

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>LISA KRAGNES, et al</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>CITY OF DES MOINES, IOWA,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Equity No. 49273</p> <p style="text-align: center;"><b>PLAINTIFF'S SECOND AMENDED EXHIBIT LIST</b></p>
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**COMES NOW** the Plaintiff, Lisa Kragnes, on behalf of herself and all class members, and hereby submits the following as Exhibits in the above-captioned action:

Ex. No.	Description of Exhibit	Admitted
Book 1		
1.	Ord. No. 6280 dated 5/4/1987 establishing 1% Electric Franchise Fee	<b>X</b>
2.	Ord. No. 6281 dated 5/14/1987 establishing Varying 2% to 1% Gas Franchise Fee	<b>X</b>
3.	Ord. No. 14,341 dated 8/27/04 establishing 3% Electric franchise fee as of 9/1/04	<b>X</b>
4.	Ord. No. 14,342 dated 8/27/04 establishing 3% Gas Franchise Fee as of 9/1/04	<b>X</b>
5.	Res. No. 05-766 dated 3/28/05 establishing 5% Electric Franchise Fee as of 6/1/05	<b>X</b>
6.	Res. No. 05-765 dated 3/28/05 establishing 5% Gas Franchise Fee as of 6/1/05	<b>X</b>
7.	Spreadsheet as to amounts of electric and gas franchise fees received by DSM for the period of this case to this point	<b>X</b>
8.	Kragnes v City of Des Moines, 714 N. W. 2d 632 (Iowa 2006)	<b>X</b>
9.	Report of Kevin McRoberts of McRoberts & Associates dated August 11, 2008, with CV of qualifications	<b>X</b>
10.	Report of Jim Rock of Ames Story Tree Service dated August 14, 2008, with CV of qualifications	<b>X</b>
11.	Map of Des Moines Used by Majors and Rock with Survey parcels shown	<b>X</b>

12.	Pictures from Jim Rock survey	<b>X</b>
13.	Report of Dr. David Frankel of Cambridge Economics Group, dated August 21, 2008, with CV of qualifications	<b>X</b>
14.	Report of Charles Finch of Alvarez & Marsal dated August 14, 2008, with CV of qualifications	<b>X</b>
15.	Various City of Des Moines General Ordinances	<b>X</b>
Book 2		
16.	Plat for 2931 Rutland, property previously owned by Lisa Kragnes	<b>X</b>
17.	Plat for 2007 46 <sup>th</sup> Street, property currently owned by Lisa Kragnes	<b>X</b>
18.	2931 Rutland - Polk County Assessor and Treasurer printout from website	<b>X</b>
19.	2007 46 <sup>th</sup> Street – Polk County Assessor and Treasurer printout	<b>X</b>
20.	2003-2004 Polk County Tax rates	<b>X</b>
21.	2004-2005 Polk County Tax rates	<b>X</b>
22.	2005-2006 Polk County Tax rates	<b>X</b>
23.	2006-2007 Polk County Tax rates	<b>X</b>
24.	2007-2008 Polk County Tax rates	<b>X</b>
25.	Estimate of 2004/2005 Taxes for 2007 46 <sup>th</sup> Street	<b>X</b>
26.	Estimate of 2005/2006 Taxes for 2007 46 <sup>th</sup> Street	<b>X</b>
27.	Estimate of 2006/2007 Taxes for 2007 46 <sup>th</sup> Street	<b>X</b>
28.	Estimate of 2007/2008 Taxes for 2007 46 <sup>th</sup> Street	<b>X</b>
29.	Portion of Video Tape of 5/25/04 Council Meeting	
30.	Portion of Video Tape of 6/7/04 Council Meeting	
30A.	Portion of Video Tape of 6/21/04 Council Meeting	
31.	Portion of Video Tape of 7/12/04 Council Meeting	

