

★ Roll Call Number

Agenda Item Number

36

Date May 21, 2007

Application from the Des Moines Art Center requesting approval of banner design and requesting approval to display five permanent banners on Grand Avenue between Polk Boulevard and 45th Street effective May, 2007.

Moved by _____ to receive, file and approve banner design and permission to display on a permanent basis .

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk



City of Des Moines
Application for Permission to Temporarily Place
Banner(s) or Item(s)
Over/Across Public Street and/or Right-of-Way

Please submit application 45 days in advance
Print or Type

Applicant: Des Moines Art Center

Address: 4700 Grand Avenue

Contact Person: Christine Doolittle Alternate Contact: Edwina Brandon

Daytime Telephone: 515.271.0344 Cell: 515.991.5608

E-Mail Address: cdoolittle@desmoinesartcenter.org Fax: 515.271.0355

Date(s) the banner(s) or item(s) will be displayed: Permanently.

Purpose of the banner(s) or item(s): To promote the Des Moines Art Center.

Preferred Location: Please provide a map or diagram of the street indicating banner location. 5 Street light poles on the South side of Grand Avenue directly in front of the Art Center.

How will the banner(s) or item(s) be anchored?

If you plan to anchor to the utility pole, please provide written permission from the utility company or from the City (if poles are City-owned). Such permission is not a substitute for meeting the requirements for receiving this permit.

Size of banner(s) or item(s): 6' x 2' Vinyl Banners

Specifications of banner(s) or item(s):

Type of Material:

Number of grommets used to secure banner or item: Bracket System uses 30" fiberglass arms strapped to telephone poles with steel bands.

Sketch of banner or item design: Will you need electricity provided for your item?
If electricity is necessary, how would it be obtained:

See attached color mock-up.
No electricity will be needed.

Indemnification:

To the fullest extent permitted by law, the Applicant agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Des Moines, Iowa against any and all claims, demands, suites, or loss, including any and all outlay and expense connected therewith, by reason of personal injury, bodily injury or death, and property damage, which arises out of the Applicant erecting, displaying, maintaining and removing banner or item display.

Insurance:

A Certificate of Insurance to demonstrate compliance with these requirements shall be submitted to the City's Risk Management Office. Applicant shall purchase and maintain during the period of the banner or item display, including erection, display and removal of banner or item. General Liability Insurance with a limit of no less than \$500,000 per occurrence and/or aggregate, Automobile Liability Insurance for owned (if applicable), non-owned and hired vehicles with a limit of no less than \$500,000 per occurrence. Both the General and Automobile Liability Insurance policies shall include Contractual Liability coverage equivalent to that included in a standard ISO insurance form with the General Liability edition date being no earlier than 1998, unless otherwise approved by the City of Des Moines, Iowa. If the banner or item display is part of a special event for which a Street Use Permit is granted the insurance required for the Street Use Permit will be considered to also cover insurance otherwise required for this permit.

Applicant agrees to provide all maintenance and upkeep of the banner(s) or item(s) for the duration that the banner(s) or item(s) is in place. Banner(s) or item(s) may be removed at the expense of the applicant if required by the City.

Chris R Silwell
Signature

5-4-07
Date

Please return to City Clerk's Office
400 Robert D. Ray Drive
Des Moines, IA 50309
Phone: (515) 283-4209, Ext. 7
Fax: (515) 237-1645

FOR OFFICE USE ONLY:

Traffic Division approval: _____
Risk Management approval: _____
City Council approval: _____

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MidAmerican Energy
11510 Douglas Avenue
Urbandale, Iowa 50222

May 15, 2007

Christine Doolittle
Des Moines Art Center
4700 Grand Avenue
Des Moines, Iowa 50312-2099

Re: Installation of banners on MidAmerican Energy Company facilities on Grand Avenue

Dear Ms. Doolittle,

MidAmerican Energy Company is willing to grant the Des Moines Art Center a license to use its utility poles for double bracket banners subject to the following:

