

★ Roll Call Number

Agenda Item Number

41

Date January 10, 2011

Application from Southwest Ninth Street Merchants Association, an affiliate of the South Des Moines Chamber of Commerce requesting permission to display banners promoting the merchants along the SW 9th corridor and various south side venues annually from April 30 through October 30.

Moved by _____ to approve banner design.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

_____ City Clerk

Herzberg, Karen M.

From: Schultz, Mark J.
Sent: Wednesday, November 24, 2010 11:16 AM
To: Herzberg, Karen M.; Dakovich (Rouse), Jennifer L.
Subject: RE:

Approved.

-----Original Message-----

From: Herzberg, Karen M.
Sent: Tuesday, November 23, 2010 2:15 PM
To: Dakovich (Rouse), Jennifer L.; Schultz, Mark J.
Subject: FW:

Banner for your approval. We are going to put it on the December 6, 2010 meeting if all is okay. Please let me know.
Have a Happy Thanksgiving!

Karen

-----Original Message-----

From: Herzberg, Karen M.
Sent: Tuesday, November 23, 2010 1:20 PM
To: Herzberg, Karen M.
Subject:

This E-mail was sent from "RNPAE255F" (LD160c).

Scan Date: 11.23.2010 14:19:51 (-0500)
Queries to: LanierMFC@dmgov.org

Herzberg, Karen M.

From: Dakovich (Rouse), Jennifer L.
Sent: Wednesday, November 24, 2010 6:32 AM
To: Herzberg, Karen M.
Cc: Schultz, Mark J.
Subject: RE:

Approved by Traffic.

Jen

-----Original Message-----

From: Herzberg, Karen M.
Sent: Tuesday, November 23, 2010 2:15 PM
To: Dakovich (Rouse), Jennifer L.; Schultz, Mark J.
Subject: FW:

Banner for your approval. We are going to put it on the December 6, 2010 meeting if all is okay. Please let me know.
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Queries to: LanierMFC@dm.gov



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)

2019 NOV 9 AM 11:14
CITY CLERK
DES MOINES IA
FILED

Applicant: SOUTHWEST NINTH STREET MERCHANTS ASSOCIATION
AN AFFILIATE OF THE SOUTH DES MOINES CHAMBER OF COMMERCE

Address: C/O CRAIG KROUCH
3920 SW 9TH STREET, DES MOINES, IA 50315

Contact Person: CRAIG KROUCH Alternate Contact CHUCK METTLER

Daytime Phone: 515 222 2377 Cell Phone: 285 0085

E-Mail Address: CKROUCH@WESTBANKIWA.COM Fax: 515 2829071

Date(s) the banner(s) or item(s) will be displayed: ANNUALLY, FROM
APRIL 30th THROUGH OCTOBER 30th

Purpose of the banner(s) or item(s): PROMOTE MERCHANTS ALONG SW 9TH
STREET CORRIDOR AND PROMOTE VARIOUS SOUTHSIDE VENUES
USING 12 UTILITY POLES; BANNERS ON BOTH SIDES OF POLE.

Preferred Location: Please provide a map or diagram of the street indicating
banner location. SEE ATTACHED ALONG WITH COPY
OF MID AMERICAN ENERGY CO. LICENSE AGREEMENT

How will the banner(s) or item(s) be anchored? (SEE ATTACHED)
TOP & BOTTOM BRACKETS THAT ARE ATTACHED TO BANNERS, AND
FLEXIBLE WISPRING TENSION TO REDUCE WIND LOAD FORCES & LIGHT POLE LIABILITY.
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): 30" X 96" BANNERS (24)
WITH DESIGNS ON BOTH SIDES OF BANNERS

Specifications of banner(s) or item(s): 30" X 96" BANNERS (24)

Type of Material: VINYL; DOUBLE STITCHED WITH WIND SLITS

Number of grommets used to secure banner or item: 2-1803. GROMMETS
PER BANNER (2-BANNERS PER POLE)

Sketch of banner or item design: Will you need electricity provided for your
item? If electricity is necessary, how would it be obtained:
NO ELECTRICITY REQUIRED; SKETCH ATTACHED

Indemnification:

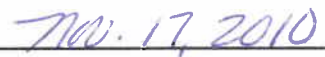
To the fullest extent permitted by law, the Applicant agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Des Moines, Iowa against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, by reason of personal injury, bodily injury 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. 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.


