

RESOLUTION NO. 0313-1

**A RESOLUTION REVISING THE SOUTH AREA WATER CONNECTION FEE DISTRICT
AND IMPOSING CONNECTION FEES ON PROPERTIES WITHIN SAID
DISTRICT WHEN CONNECTIONS ARE MADE TO THE MUNICIPAL WATER
DISTRIBUTION SYSTEM**

WHEREAS, on the 13th day of May, 2002, The Board of Trustees of the West Des Moines Water Works adopted Resolution No. 0502-1, A Resolution Establishing the South Area Water Connection Fee District and Imposing Connection Fees on Properties Within Said District When Connections are Made to the Municipal Water Distribution System, and

WHEREAS, on the 10th day of March, 2003, The Board of Trustees of the West Des Moines Water Works adopted Resolution No. 0203-1, A Resolution Revising the South Area Water Connection Fee District and Imposing Connection Fees on Properties Within Said District When Connections are Made to the Municipal Water Distribution System, and

WHEREAS, upon due notice and hearing, this Board of Trustees finds that the general health and welfare of the community will be benefitted by revising the water connection fee district consisting generally of the area east of Interstate Highway 35, south of the Raccoon River, and west of Iowa Highway 28 (the "South Area Water Connection Fee District") with said revisions including (1) expanding the area of the South Water Connection Fee District southerly to areas recently annexed to the City of West Des Moines, (2) revising the connection fee, and (3) eliminating the table of graduated fees.

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

SECTION 1. South Area Water Connection Fee District The South Area Water Connection Fee District consists of a tract of land in Sections 14, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 78 North, Range 25 West of the Fifth Principal Meridian, Polk County, Iowa, and Sections 4, 5, 6, 8 and 9, Township 77 North, Range 25 West of the Fifth Principal Meridian, Warren County, Iowa, more particularly described as follows, and as graphically depicted on Exhibit A attached hereto and made a part hereof:

**A RESOLUTION REVISING THE SOUTH AREA WATER CONNECTION FEE
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BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST
QUARTER OF SECTION 26, TOWNSHIP 78 NORTH, RANGE 25 WEST OF
THE FIFTH PRINCIPAL MERIDIAN;

THENCE SOUTH, ALONG THE EAST LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 26, TO THE CENTER OF SAID SECTION 26;

THENCE SOUTH, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER
OF SAID SECTION 26, TO THE NORTHWEST CORNER OF THE NORTHEAST
QUARTER OF SAID SECTION 35;

THENCE EAST, ALONG THE NORTH LINE OF SAID SECTION 35, TO THE
NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE
NORTHEAST QUARTER OF SAID SECTION 35;

THENCE SOUTH, ALONG THE EAST LINE OF THE WEST HALF OF THE
NORTHEAST QUARTER OF SAID SECTION 35, TO THE SOUTHEAST
CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER
OF SAID SECTION 35;

THENCE SOUTH, ALONG THE EAST LINE OF THE WEST HALF OF THE
SOUTHEAST QUARTER OF SAID SECTION 35, TO THE SOUTHEAST
CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER
OF SAID SECTION 35;

THENCE WEST, ALONG THE SOUTH LINE OF SAID SECTION 35, TO THE
SOUTHEAST CORNER OF SAID SECTION 34;

THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 34, TO THE
NORTHEAST CORNER OF SAID SECTION 4;

THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 4 TO THE EAST
QUARTER CORNER OF SAID SECTION 4;

THENCE SOUTH ALONG THE EAST LINE OF THE SOUTHEAST QUARTER
OF SAID SECTION 4 TO THE NORTHEAST CORNER OF THE SOUTHEAST
QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4;

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THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER
OF THE SOUTHEAST QUARTER OF SAID SECTION 4 TO THE NORTHWEST
CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER
OF SAID SECTION 4;

THENCE SOUTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER
OF THE SOUTHEAST QUARTER OF SAID SECTION 4 TO THE SOUTHWEST
CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER
OF SAID SECTION 4;

THENCE WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER
OF SAID SECTION 4 TO THE NORTH QUARTER CORNER OF SAID
SECTION 9;

THENCE SOUTH, ALONG THE EAST LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 9 TO THE CENTER OF SAID SECTION 9;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER
OF SAID SECTION 9 TO THE EAST QUARTER CORNER OF SAID SECTION 8;

THENCE SOUTH, ALONG THE EAST LINE OF THE NORTHEAST QUARTER
OF THE SOUTHEAST QUARTER OF SAID SECTION 8 TO A POINT 864.00
FEET NORTH OF THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SAID SECTION 8;