1. The facilities included in this agreement are located in the following described area:

Grand Avenue between Polk Boulevard and 45th Street

- Pole location 2 thru 5, the top of the banner must be 40" below the MidAmerican Energy's triplex wire.
 - Pole location 1 near 45th Street, the top of banner must be 12" below the lowest communication wire.
 - The attached map shows the location of the poles to be used 1 thru 5.
2. The Des Moines Art Center shall during the license period indemnify and hold harmless MidAmerican Energy, its parent, subsidiaries and affiliated companies and their agents, officers, and employees from and against any loss or damage to the facilities, all claims, actions, suits, proceedings, cost, expenses, damages and liabilities (including legal expense and including damage to property, injury to or death of any persons in any manner resulting from the use of the facilities if such liability is caused in whole or in part by using said utility poles by The Des Moines Art Center and/or in whole or in part by any act, omission or negligence of and/or its agents, officers or employees.
 3. The Des Moines Art Center shall maintain insurance of self-insure, to cover the risks specified in paragraph 2. The Des Moines Art Center will provide MidAmerican Energy with a letter of self-insurance/insurance as proof of coverage required in paragraph 2.

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Des Moines Art Center
May 15, 2007
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- 4. The Des Moines Art Center acknowledges that MidAmerican Energy Company MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, AS TO THE FITNESS, DESIGN, OR CONDITION OF THE FACILITIES OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE that MidAmerican Energy HAS AGREED TO ALLOW THE DES MOINES ART CENTER TO USE AND THAT THE UNDERSTANDS THAT THE FACILITIES ARE PROVIDED AS IS, WITH ALL FAULTS.
- 5. The agreement shall become effective on May 14, 2007 and shall continue unless terminated by either MidAmerican Energy or The Des Moines Art Center giving the other party thirty (30 days written notice of termination, or immediately without notice if The Des Moines Art Center fails to comply with any provision of this agreement.)

Enclosed are two copies of this license agreement. Please indicate your acceptance of the terms and conditions stated herein by dating and signing in the space provided below and return one original and a copy of your insurance certificate to me. If you have any questions or comments regarding this matter please call me at 252-6497.

Sincerely,
MidAmerican Energy Company



Eric C. Heikes
Distribution Technical Supervisor

Accepted and agreed to this 15 day of May 2007.