32.	Portion of Video Tape of 2/28/05 Council Meeting	
33.	Portion of Video Tape of 3/7/05 Council Meeting	
34.	Portion of Video Tape of 3/28/05 Council Meeting	
35.	Portions of City Manager Communication, Summary and Budget for Fiscal Year Ending 2005	<b>X</b>
36.	Portions of City Manager Communication, Summary and Budget for Fiscal Year Ending 2005	<b>X</b>
37.	Portions of City Manager Communication, Summary and Budget for Fiscal Year Ending 2006	<b>X</b>
38.	DSM 071808 Franchise Fee Excel Sheet – Annual Mgmt Fee	<b>X</b>
39.	Franchise Fee Options – Des Moines Estimated Revenues by Customer Class dated 5/6/04	<b>X</b>
Book 3		
40.	Franchise Fee Summary dated 5/7/04	<b>X</b>
41.	Email from Eric Anderson dated 5/16/04 with attached Des Moines Initiative to Increase City Franchise Fees – Communications Strategy and Plan	<b>X</b>
42.	Email from Mark Rothert dated 5/17/04 with attached Franchise Fee (Electricity & Gas) Summary	<b>X</b>
43.	Email from Mark Rothert dated 5/18/04 with attached information on proposal increase re Gas and Electricity Franchise Fee	<b>X</b>
44.	Email from Mark Rothert dated 5/24/04 with attachments: Police Needs Assessment; Library Needs Assessment; and Fire Needs Assessment	<b>X</b>
45.	Council Communications – City Manager’s Office dated 5/25/04 re approving ordinance amending Gas and Electric Franchise	<b>X</b>
46.	Summary of Des Moines City Council Meeting dated 5/25/04	<b>X</b>
47.	Email from Todd Raba dated 5/28/04 with attachments re revised franchise ordinances	<b>X</b>
48.	Email from Mike Matthes dated 6/2/04 re franchise fees information	<b>X</b>
49.	Council Communication – City Manager’s Office dated 6/7/04 re approving ordinance amending Gas and Electric Franchise	<b>X</b>

50.	Proposed Franchise Fee	<b>X</b>
51.	Summary of Des Moines City Council Meeting dated 6/7/04	<b>X</b>
52.	Email from Diane Rauh dated 6/11/04 with attached Affidavits of Publication	<b>X</b>
53.	Email from Mark Rothert dated 6/11/04 with attached Ordinance No. 14,342	<b>X</b>
54.	Email from Sara Schillinger dated 6/15/04 re Des Moines Water Works Billing Summary Info	<b>X</b>
55.	Email from Mark Rothert dated 6/17/04 re Iowa Cities with Franchise Fees	<b>X</b>
56.	Electricity & Gas Franchise Fees – Recommendations & Proposed Use of Revenue dated 6/21/04	<b>X</b>
57.	Summary of Des Moines City Council Meeting dated 6/21/04	<b>X</b>
58.	Email from Barbara Ashton dated 6/30/04 re Franchise fee follow-up information	<b>X</b>
59.	Email from David Caris dated 6/30/04 re Franchise Fee Communications	<b>X</b>
60.	Email from Christopher Coleman dated 7/7/04 re Franchise fee comments	<b>X</b>
61.	Letter to Council members dated 7/9/04 re Responses to Council Policy Workshop Questions	<b>X</b>
62.	Emails and letters against franchise fee	<b>X</b>
63.	Des Moines Register article “D.M. considers utility fee rise” dated 5/26/04	
64.	Des Moines Register article “City’s plan to hike utility bills is a tax scam” dated 6/3/04	<b>X</b>
65.	Des Moines Register article “Plan to raise D.M. utility fees moves ahead” dated 6/8/04	
66.	Des Moines Register article “Schools escape utility fee rise” dated 6/22/04	<b>X</b>
67.	Summary of Des Moines City Council Meeting dated 7/12/04	<b>X</b>
68.	Res. No. 04-1471 dated 7/12/04 recommending allocation of gas and electric franchise fee revenue with details of net increase in revenues	<b>X</b>
69.	Email from Mike Matthes dated 7/21/04 re Franchise fee-what to do	<b>X</b>