Signature


Date

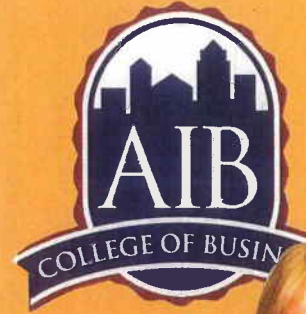
Please return to City Clerk's Office
400 Robert D. Ray Drive
Des Moines, IA 50309
Phone: (515)283-4209, Ext. 7
Fax: (515)237-2645

FOR OFFICE USE ONLY:

Traffic Division Approval: _____

Risk Management Approval: _____

City Council Approval: _____



BannerSaver Brackets

Introduction

BannerSaver™ is a patented light pole bracket which utilizes a spring tension system to keep banners in place during normal conditions and allows them to rotate as wind speed increases to reduce wind-load forces and light pole liabilities.

Independent tests, developed by TranTek Drive Systems of Traverse City, MI, were conducted to determine how much wind-load is transferred to a light pole using a variety of banner mounting devices including BannerSaver, a flexible bracket and a fixed bracket. The test apparatus simulated a light pole and was equipped with sensors to detect banner deflection and pole forces. Known wind speeds were provided by Behr America, a subsidiary of Behr GmbH and Co. KG, in a calibrated wind tunnel. The nozzle was set at a midpoint condition of 8m2, and banners were positioned 12 feet away. These conditions assured consistent air distribution to the entire profile and allowed wind speeds up to 100 mph. Forces were measured by a very precise load cell with a normal range of 0 to 500 lbs and a linearity specification of ±.0025% of full scale. Post-test wind speeds above 10 mph were certified by Behr as accurate to within 1%.

Summary

Wind tunnel tests performed using BannerSaver™ and two 30" x 60" banners showed that the wind-load never exceeded 200 lbs at wind speeds in excess of 90 mph, while other bracket systems yielded loads in excess of 500 lbs under the same conditions.

Test Procedure

- Record Static Conditions - Diagram A
- Start wind tunnel and record base wind speed, force on banner pole, and deflection. Wind speeds were held for two minutes while increasing wind speed at 10mph increments.
- Repeat procedure on comparative brackets.

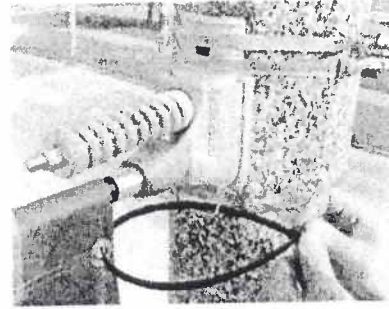
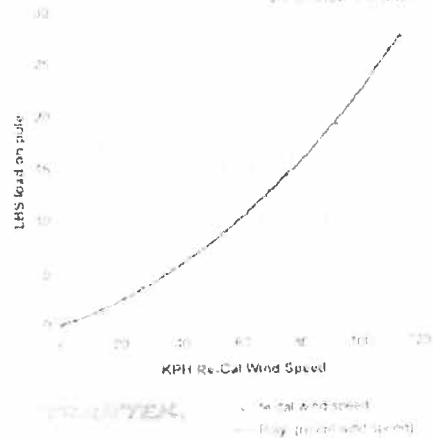
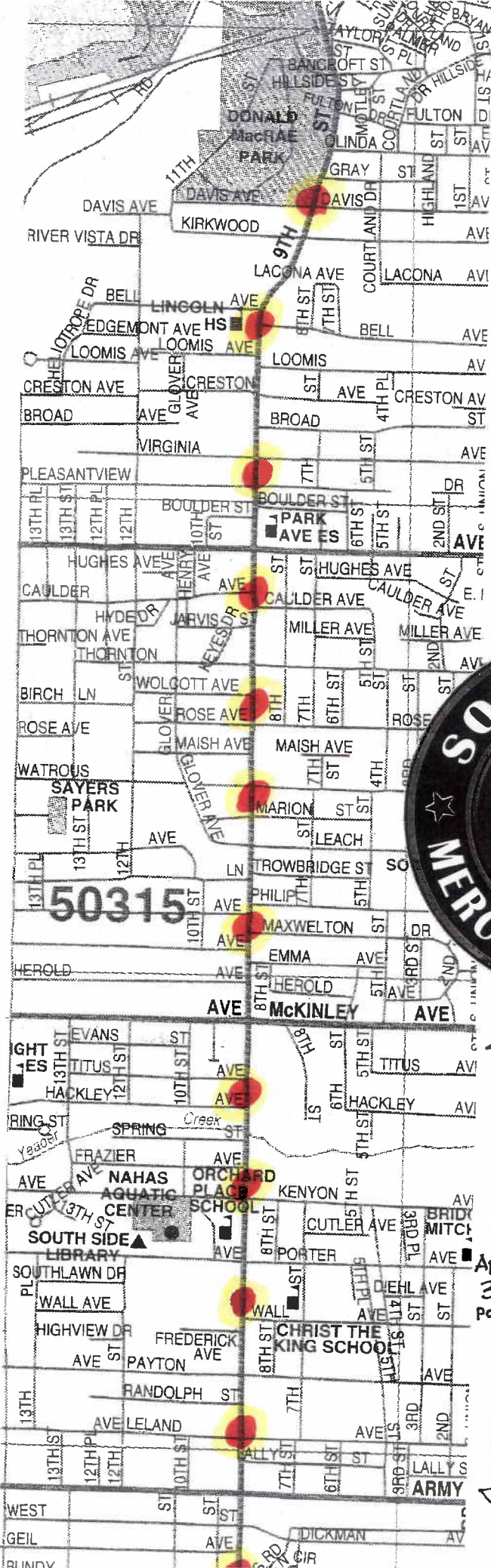