THENCE WEST, ALONG A LINE PARALLEL TO AND 864.00 FEET NORTH OF
THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST
QUARTER OF SAID SECTION 8 TO A POINT 703.72 FEET WEST OF THE
EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8;

THENCE NORTH A DISTANCE OF 864.00 FEET TO A POINT ON THE
NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8, SAID
POINT BEING A DISTANCE OF 703.72 FEET WEST OF THE EAST QUARTER
CORNER OF SAID SECTION 8;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER
OF SAID SECTION 8 TO THE CENTER OF SAID SECTION 8;

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THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO THE WESTERLY LINE OF THE ABANDONED RAILROAD RIGHT-OF-WAY, SAID LINE BEING A DISTANCE OF 100 FEET AS MEASURED RADially FROM THE CENTERLINE OF THE ORIGINAL MAIN LINE TRACK;

THENCE NORTHERLY, ALONG THE WESTERLY LINE OF THE ABANDONED RAILROAD RIGHT-OF-WAY TO A POINT 1,430 FEET NORTHERLY OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8;

THENCE EASTERLY, ALONG A LINE DRAWN RADially TO THE CENTERLINE OF THE ORIGINAL MAIN LINE TRACK OF THE ABANDONED RAILROAD RIGHT-OF-WAY TO A POINT ON THE WESTERLY LINE OF THE 100 FOOT WIDE ABANDONED RAILROAD RIGHT-OF-WAY;

THENCE NORTHERLY, ALONG THE WESTERLY LINE OF SAID 100 FOOT WIDE ABANDONED RAILROAD RIGHT-OF-WAY TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8;

THENCE NORTH, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO THE SOUTH QUARTER CORNER OF SAID SECTION 5;

THENCE WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5;

THENCE NORTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 5 TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 35;

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THENCE NORTHERLY, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 35; THROUGH SAID SECTIONS 6, 31 AND 30 TO THE HIGH WATER MARK ON THE SOUTH BANK OF THE RACCOON RIVER;

THENCE EASTERLY ALONG THE HIGH WATER MARK OF THE SOUTH BANK OF THE RACCOON RIVER, THROUGH SAID SECTIONS 30, 29, 28, 21, 22, 23 AND 14, TO THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 14;

THENCE SOUTH ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 14, TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23;

THENCE SOUTH ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, TO THE CENTER OF SAID SECTION 23;

THENCE SOUTH ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 23, TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 26.

SECTION 2. Water Connection Fees Water Connections Fees are hereby established and shall be imposed on owners of properties within the South Area Water Connection Fee District, pursuant to West Des Moines Water Works Resolution No. 0402-1 and 0313-1, at the time of application to connect their properties to said major water distribution facilities or to water distribution pipes which, in turn, are connected to one or more major water distribution facilities, as follows:

- (A) From July 1, 2013 through June 30, 2014, a Water Connection Fee of \$4,500 per acre of property served by the major water distribution facilities shall be imposed.
- (B) The Water Connection Fee schedule herein shall also apply to any properties outside the South Area Water Connection Fee District which use or derive benefit from any of the major water distribution facilities constructed for the South Area Water Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.

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- (C) The determination that a property is to be connected to the major water distribution facilities shall occur, and the appropriate Water Connection Fee shall be paid, prior to the time of release of a final plat for recordation, or issuance of a building or plumbing permit, whichever occurs first.
- (D) The owner of any single family residence which is located on a parcel in excess of one acre may apply for connection after annexation to the City, subdivision of said parcel into a single residence parcel one acre in size and an out lot, and payment of a single-acre Water Connection Fee. Any future development of said parcel shall require a revised application for connection and payment of the Water Connection Fee as established in the above fee schedule.
- (E) The owner of any parcel being used as a public or nonprofit recreational or park facility upon the effective date of this Resolution may apply for connection upon annexation to the City and payment of a single-acre Water Connection Fee. Any future development of said parcel shall require a revised application for connection and payment of the Water Connection Fee as established herein.
- (F) Owners of properties within this district may receive water service and/or fire protection by constructing connections to facilities of other water suppliers.
 - (1) Property owners choosing to construct such connections shall do so at their cost and shall enter into a suitable agreement with the Water Works to provide for understanding of the ways in which the connections to facilities of other water suppliers relate to the facilities constructed under the provisions of a Water Connection Fee Resolution and the costs thereof. The agreement contemplated herein will provide for water metering arrangements and the methods by which the costs of the water service and water metering arrangements will be paid.
 - (2) Property owners choosing to construct such connections shall become customers of West Des Moines Water Works.