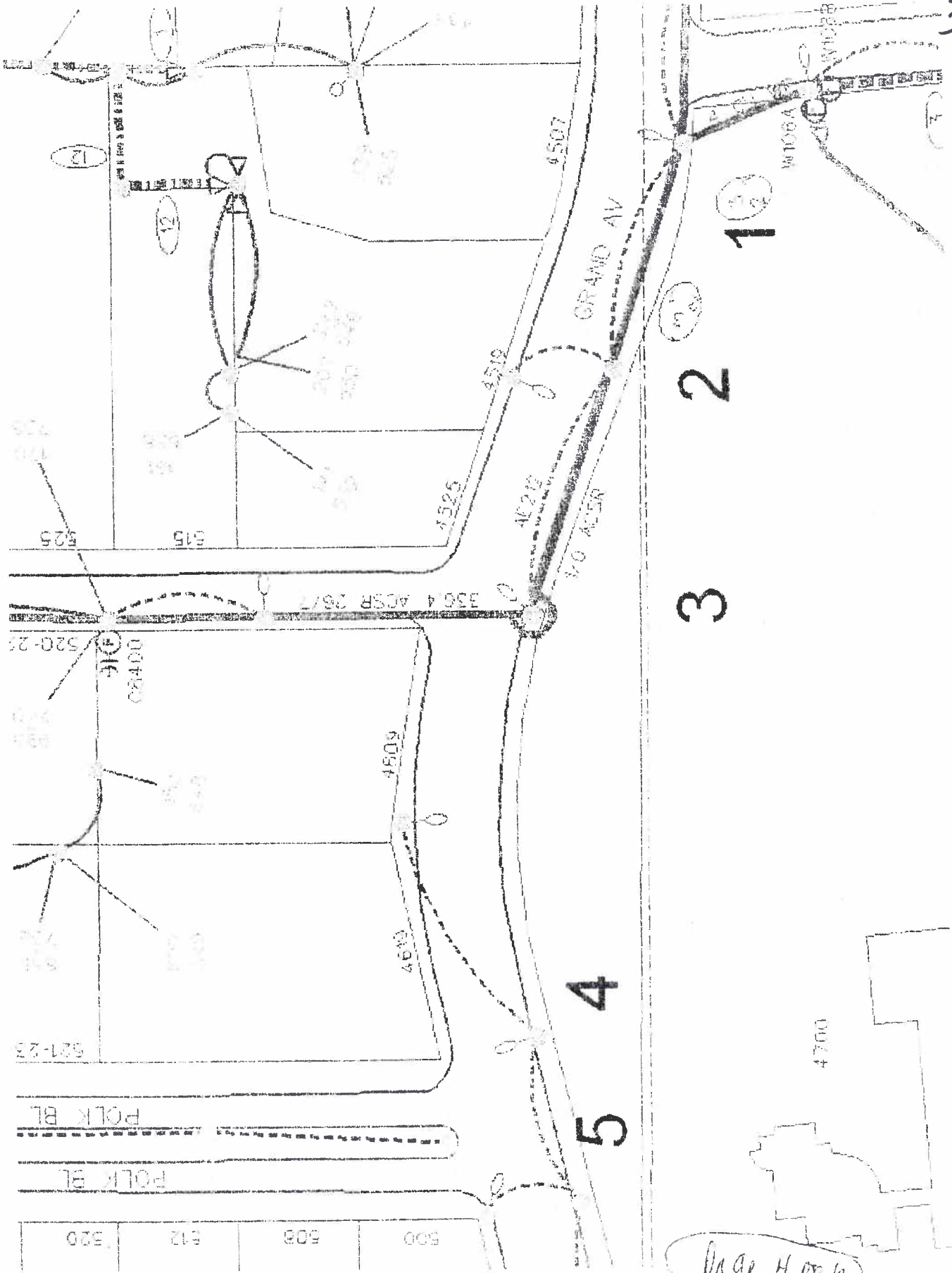
THE DES MOINES ART CENTER

By: Chris R Siawee

Title: Finance Director

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ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 05/15/2007
PRODUCER (515)457-3849 FAX (515)457-8964 Arthur J. Gallagher Risk Management Services Inc. 1415 28th Street Suite 300 West Des Moines, IA 50266		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED Edmondson Art Foundation, Inc. DBA: The Des Moines Art Center 4700 Grand Avenue Des Moines, IA 50306		INSURERS AFFORDING COVERAGE INSURER A: The Charter Oak Fire Ins Co 2 INSURER B: Travelers Prop Cas of Amer 2 INSURER C: Accident Fund Co INSURER D: INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTS INSUR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	630687B585	03/16/2007	03/16/2008	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 300,000 VED S&P (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/PROP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	8106867B586	03/16/2007	03/16/2008	COMBINED SINGLE MIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	CARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE	CUP6867B586	03/16/2007	03/16/2008	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ \$
	DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000				\$ \$
C	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	WCV5017716	03/16/2007	03/16/2008	<input checked="" type="checkbox"/> NO STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Mid-American Energy Company is additional insured with regard to installation of banners along Grand Avenue in Des Moines, IA from Polk Boulevard to 45th Street.

CERTIFICATE HOLDER	CANCELLATION
Mid-American Energy Company 10510 Douglas Avenue Urbandale, IA 50322	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE Kim Champlin/KCZ <i>Kimberlee Champlin</i>

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IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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6' x 2' Vinyl Banners with Digital Print Graphics mounted to telephone poles using a versatile banner bracket system. The bracket system uses 30" fiberglass arms that are strapped to the telephone poles with steel bands.

*alternate banners:
Your ArtCenter*

DSM ART CENTER
DGN #701030C1

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