Diagram A

Load with pole on 30" x 60" flag, not
 a 30" x 60" flag, not





50315



Approx
30
POLES





MidAmerican Energy Company
666 Grand Avenue
P.O. Box 657
Des Moines, Iowa 50303-0657
515 242-4300 Telephone

November 12, 2010

Mr. Chuck Mettler
1611 Southlawn Drive
Des Moines, Iowa 50315

Re: Installation of banners on existing wood poles located along SW 9th Street, Des Moines

Dear Mr. Mettler:

MidAmerican Energy Company is willing to grant Southwest 9th Street Merchants a license to use its utility poles for single bracket banners subject to the following:

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

SW 9th Street from Wade Street to Bancroft Street

- 2. The SW 9th Street Merchants shall during the license period indemnify and hold harmless MidAmerican Energy Company, 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 SW 9th Street Merchants and/or in whole or in part by any act, omission or negligence of and/or its agents, officers or employees.
- 3. The SW 9th Street Merchants shall maintain insurance of self-insure, to cover the risks specified in paragraph 2. The SW 9th Street Merchants will provide MidAmerican Energy with a letter of self-insurance/insurance as proof of coverages required in paragraph 2
- 4. The SW 9th Street Merchants 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 SW 9th STREET MERCHANTS TO USE AND UNDERSTANDS THAT THE FACILITIES ARE PROVIDED AS IS, WITH ALL FAULTS.

5. The agreement shall become effective on April 1, 2011 and shall continue unless terminated by either MidAmerican Energy Company or SW 9th Street Merchants giving the other party thirty (30 days written notice of termination, or immediately without notice if SW 9th Street Merchants fails to comply with any provision of this agreement.)

Enclosed are two (2) 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 (1) original and a copy of your insurance certificate to me. If you have any questions or comments regarding this matter, please call me at (515) 252-6497.

Sincerely,
MidAmerican Energy Company



Eric Heikes
Distribution Engineering Supervisor

Accepted and agreed to this 17 day of Nov., 2010.

SW 9th Street Merchants

By: Craig Kouch

Title: President

**HOLD HARMLESS AGREEMENT AND EVIDENCE OF INSURANCE
COVERAGE FOR THE CONSTRUCTION, ERECTION, MAINTENANCE AND
REMOVAL OF STREET BANNERS IN
CITY OF DES MONES RIGHT-OF-WAY**

*Southwest Ninth Street
MERCHANTS ASSOC AFFILIATED
with SDMC Chamber*

The undersigned, as an authorized representative of _____, acknowledges that the organization is a recognized group or association by the City of Des Moines, Iowa, or is a tax-exempt organization under Section 501 (c) (3) of the United States Internal Revenue Code.

