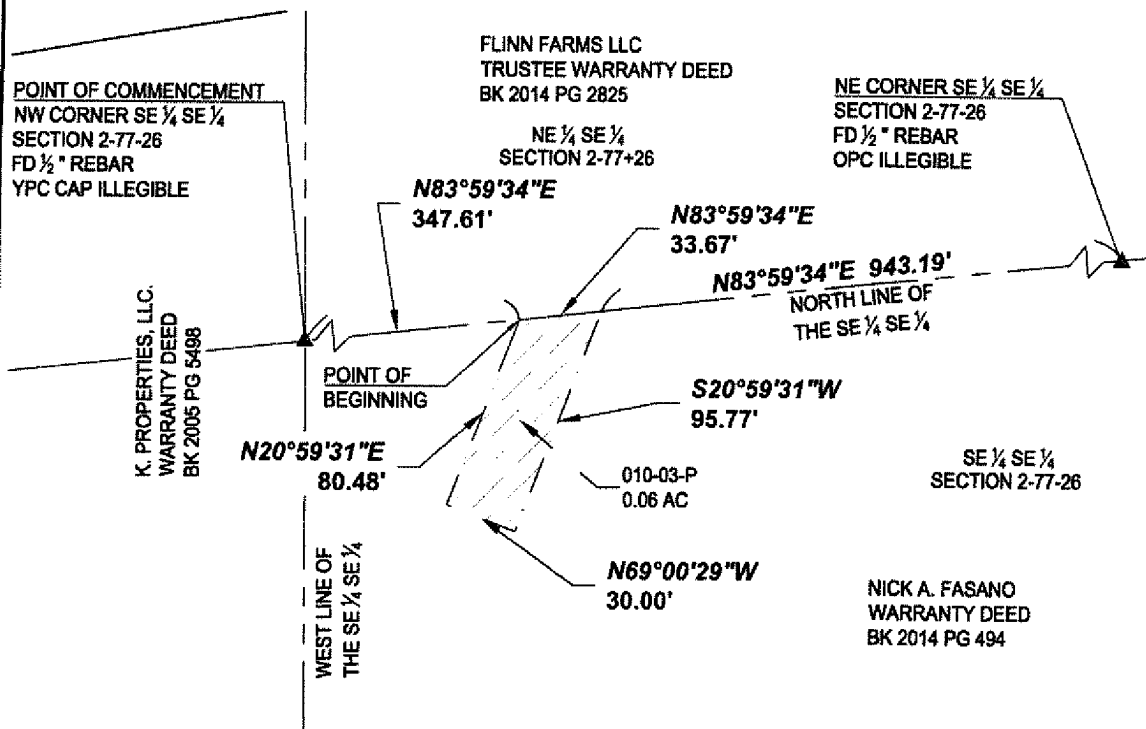
SURVEYOR: JOHN DEWEY

COMPANY: MCCLURE ENGINEERING

RETURN TO: JOHN DEWEY
1360 NW 121ST ST STE A
CLIVE, IA 50325 / 515-964-1229

STORM SEWER OVERLAND FLOWAGE EASEMENT

EXHIBIT 010-03-P



EASEMENT DESCRIPTION

BEING A PART OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 2, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE 5TH P.M., MADISON COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SAID SECTION 2; THENCE ALONG THE NORTH LINE OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$, N83°59'34\"/>

THIS EASEMENT IS BEING PREPARED FOR THE CONSTRUCTION OF VETERANS PARKWAY.

GENERAL LEGEND

--- SECTION LINE
--- EASEMENT LINE

MONUMENTS FOUND:

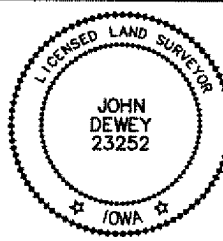
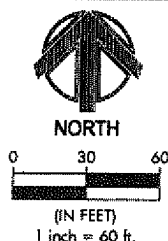
▲ - SECTION CORNER
(TYPE AS NOTED)

ABBREVIATIONS:

R.O.W. - RIGHT-OF-WAY
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building strong

1360 NW 121st Street, STE A
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515-964-1229
fax 515-964-2370



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNATURE: *[Signature]*
JOHN DEWEY

DATE: 5-23-18

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2019

PAGES OR SHEETS COVERED BY THIS SEAL: THIS SHEET

DATE SURVEYED: 01/03/2018

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EASEMENT EXHIBIT

EXHIBIT 010-03-T

FLINN FARMS LLC
TRUSTEE WARRANTY DEED
BK 2014 PG 2825

POINT OF COMMENCEMENT
NW CORNER SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 2-77-26
FD $\frac{1}{2}$ " REBAR
YPC CAP ILLEGIBLE

N75°49'47"E
160.71'

N83°59'34"E 156.94'
FROM P.O.C. TO
"TE-A" P.O.B.