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70.	Email from Todd Raba dated 7/28/04 with attached lawsuit against the City claiming the utility franchise fee is illegal	<b>X</b>
71.	Email from Eric Anderson dated 7/29/04 re franchise fee rebate	<b>X</b>
72.	Email from Amelia Hamilton-Morris dated 8/5/04 with attached message from City Manager Eric Anderson re franchise fee revenues	<b>X</b>
73.	Email from Tina Beert dated 8/5/04 re DSM Contact	<b>X</b>
74.	Email & Attachment from Gretta Knight dated 8/17/04 re DSM Franchise Fee Insert	<b>X</b>
75.	Franchise Fee First Quarter Update dated 1/12/05	<b>X</b>
76.	Summary of Des Moines City Council Meeting dated 3/28/05	<b>X</b>
77.	Notice of Public Hearing – Amendment of Current City Budget dated 2/28/05	<b>X</b>
78.	Notice of Public Hearing – Budget Estimate dated 3/7/05	<b>X</b>
79.	Sample residential and commercial bills showing assessment of franchise fees	<b>X</b>
80.	Sample “Friendly Reminder” billing	<b>X</b>
81.	Sample Disconnect Notice	<b>X</b>
82.	Sample Door Hanger re disconnection	<b>X</b>
83.	Various MEC Electric Tariff Rules as to Nonpayment and disconnection	<b>X</b>
84.	Various MEC Gas Tariff Rules as to Nonpayment and disconnection	<b>X</b>
85.	Iowa Utilities Board Monthly Moratorium Report from July 1999 through September 2008	<b>X</b>
85A	MEC Reports as to DSM disconnections	<b>X</b>
Book 4		
86.	Public Right-of-Way Cost Recovery Plan, Mid-America Regional Council, May 1998, Final Draft	
87.	City of Des Moines, Iowa 2007 CIP Budget	

88.	August 2007 Springsted Letter	
89.	Springsted 1999 letter re US West Communications, et al v. City of Coralville	<b>X</b>
90.	Public Right-of-Way Cost Recovery Plan, Iowa League of Cities, Iowa Association of Municipal Utilities, and Iowa State Association of Counties, August 1998	<b>X</b>
91.	Right-of-Way Management Survey October 2006	<b>X</b>
92.	General Conditions Contract Index	
93.	Forestry Services Work Special Conditions	
94.	Forestry Services Work Technical Specifications	
95.	Sample Waiver of Mechanics Lien	
96.	Anticipated Labor and Equipment Requirements	
97.	MidAmerican Energy and MidAmerican Energy Holdings Company Contractor Anti-Drug and Alcohol Misuse Policy	
98.	Contract Agreement	
99.	Airport Crossroads Subdivision Final Plat	<b>X</b>
100.	Woods on the River Plat 7 Final Plat	<b>X</b>
101.	City of Des Moines Annual Budget 2007-08	<b>X</b>
Book 5		
102.	City of Des Moines Adopted Budget for the Fiscal Year Ending June 30, 2009	<b>X</b>
103.	Tree Species Ratings	<b>X</b>
104.	Guide for Plant Appraisal	<b>X</b>
Book 6		
105.	Iowa Administrative Code 1999, Chapter 25 – Iowa Electrical Safety Code	<b>X</b>
106.	Community Trees	<b>X</b>

107.	MEC –Tree Trimming and Planting	
108.	Iowa Utilities Board 5/23/08 News and Information on Tree trimming	
109.	Portion of the Lineman’s and Cableman’s Handbook	
110.	Tree Care Information -- Avoiding Tree & Utility Conflicts	<b>X</b>
111.	DSM 2006-07 Disposition Report (Utility Reduction)	<b>X</b>
112.	DSM 2007-08 Disposition Report (Utility Reduction)	<b>X</b>
113.	DSM City Council Policy – Vacated Alleys Streets and other Excess Property	<b>X</b>
114.	DSM Franchise Fee Vendor Totals	<b>X</b>
115.	DSM Sample Deed	<b>X</b>
116.	ROW Reports	<b>X</b>
117.	Contract Agreement between MidAmerican and Wright Tree Service dated 12/19/05 with Attachments A – F and Contract Work Definitions	<b>X</b>
118.	DSM District 2003-2008	<b>X</b>
119.	DSM District 2003-2008 (2) Subtotals	<b>X</b>
120.	Emails from MEC to DSM as to trees trimmed and to BHS as to same issue	<b>X</b>
121.	City of Hawarden v US West, 590 N.W.2d 504 (Iowa 1999)	
122.	City of Coralville v. Iowa Utilities Board, 750 N.w.2d 523 (Iowa 2008)	
123.	City of Coralville v MidAmerican, 2008 Iowa Sup, Lexis 80 (Iowa 2008)	
124.	Email from Bruce E. Bergman to Mark A. Rothert dated May 11, 2004	<b>X</b>
125.	Defendant’s Answers to Plaintiff’s Interrogatories	<b>X</b>
126.	Deposition of Eric Anderson	<b>X</b>
126A.	Videotape	<b>X</b>