On behalf of the organization or association, the undersigned states that the street banners which are the subject of this Agreement shall be placed in an area generally described as:

ALONG THE SOUTHWEST NINTH STREET
CORRIDOR, FROM WADE STREET TO
BANCROFT STREET USING 12 UTILITY POLES

The organization or association acknowledges and agrees that it will solely provide for the construction, erection, maintenance and removal of street banners and that the City of Des Moines, its employees, agents and assigns shall have no obligation or responsibility whatsoever for the construction, erection, maintenance and removal of the street banners.

The undersigned acknowledges that any and all activity undertaken by any officer, agent, employee, volunteer and/or assign of the organization or association related to the placement of street banners and associated activity in City owned right-of-way pursuant to authorization of the City of Des Moines, Iowa given in Resolution Number 99-991 dated April 5, 1999 is done solely on behalf of the organization or association and that the undersigned, on behalf of the organization or association, releases and holds the City of Des Moines, Iowa, its officers, agents, employees and assigns harmless from any and all damages which may be asserted, claimed, or recovered against the City of Des Moines, Iowa, its officers, agents, employees and assigns by reason of property damage and/or personal injury, including bodily injury, which arises out of or which is in any way connected or associated with the activity undertaken for the construction, erection, maintenance and removal of the street banners from City owned right-of-way.

The organization or association assumes full responsibility for any and all damages or injuries which may result to any person or property by reason of or in connection with the activities undertaken by or on behalf of the organization or association.

The undersigned further acknowledges that any and all officers, agents, employees, volunteers and/or assigns of the organization or association are not employees or contractors of the City of Des Moines, Iowa and are exempt from the coverage (s) provided by Code of Iowa, Chapters 85, 85A, 85B and any succeeding legislation, and that such individuals shall have no right to make a claim for or receive any compensation from the City of Des Moines, Iowa as provided by Code of Iowa Chapters 85, 85A, 85B or any succeeding legislation.

The organization or association represents that it has the approval of Mid-American Energy Company to erect street banners on utility or like-poles within the designated area, and that the above-named organization or association has liability insurance (Policy Name and Number EMC INSURANCE, POLICY # NPP6003418) in full force and effect which names the organization or association, and as an additional insured, the City of Des Moines.

The undersigned further represents that the liability insurance will remain in full force and effect during the period the street banners are located in City owned right-of-way and agrees that upon expiration, termination or otherwise of the liability insurance coverage, or if any of the terms of this Agreement cannot or are not met, the authority of the organization or association to have the street banners placed in City owned right-of-way will immediately terminate and the banners will be removed.

This Hold Harmless Agreement and Evidence of Insurance Coverage is executed on this 17 day of NOVEMBER, 2010 on behalf of and by the authority of SOUTHWEST NINTH STREET MERCHANTS ASSOC.

Craig Kneuch, Pres.
Authorized Representative



CERTIFICATE OF LIABILITY INSURANCE

OP ID MK
SOUTH02

DATE (MM/DD/YYYY)

08/25/10

PRODUCER Jester Insurance Services, Inc 303 Watson Powell, Jr. Way P. O. Box 4779 Des Moines IA 50305-4779 Phone: 515-243-2707 Fax: 515-243-6862	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.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED South Des Moines Chamber of Commerce 100 E Grand Ave Ste 100 Des Moines IA 50309	INSURER A: Cincinnati Insurance Company	10677
	INSURER B: Employers Mutual Casualty	21415
	INSURER C:	
	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.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	NPP 600 34 18	01/12/08	01/12/11	EACH OCCURRENCE	\$ 1000000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100000
						MED EXP (Any one person)	\$ 5000
						PERSONAL & ADV INJURY	\$ 1000000
						GENERAL AGGREGATE	\$ 2000000
						PRODUCTS - COMP/OP AGG	\$ 2000000
		AUTOMOBILE LIABILITY <input 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				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	3Y6-70-15-11	01/01/10	01/01/11	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
						E.L. EACH ACCIDENT	\$ 1000000
						E.L. DISEASE - EA EMPLOYEE	\$ 1000000
						E.L. DISEASE - POLICY LIMIT	\$ 5000000
A		Commercial Applica	NPP 600 34 18	01/12/08	01/12/11		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Certificate holder is listed as an additional insured with the governmental immunity endorsement

