



WEST DES MOINES WATER WORK BOARD OF TRUSTEES MEETING COMMUNICATION

ITEM:**DATE:** October 16, 2017

5. Recommendations from Committees
 - b. Customer and Community Relations
 1. Resolution – Adopting Resolution for Maintenance of Bridgewood Boulevard Medians between Jordan Creek Parkway and 81st Street and Authorizing Chair to Execute Agreement

FINANCIAL IMPACT:

Increase in no-cost water supplied for seasonal irrigation of medians now maintained by City of West Des Moines (City), in accordance with existing 28E. The maximum monthly credit amount is \$581.70 based on 2017 irrigation rates.

SUMMARY:

Approving the agreement will provide for five years of a calculated water credit to the Bridgewood Homeowner's Association (HOA) for portions of an irrigated median system that transferred from the HOA to City responsibility. The agreement can be terminated by the Water Works, City or HOA at any time prior to the five year expiration of the agreement. The amount of water credited will be 7% of the monthly metered irrigation bill with a maximum of 105,000 gallons per month.

BACKGROUND:

On May 15, 2017 the City assumed responsibility for maintenance of three landscaped medians along Bridgewood Boulevard from Jordan Creek Parkway to 81st Street. An irrigation system is currently in place which serves large areas of land owned and maintained by the HOA and the three medians that have transitioned to city responsibility. The manner in which the irrigation system was originally installed makes it difficult and costly to reconfigure with a separate irrigation meter to the medians. The following agreement allows for a portion of the irrigation water billed to the HOA to be credited based on flow testing performed by city staff earlier this summer.

RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To adopt the resolution for maintenance of Bridgewood Boulevard medians between Jordan Creek Parkway and 81st Street and authorizing Chair to execute agreement.

Prepared by: _____

Approved for Content by: _____

**A RESOLUTION FOR MAINTENANCE OF BRIDGEWOOD BOULEVARD MEDIANS
BETWEEN JORDAN CREEK PARKWAY AND 81ST STREET**

WHEREAS, management of the West Des Moines Water Works (Water Works) is vested in the Board of Trustees, and

WHEREAS, on May 15, 2017 the City of West Des Moines (City) assumed responsibility for maintenance of the previously private owned medians on Bridgewood Boulevard, and

WHEREAS, there is currently a water irrigation system in place that services the Bridgewood Boulevard Medians and Bridgewood Home Owners Association (HOA) development, and

WHEREAS, the City currently receives water at no-cost through a Chapter 28E agreement with Water Works, which applies to the irrigation water used on the now City maintained medians, and

WHEREAS, City staff and irrigation professionals performed water flow testing of the HOA and medians to determine the percentage of irrigation water used on City maintained medians for the purpose of determining a billing credit, and

WHEREAS, the calculated monthly credit will be 7% of the monthly HOA irrigation billing, up to a maximum of 105,000 gallons per month, and

WHEREAS, the agreement between the Water Works, City and HOA shall expire on December 23, 2023 unless terminated prior to expiration by any party. Upon termination or expiration the credit to the HOA for irrigation of the medians will no longer be applied and the HOA shall be billed for all water which passes through the HOA irrigation meter.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES
OF THE WEST DES MOINES WATER WORKS, AS FOLLOWS:**

That the Chair is authorized to execute an agreement between the Water Works, City and Bridgewood HOA for Maintenance of Bridgewood Boulevard Medians between Jordan Creek Parkway and 81st Street.

PASSED AND APPROVED this 16th day of October, 2017

BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

Karen Novak Swalwell
Chair

Attest:

Diana Wilson
Secretary

Prepared by: Jason B. Wittgraf, Assistant City Attorney, PO Box 65320, West Des Moines, IA 50265-0320 (515) 222-3613
Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

SPACE ABOVE THIS LINE FOR RECORDER

**City of West Des Moines, Iowa
West Des Moines Water Works
Bridgewood Association, Inc.
Maintenance of Bridgewood Boulevard Medians
Between Jordan Creek Parkway and 81st Street**

WHEREAS, pursuant to the Bridgewood Planned Unit Development (hereinafter referred to as “Bridgewood PUD”), Bridgewood Association, Inc., an Iowa non-profit corporation (hereinafter referred to as “Bridgewood Association”), has been responsible for maintaining the three (3) medians along Bridgewood Boulevard between Jordan Creek Parkway and 81st Street (hereinafter referred to as “Bridgewood Boulevard Medians”) in West Des Moines, Dallas County, Iowa.

WHEREAS, on May 15, 2017, the City of West Des Moines, Iowa (hereinafter referred to as “City”), amended the Bridgewood PUD by ordinance, and the City has agreed to now assume responsibility for the maintenance of the Bridgewood Boulevard Medians.

WHEREAS, West Des Moines Water Works (hereinafter referred to as “Water Works”) is a party to this Agreement because there is currently a water irrigation system in place that services the Bridgewood Boulevard Medians and the Bridgewood development.

WHEREAS, Bridgewood Association remains responsible for the maintenance of all other medians, cul-de-sac islands (roundabouts), and adjacent right-of-way located within the Bridgewood development.

WHEREAS, the City believes it is in the best interests of its citizens to assume responsibility for the maintenance of the Bridgewood Boulevard Medians given the prominent location of these medians by Jordan Creek Town Center and the fact that these medians are within the City’s right-of-way.

WHEREAS, the City owns the following described real estate in Dallas County, Iowa, and the Bridgewood Boulevard Medians are located within said real estate:

Lots A, B, C, D, E, and F, Bridgewood Plat 1, an Official Plat, now included in and forming a part of the City of West Des Moines, Dallas County, Iowa.