127.	Electricity and Gas Franchise Fee Information sheet	<b>X</b>
128.	Email from Mike Matthes to Christine Hensley dated 7/12/04	<b>X</b>
129.	Article from The Des Moines Register titled “D.M. OKs smaller utility fee increase” dated 7/13/04	<b>X</b>
130.	Article from The Des Moines Register titled “City gives companies franchise fee breaks” dated 3/28/08	<b>X</b>
131.	Article from The Des Moines Register titled, “Franchise fee ruling lands D.M. in \$40 million limbo” (undated)	<b>X</b>
132.	USPAP documents.	<b>X</b>
133.	American National Standard for Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices (Pruning)	<b>X</b>
134.	MEC Tree Vegetation Plan	<b>X</b>
135.	Pages from Dictionary of Real Estate Appraisal	<b>X</b>
136.	Excerpt from Real Estate Dictionary	<b>X</b>
137.	Excerpt from Real Estate Dictionary	<b>X</b>
138.	Assessment & Valuation of Property	<b>X</b>
139.	City Council Agenda Item 55 dated 1-6-03	<b>X</b>
140.	Legislative Guide to Local Property Tax	<b>X</b>
141.	City Council Agenda Item 62 dated 7-9-07	<b>X</b>
142.	Polk/DSM Assessor’s 206 Report of Actual Values Subject to Partial Exemption	<b>X</b>
143.	Polk/DSM Assessor- Annual Report Exempt Property – 2006	<b>X</b>
144.	Charted Diagram of Street and Border Right-of-Way	<b>X</b>
145.	Service Agreement Between MidAmerican Energy and City of DSM dated 7-12-04	<b>X</b>
146.	GIS -Aerial view photos of Des Moines Streets	<b>X</b>
147.	Hand-drawn diagram showing Border Right-of-Way	<b>X</b>

148.	Properties from Des Moines from Des Moines Assessors website.	<b>X</b>
149.	Iowa Code 480 A	<b>X</b>
150.	CD containing confidential documents from Springstead.	<b>X</b>
151.	Chart drawing – Calculation by Chuck Finch	<b>X</b>
152.	Chart drawing – Tree calculation by Chuck Finch	<b>X</b>
153.	Pages from Chuck Finch’s PowerPoint: Exhibit 2 and Exhibit 12	<b>X</b>
154.	Power Point Presentation of Dr. Frankel	<b>X</b>
155.	Deposition of Archie Brooks	<b>X</b>

Plaintiff reserves the right to enter any of the following into evidence as exhibits:

- A. Any exhibit necessary to refute or respond to unanticipated evidence offered by another party.
- B. Any exhibit listed by another party to which Plaintiff does not object.
- C. Any exhibit necessary for impeachment purposes.
- D. Any exhibit or document referenced in appropriate deposition testimony.
- E. Any document relied upon or considered by any expert, to which Plaintiff does not object.

Respectfully submitted,

By: /s/Brad Schroeder

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By: \_\_\_\_\_  
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ATTORNEY FOR PLAINTIFF

**ORIGINAL FILED.**

**CERTIFICATE OF SERVICE:**

A **COPY** of the foregoing has been mailed this 28th day of October, 2008, to the following:

Mark Godwin Deputy City Attorney City Hall 400 East First Street Des Moines, IA 50309 ATTORNEY FOR DEFENDANT	Judge Joel D. Novak Polk County Courthouse 500 Mulberry Des Moines, Iowa 50309
Joan Johnson 3501 Westown Parkway West Des Moines, IA 50266 Attorney for Iowa Realty and Prudential	Laurie Schellhase 2800 Payne Road Des Moines, IA 50310 Pro Se
Joseph B. Bertroche, Sr. 4044 S.E. 14 <sup>th</sup> Street Des Moines, IA 50320-1673	



By: \_\_\_\_\_