N83°59'34"E
64.73'
"TE-A"
POINT OF
BEGINNING

N83°59'34"E
28.06'
"TE-B"
POINT OF
BEGINNING

N83°59'34"E 319.55'
FROM P.O.C. TO
"TE-B" P.O.B.

NE $\frac{1}{4}$ CORNER SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 2-77-26
FD $\frac{1}{2}$ " REBAR
OPC CAP ILLEGIBLE

N83°59'34"E
915.13'

NORTH LINE OF
THE SE $\frac{1}{4}$ SE $\frac{1}{4}$

S66°21'59"W
97.39'

"TE-A"
0.11 AC

S76°04'31"W
134.66'

N00°37'57"W
25.33'

WEST LINE OF
THE SE $\frac{1}{4}$ SE $\frac{1}{4}$

NICK A. FASANO
WARRANTY DEED
BK 2014 PG 494

SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 2-77-26

N83°59'34"E
1324.47'

N20°59'31"E
72.74'

S20°59'31"W
80.48'

S69°00'29"E
30.00'

N69°00'29"W
80.00'

"TE-B"
0.11 AC

N20°59'31"E
95.77'

S20°59'31"W
113.50'

LEGAL DESCRIPTION

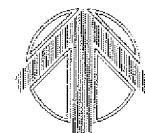
TEMPORARY CONSTRUCTION EASEMENTS LOCATED IN THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 2, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE 5TH PM, MADISON COUNTY, IOWA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"TE-A"

COMMENCING AT THE NW CORNER OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$; THENCE ALONG THE NORTH LINE OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$, N83°59'34"E, 156.94 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE N83°59'34"E, 64.73 FEET; THENCE S66°21'59"W, 97.39 FEET; THENCE S76°04'31"W, 134.66 FEET TO A POINT ON THE WEST LINE OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$; THENCE ALONG SAID WEST LINE N00°37'57"W, 25.33 FEET; THENCE N75°49'47"E, 160.71 FEET TO THE POINT OF BEGINNING, SAID AREA CONTAINING 0.11 ACRE AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

"TE-B"

COMMENCING AT THE NW CORNER OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$; THENCE ALONG THE NORTH LINE OF SAID SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$, N83°59'34"E, 319.55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE N83°59'34"E, 28.06 FEET; THENCE S20°59'31"W, 80.48 FEET; THENCE S69°00'29"E, 30.00 FEET; THENCE N20°59'31"E, 95.77 FEET TO A POINT ON SAID NORTH LINE; THENCE ALONG SAID NORTH LINE, N83°59'34"E, 28.06 FEET; THENCE S20°59'31"W, 113.50 FEET; THENCE N69°00'29"W, 80.00 FEET; THENCE N20°59'31"E, 72.74 FEET TO THE POINT OF BEGINNING, SAID AREA CONTAINING 0.11 ACRE AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD



NORTH



(IN FEET)

1 inch = 60 ft.

LEGEND

	PROPERTY LINE
	SECTION LINE
	ROW LINE
	EASEMENT AREA

DRAWING PATH: N:\Projects\WDM 20616017\Survey



McCLURE
ENGINEERING CO.

building strong communities

1360 NW 121st Street, STE A
Clive, Iowa 50325
515-964-1229
fax 515-964-2370

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VETERANS PARKWAY TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

WEST DES MOINES, IA

20616017

08/02/2018

REVISIONS
5/10/2018

ENGINEER
T. STOVIE

CHECKED BY
C. CARLETON

DRAWN BY
J. DEWEY

FIELD BOOK NO.

SKETCH NO.

EXH-010-03-T