WHEREAS, the City, Water Works, and Bridgewood Association must enter into this Agreement to address the transfer of responsibilities since the lines to the irrigation system that service the Bridgewood Boulevard Medians, and service other areas that will continue to be serviced by Bridgewood Association, are located underneath the paved sections of City street Bridgewood Boulevard.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

I. Purpose

1. The purpose of this Agreement is to establish the terms and conditions for the transfer and assignment of ongoing maintenance involving the Bridgewood Boulevard Medians in an efficient and economical manner for the City and Bridgewood Association. The parties wish to memorialize their Agreement to clarify the respective responsibilities for the duration of this Agreement.

II. Duration

1. This Agreement shall be approved by the Board of Directors for Bridgewood Association, the City Council, and the Water Works Board of Trustees. Said approval of the City Council and the Water Works Board of Trustees shall be by resolution. Upon approval by each party as provided herein, the Agreement shall be filed with the Dallas County, Iowa, Recorder's Office.
2. This Agreement shall be for a period of five (5) years, beginning on January 1, 2018, and shall remain in force through December 31, 2023, unless otherwise terminated by one of the parties to this Agreement, as described in the "Termination" section provided herein.

III. Services and Responsibilities

1. Beginning January 1, 2018, Water Works shall not charge Bridgewood Association for seven percent (7%) of the water used in gallons each billing cycle with a maximum allowance of 105,000 gallons per month. These figures have been calculated based upon the percentage or amount of water currently used by the Bridgewood Association to water the Bridgewood Boulevard Medians. Water usage credits may be issued, at the sole discretion of Water Works, beyond the 105,000 gallons per month maximum, if leaks have been located in the irrigation system lines that service the Bridgewood Boulevard Medians. This seven percent (7%) credit only applies while this Agreement is in effect and expires once this Agreement has terminated.

2. Bridgewood Association shall have its contractor, Meston Brothers Irrigation, L.L.C. of Iowa, or its successor, operate the irrigation system at the City's direction and the City shall be responsible for payment of the contractor's costs associated with the irrigation of the Bridgewood Boulevard Medians. The City shall, at its sole discretion, determine the watering frequency of the Bridgewood Boulevard Medians. The City shall also possess discretion regarding the continued use or removal of any landscaping, trees, and plantings located on the Bridgewood Boulevard Medians. The City shall further be responsible for any necessary mowing, trimming, and pruning along the Bridgewood Boulevard Medians.
3. The City shall pay for the replacement of any broken decoders or sprinkler heads associated with the irrigation of the Bridgewood Boulevard Medians. Bridgewood Association shall pay for the replacement of any broken decoders or sprinkler heads associated with the irrigation of any other areas under the control of the Bridgewood Association.

IV. Termination

1. This Agreement may be modified or terminated at any time during the term of this Agreement. Written notice to all parties is required if any party desires to change the irrigation system infrastructure or operation. Changes include, but are not limited to: (1) The City decides it no longer wishes to irrigate the Bridgewood Boulevard Medians; (2) The City decides to repair or replace the Bridgewood Boulevard Medians or the street pavement above the irrigation lines; (3) The operational failure of the irrigation lines that service the Bridgewood Boulevard Medians; (4) The City or Bridgewood Association chooses to expand or reduce the existing irrigation system, or elects to separate the existing irrigation system; or (5) The City and Water Works decide not to renew their existing Iowa Code Chapter 28E Agreement for water service, which expires on July 20, 2019. Subsequent modification of the Agreement must be approved by all parties within one hundred eighty (180) days of the written notice or the Agreement shall terminate. Termination of the agreement by any party may occur at any time during the term of this Agreement provided at least one hundred eighty (180) days advance written notice of termination occurs prior to the termination becoming effective, unless the operational failure of the irrigation lines that service the Bridgewood Boulevard Medians occurs.
2. All notices under this Agreement shall be in writing and deemed to be given when deposited with the United States Post Office. Notices to the City shall be addressed to City Manager, City of West Des Moines, 4200 Mills Civic Parkway, Ste. 1A, West Des Moines, Iowa 50265. Notices to Water Works shall be addressed to General Manager, West Des Moines Water Works, 4200 Mills Civic Parkway, Ste. 1D, West Des Moines, Iowa 50265. Notices to Bridgewood Association shall be addressed to Bridgewood Association, Inc., West Property Management, 5550 Wild Rose Lane, # 400, West Des Moines, Iowa 50266. If,

during the term of this Agreement, any party shall decide to change the address of its notice, it shall promptly notify the other parties of said new address in writing.

V. Indemnification

Each party agrees to indemnify and to hold the other parties, their elected officials, agents, employees, and successors and assigns, harmless from and against all claims, demands, actions and/or causes of actions, judgments, settlements, or other costs, including reasonable attorney's fees, which the party, its successors and assigns, may incur or sustain a) by reason of the indemnifying party's breach of this Agreement or failure to legally or timely meet the responsibilities imposed herein, or b) by reason of the torts of the indemnifying party.

VI. Amendments

Amendments to this Agreement may be made by mutual agreement in writing by the parties subject to approval by the governing bodies of each of the parties.

IN WITNESS THEREOF, the City of West Des Moines, West Des Moines Water Works, and Bridgewood Association, Inc. have caused this Agreement to be executed in four (4) counterparts, each of which shall be considered an original, this ____ day of _____, 2017.

CITY OF WEST DES MOINES, IOWA

By _____
Steven K. Gaer, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk
City Clerk

WEST DES MOINES WATER WORKS

By _____
Karen Novak Swalwell, Chair

ATTEST:

(Name, Title)

BRIDGEWOOD ASSOCIATION, INC.

By _____
(Name, Title)

ATTEST:

(Name, Title)