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- (G) Issues pertaining to water service previously provided within the Benefitted District by a rural water district(s), will be settled in accordance with laws and regulations of the State of Iowa and the Federal government.
- (1) Customers connected to and served by Warren Water at the time the West Des Moines Water Works applied the interest of Warren Water within the South Area Connection Fee District shall be exempt from the Water Connection Fee for the facility connected at the time of acquisition including not more than 1 acre of property.
- (H) The major water distribution facilities in the South Area Connection Fee District are those illustrated and listed in Exhibit A. Projects of a similar nature but not included in Exhibit A are not major water distribution facilities for the South Area Water Connection Fee District. The West Des Moines Water Works reserves the right to modify projects listed in Exhibit A, to delete projects listed in Exhibit A, to delete projects listed in Exhibit A subsequently determined not to be required by engineering studies and to add projects to Exhibit A subsequently determined necessary by engineering studies.
 - (1) Future changes in the scope and extent of projects in Exhibit A shall have no effect on water connection fees paid prior to the effect of the change.
 - (2) Changes in the scope of the major water distribution facility improvements that reduce the total estimated cost of improvements within the South Area Connection Fee District by not greater than 5% shall not require the Water Works to re-establish fee in the South Area Connection Fee District. If the estimated cost for the major water distribution facilities decreases by more than 5% due to changes or deletions from the projects included in Exhibit A, the West Des Moines Water Works will adjust the connection fee. The Water Works may reduce the connection fee to a level less than established in this Resolution, as changed by the annual adjustment without notification to property owners within the South Area Connection Fee District.

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- (3) Decisions on when to construct a major water facility within the District rests solely with the discretion of the Board of Trustees, and the Water Works is not obligated to construct a request for a major water facility to be constructed.
- (l) The Board of Trustees may execute into one or more agreements to acquire all or part of a rural water district. An agreement to acquire part of a rural water district or to settle water service issues with a rural water district may include a waiver or reduction of Water Connection Fees if the facility for the rural water district prohibits, restricts or limits the ability to change a Water Connection Fee, or if as a condition of the acquisition or a settlement of issues the Water Works agrees to waive the Water Connection Fee for existing customers of the rural water district as of the date of the acquisition or of the settlement of issues.

SECTION 3. Effect of Fees The Water Connection Fees herein shall remain in force and effect until such time that The Board of Trustees of the West Des Moines Water Works adopts a Resolution to adjust the Water Connection Fees applicable to the South Area Water Connection Fee District. Nothing herein is intended to restrict The Board of Trustees from an adjustment of the Water Connection Fee schedule to reflect future construction costs.

SECTION 4. Repealer Resolution 0502-1 and all other Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 5. Severability If any section, provisions, sentence, clause, phrase or part of this Resolution shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Resolution as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 6. Violations and Penalties Any person who violates the provisions of this Resolution shall subject their property to immediate discontinuance of water service until such violation has been corrected by payment of the appropriate amount.

SECTION 7. Other Remedies In addition to the provisions set out in the Violations and Penalties Section herein, The Board of Trustees of the West Des Moines Water Works may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Resolution.

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SECTION 8. Effective Date This Resolution shall be in full force and effect from and after June 30, 2013.


PASSED AND APPROVED this 18th day of March, 2013 (First Reading Only)

PASSED AND APPROVED this 15th day of April, 2013 (Second Reading Only)

PASSED, APPROVED AND ADOPTED IN FINAL FORM this 15th day of April, 2013.


Karen Novak Swalwell
Chair

ATTEST:


William H. Garrett
Secretary

The foregoing was published as Resolution No. 0313-1 in the *Des Moines Register* on the _____ day of _____, 2013

EXHIBIT A

SOUTH AREA WATER CONNECTION FEE DISTRICT BOUNDARY MAP AND IMPROVEMENT



SOUTH AREA WATER CONNECTION FEE DISTRICT

NOTES

1. The Revised South Area Water Connection Fee District anticipates the Construction of the following items:

Approximately 2,640 linear feet of 24-inch diameter water main

Approximately 62,000 linear feet of 16-inch diameter water main

Approximately 103,500 linear feet of 12-inch diameter water main

One crossing of the Raccoon River with a water main

Five crossings of Iowa Highway 5 with a water main

Water Booster Station

2. The District construction includes feeder water mains needed to bring water service to the area, but not water mains needed to serve all existing or proposed buildings within the district. These feeder water mains are constructed in major street rights-of-way. Other water main construction will be needed to provide water service to all buildings. Some buildings, however, may receive water service from the feeder water mains.