

Date FEB 20 1989
Agency Item 67-A
Roll Call # 89-705

5'-0" WIDE UNDERGROUND ENERGY EASEMENT

KNOW ALL MEN BY THESE PRESENTS. That

WHEREAS, the City of Des Moines, Iowa, a municipal corporation hereinafter called "City", is the owner of certain land of Des Moines, Iowa, which is more particularly described and

INST. NO. 045296
POLK COUNTY, IOWA
FILED FOR RECORD
AT THE CITY OF DES MOINES, IOWA
FEB 23 1989 AM
1:26
TIMOTHY L. ORIEN, Recorder
By T. Cornwell Deputy

and WHEREAS, Equitable Life Insurance Company of Iowa, a corporation, hereinafter called "Company", desires the right, privilege, and easement to enter upon said premises to construct, maintain, and use a steam line to enable the Company to continue to supply energy to that Building known as the Younkers Building, 7th Avenue & Walnut Street, Des Moines, Iowa; and

WHEREAS, the City is willing to grant to the Company the non-exclusive right, privilege, and easement to enter upon said premises to construct, maintain, and use a steam line to enable the Company to continue to supply energy to that building known as the Younkers Building, Des Moines, Iowa.

NOW, THEREFORE, in and for the consideration of Two Thousand Two Hundred Forty Dollars (\$2,240.00) to it in hand paid by the Company, and subject to the conditions stated below the City does hereby grant unto the Company the right, privilege, and easement to enter upon said premises to construct or maintain at Company's sole cost a steam line. It is further understood that all future maintenance of said steam line shall be at the sole expense of the Company.

The Center Line of a 5.0 foot wide underground energy easement, across the North half of the North/South alley within Block 12, Fort Des Moines, an Official Plat, and between Lot 2 and Lot 7, of said Block 12, is described as follows: Beginning at a point that is on the East lot line of said Lot 2, and said point being 22.5 feet northerly from the Southeast corner of said Lot 2; thence easterly to the West lot line of said Lot 7, being 23.0 feet northerly from the Southwest corner of said Lot 7, and to the end of said 5.0 foot wide underground energy

6059-302

easement, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

As part of the consideration for this Energy Easement grant, the Company agrees to indemnify and save harmless the City its officers, employees and agents from and against all liability, claims, demands, judgments, loss, damages, costs, and expenses, including court costs and attorneys' fees (including but not limited to salaried attorneys employed by the City) arising from damage to, loss or destruction of the property of any person or persons whatsoever, or from injury to or death of any person or persons whatsoever, including the parties hereto and any employees of either or both parties hereto, arising from the construction use or maintenance of the steam line.

This Energy Easement is subject to the following limitations:

- (1) In the event the City determines that the alley across which the easement area lies needs repair or reconstruction, the Company, or its successors or assigns, shall be solely responsible for protection of the steam line, and reconstruction or relocation of the steam line which may be necessary as a result of the City's reasonable repair or reconstruction work.
- (2) The City Council of the City of Des Moines, Iowa may, after notice and hearing, revoke this Energy Easement if it, in its reasonable judgment, determines that the easement area is required for public use. In such case the Company shall not be entitled to any compensation or damages for such termination or revocation, or damages for the costs of removing or replacing the line.

This Energy Easement shall run with the land and may be transferred, conveyed and/or assigned.

IN WITNESS WHEREOF, the City of Des Moines has caused its corporation name to be hereunto signed by its Mayor and its corporation seal to be hereto affixed, this 20th day of February, 1989.

CITY OF DES MOINES, IOWA

By: John P. Dorrian
Mayor
FORM APPROVED

Richard J. Bueh
City Solicitor
Intergovernmental Program

ATTEST:

Donna V. Bostel-Baker

STATE OF IOWA)
COUNTY OF POLK) SS:

On this 20th day of February, 1989, before me, Connie Meade, a Notary Public in and for the State of Iowa, personally appeared John P. Dorrian and Donna V. Bostel-Baker, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in ordinance No. passed (the Resolution adopted) by the City Council, under Roll Call No. 89-705 of the City Council on the 20th day of February, 1989, and that John P. Dorrian and Donna V. Bostel-Baker acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Connie Meade
Notary Public in and for the State of Iowa

