

**COUNCIL ACTION FORM**

**SUBJECT: RESOLUTION ACCEPTING AN AMENDMENT TO UTILITY RIGHT OF WAY PERMIT AND EASMENT AT 1817 EAST LINCOLN WAY**

**BACKGROUND:**

In 2012, the property at 1817 East Lincoln Way was affected by the placement of a large electric pole that was installed with the 131Kv line project. The new electric pole placement now blocks the view of the existing business sign on the property. The electric easement runs along the eastern boundary of the property and a utility easement runs along East Lincoln Way (south frontage). Since the current sign has been obstructed, the City would like to allow for placement of a sign in the existing utility easement area.

The current sign is located in an existing utility right of way permit and easement that was granted to the City in March 1990. Amending the utility easement would allow for the erection of a new sign in this area with the permission of the City and an approved sign permit application. This amendment is consistent with the recent electric easement on the east side of the property that was acquired in 2012. A map of the easement areas and the amended easement document are in Attachment A.

**ALTERNATIVES:**

1. Accept the amended easement at 1817 East Lincoln Way.
2. Reject the easement agreement.

**MANAGER'S RECOMMENDED ACTION:**

By amending the easement, the property owner will be allowed to erect a sign in the area, but only with approval of the City as well as an approved sign permit application. Placement of the sign will not interfere with use of the easement.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as stated above.



Geographic Information System (GIS) Product Disclaimer: City of Ames GIS map data does not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership & land use nor does it replace field surveys of utilities or other features contained in the data. All features represented in this product should be field verified. This Product is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for use rests solely on the User.



Attachment A  
1817 E. Lincoln Way  
Area Map



Scale: 1 in = 50 ft  
Date: 8/17/2015

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**DO NOT WRITE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Jessica D. Spoden, Legal Dept., City of Ames, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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**AMENDED UTILITY RIGHT OF WAY PERMIT AND EASEMENT**

This document amends the Utility Right of Way Permit and Easement filed as Instrument No. 05881 on March 14, 1990, in the office of the Story County Recorder.

THE UNDERSIGNED, Ely's 1817 E. Lincoln Way Property, L.C. and Hested Cornwell, L.C. (hereinafter called Grantors), their successors and assigns, for good and valuable consideration, receipt of which is hereby acknowledged, do grant to the City of Ames, Iowa, a municipal corporation (hereinafter called Grantee), its successors and assigns, the perpetual right to construct, reconstruct, maintain and use a storm sewer, sanitary sewer, water and electric lines, consisting of poles, wires, cables, conduits, fixtures, anchors and other similar equipment, including the right to trim or remove trees within such area where necessary to secure a clearance of 4 feet from the wires or poles, and a right of access for equipment and vehicles, together with the right to extend to telephone, telegraph, television or gas companies the right to use separately or jointly with the City of Ames the areas included in this easement for the purposes above enumerated, over, upon, across or under the following described real estate, situated in the county of Story, state of Iowa, to-wit:

Beginning at a point 672.5' east and 63' north of the SW cor. SE $\frac{1}{4}$  Sec. 1 T83N R24W of the 5<sup>th</sup> P.M. Story County, Iowa; thence east 168'; thence north 50'; thence west 168'; thence south 50' to the point of beginning.

It is further promised by Grantors that there shall be no construction or erection of any building or structure on the described land or at any other place where any part of such structure will be closer to the said wires, conduits, cables, etc., than is allowed by the National Electric Safety Code, ANSIC-2 or over a gas, water or sewer main. Fences and materials storage is permitted, but removal will be on prompt request of the Grantee for exercise of rights herein stated. Installation of signage is permitted, but requires prior consent of the Grantee and an approved permit through the City of Ames, and removal will be on prompt request of the Grantee for exercise of rights herein stated. Grantee shall not be responsible for any damage caused to any fence, material storage, or signage due to the exercise of rights herein stated.

The foregoing rights are granted upon the express condition that the City of Ames will assume responsibility for all damage to the above described property caused by the City's failure to use due care in the exercise of its granted right.

Dated this 13<sup>th</sup> day of August, 2015.

GRANTOR

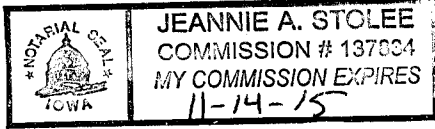
**Ely's 1817 E. Lincoln Way Property, L.C.**

Mildred E. Ely  
Mildred E. Ely

STATE OF IOWA, COUNTY OF STORY, ss:

This instrument was acknowledged before me on August 13, 2015, by Mildred E. Ely, owner of Ely's 1817 E. Lincoln Way Property, L.C.

Jeannie A. Stolee  
Notary Public in and for the State of Iowa



GRANTOR

**Hested Cornwell, L.C.**

James E. Cornwell  
James Cornwell

Gary Hested  
Gary Hested

Mike Frisk  
Mike Frisk

STATE OF IOWA, COUNTY OF STORY, ss:

This instrument was acknowledged before me on August 13, 2015, by James E. Cornwell, Gary Hested, and Mike Frisk, owners of Hested Cornwell, L.C.

Jeannie A. Stolee  
Notary Public in and for the State of Iowa