CERTIFICATE HOLDER DESMOIN City of Des Moines 400 Robert D Ray Drive Des Moines IA 50309	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
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**EXHIBIT A
INSURANCE**

INSURANCE. (A) MidAmerican intends that this License shall also be one of indemnity, and that such indemnification shall be covered by insurance. Accordingly, Licensee shall insure the risks with the minimum coverage and limits as shown below:

1. Workers' Compensation

- (a) State: Statutory coverage for all employees including officers, partners, and sole proprietors.
- (b) Applicable Federal (e.g. longshoreman, harbor work, work at or outside U.S. boundaries): Statutory.
- (c) Employer's Liability
 - \$100,000 Each Accident
 - \$500,000 Disease - Policy Limit
 - \$100,000 Disease - Each Employee

2. Commercial General Liability (including Premises & Operations, Products and Completed Operations, Contractual, Broad Form Property Damage, Independent Contractors, Personal Injury with Employment Exclusion Deleted). Written on an occurrence basis (not Claims made).

- (a) Bodily Injury and Property Damage

Combined Single Limit:	\$1 million each occurrence
	\$1 million general aggregate
- (b) Contractual Liability

Combined Single Limit:	\$1 million each occurrence
(including/not limited to indemnification in paragraph 6)	\$1 million aggregate
- (c) Personal Injury with Employment Exclusive Deleted:

\$1 million aggregate

3. Comprehensive Automobile Liability (Owned, Hired and Non-Owned)

- | | |
|-----------------------------|-----------------------------|
| Bodily Injury | \$500,000 each person |
| | \$500,000 each accident |
| Property Damage | \$500,000 each occurrence |
| Or, a Combined Single Limit | \$1 million each occurrence |

EXHIBIT A
Page 2 of 2

- (B) Licensee shall provide for the naming of MidAmerican Energy Company as an additional insured, at Licensee's expense, for all liability coverage's. To satisfy the insurance provisions, the Licensee must submit a certificate of insurance signed by the insurer prior to commencement of work, for approval. With the exception of Workers Compensation and Employers Liability coverage's, policies of insurance to be secured and maintained by the Licensee shall provide, by endorsement, that the Company is named as an additional insured, and further that the Company shall be provided at least thirty (30) days prior written notice before cancellation of any policies required herein, and all shall

be stipulated on the certificates of insurance required by this section. Licensee further agrees that it will have such policy(ies): endorsed to name MidAmerican Energy Company as an additional insured with respect to Licensee's coverage (with coverage to MidAmerican at least as broad as that which is provided to the named insured and not lessened or avoided by endorsement); written to expressly provide that coverage thereunder shall be primary (i.e. not excess) under all circumstances as respects any other insurance available to MidAmerican Energy Company. For those insurance coverage's whereby the Company is required to be named as an additional insured, the Licensee shall at any time requested by the Company prior to or during the term of the Work or this Agreement, deliver to the Company certified copies of any and all insurance policies so requested. Further, should a loss arise after final acceptance that may give rise to a claim against the Licensee, and/or the Company as additional insured, the Licensee shall deliver to the Company, or shall cause its insurers or agents to deliver, certified copies of the policies maintained during the term of the Work or this Agreement, if so requested by the Company.

(C) In the event the policy form, the amount of the insurance or the insurer is not satisfactory to MidAmerican, Licensee shall provide insurance that is satisfactory to MidAmerican. Licensee shall not cause any such policy of insurance to be canceled or permit it to lapse, and all policies and certificates shall not be subject to cancellation or to a reduction in the required limits of liability or amounts of insurance until notice has been mailed to MidAmerican, stating when, not less than thirty (30) days thereafter, such cancellation or reduction shall be effective.

(D) Termination of this License by either party for any reason whatsoever, shall not affect any obligation with respect to work performed prior to such termination, or the indemnity or insurance provisions contained herein.