



WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

ITEM:**DATE:** December 10, 2018

4. Recommendation from Committee
 - a. Planning and Regionalization
 2. Resolution - Adopting Resolution to Approve Intergovernmental Agreement Establishing the Development of the Quarry Property between the West Des Moines Water Works and Dallas County Board of Supervisors

FINANCIAL IMPACT:

N/A

SUMMARY:

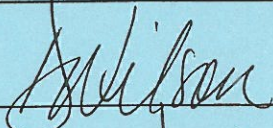
This Intergovernmental Agreement (28E) allows for WDMWW to obtain necessary future easements from the Dallas County Board of Supervisors to develop source water well and transmission facilities on the Hallett and Martin Marietta quarry sites located north of the Raccoon River, east of Booneville. An agreement to obtain legal control of the facility sites is necessary in order to obtain a Water Use Permit from the Iowa Department of Natural Resources.

BACKGROUND:

Five sources of raw water were identified within the Veenstra & Kimm, Inc. report entitled, "Joint Waukeee/WDMWW Water Supply and Treatment Source Water Availability Study". Included as future water sources are the Hallett and Martin Marietta quarries. These quarries are currently actively mined and under private ownership. At the end of the mining operations the ownership of the land will transfer to the Dallas County Board of Supervisors. Adoption of this Resolution will allow an easement to be established in the future for the construction, maintenance and protection of future source water facilities to serve a joint production facility.

RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To concur with the recommendation of the Planning and Regionalization Committee and adopt the Resolution to Approve Intergovernmental Agreement Establishing the Development of the Quarry Property between the West Des Moines Water Works and Dallas County Board of Supervisors.

Prepared by: Approved for Content by: 

RESOLUTION 1218-01

A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE DEVELOPMENT OF THE QUARRY PROPERTY BETWEEN THE WEST DES MOINES WATER WORKS AND DALLAS COUNTY BOARD OF SUPERVISORS

WHEREAS the West Des Moines Water Works has developed a joint study on water availability with the communities of Waukee and Van Meter, and

WHEREAS the study recommended the use of five separate locations of source water to serve the future needs of the communities, including quarries under the current ownership of Hallett Materials and Martin Marietta Materials, and

WHEREAS Dallas County has a future ownership interest in the quarries presently operated by Hallett Materials and Martin Marietta Materials, and

WHEREAS the West Des Moines Water Works seeks necessary legal control over portions of said quarries for the construction, operation and maintenance of future joint water facilities regardless of who the members are of the joint water facilities, and

WHEREAS an agreement to establish future legal control over portions of the quarries is also necessary to obtain water withdrawal and allocation permits from the Iowa Department of Natural Resources, and

WHEREAS West Des Moines Water Works shall be the permit applicant and anticipated permittee of the source water on behalf of and for the benefit of the future joint water users, whoever those future members may be, and

WHEREAS it is understood by both parties to the intergovernmental agreement that all of the parties, partnerships and collaborations for use of the source water are unknown, that those may extend beyond or exclude the original participating members of the joint study, and may include parties, partnerships or collaborations not contemplated as of the date of the intergovernmental agreement, and

WHEREAS the Dallas County Board of Supervisors expressed the importance of source water development to provide significant, but not exclusive, benefit to the residents and businesses within Dallas County, and

WHEREAS the Dallas County Board of Supervisors and West Des Moines Water Works have negotiated language within the intergovernmental agreement to provide for flexibility in who the parties, partnerships and collaborations for the use of the source water and/or the development of a production facility shall be, and

WHEREAS the Dallas County Board of Supervisors has stated its willingness to provide an easement or other necessary legal control over portions of the quarries to West Des Moines Water Works so that those future parties, partnerships and collaborations can use the source water contemplated, and

WHEREAS on October 2, 2018 the Dallas County Board of Supervisors adopted a Resolution (2018-0085) to approve the Intergovernmental Agreement to provide easement to said quarry properties after Dallas County comes into possession of those properties.

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

The Intergovernmental Agreement Establishing the Development of the Quarry Property is hereby approved. The Board Chair is authorized to execute the Resolution and agreement and the General Manager is authorized to attest the signature of these documents.

PASSED AND APPROVED this 10th day of December, 2018.

THE BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

Brian P. Rickert
Chair

Attest:

Diana J. Wilson
Secretary

Motion by Supervisor Chapman and seconded by
Supervisor Hanson to approve the following
Resolution:

RESOLUTION 2018-0085

Resolution approving the Intergovernmental Agreement Establishing The Development Of The Quarry Property with the West Des Moines Water Works for future access to the water of quarries presently owned and operated by Hallett Materials and Martin Marietta Materials, which are anticipated to pass to the ownership of Dallas County Following cessation of mining activities."

WHEREAS, the West Des Moines Water Works seeks sources of clean water for public use to benefit constituents in West Des Moines and the region, and

WHEREAS, the County of Dallas County has a future ownership interest in quarries presently operated by Hallett Materials and Martin Marietta Materials; and

WHEREAS, the quarry properties hold such water source as the West Des Moines Water Works seeks for providing clean water:

IT IS HEREBY RESOLVED that the County of Dallas County enter into agreement as set forth in the referenced document to provide easement to said quarry property after Dallas County comes into possession of those properties.

IT IS FURTHER RESOLVED that the Chair of the Board of Supervisors shall sign the agreement on behalf of the Dallas County Board of Supervisors."

AYE

Brad Golightly
Brad Golightly, Chairman

Mark A. Hanson
Mark A. Hanson, Member

Kim Chapman
Kim Chapman, Member

NAY

Brad Golightly
Brad Golightly, Chairman

Mark A. Hanson
Mark A. Hanson, Member

Kim Chapman
Kim Chapman, Member

Dated this 2nd day of October, 2018

ATTEST: Julia Helm
Julia Helm, Dallas County Auditor

**INTERGOVERNMENTAL AGREEMENT
ESTABLISHING THE DEVELOPMENT
OF THE QUARRY PROPERTY**

The parties to this Agreement are the West Des Moines Water Works, a water utility created under the provisions of Iowa Code Chapter 388 ("WDMWW"), and Dallas County, an Iowa Municipal Corporation ("County").

PREAMBLE

The County has a future ownership interest in two parcels of land now owned by Martin Marietta and Hallett Materials¹ as set out in the two "Irrevocable Offer of Dedication" documents filed with the Dallas County Recorder in Book 2003, Page 19528 and Book 2005, Page 16353 (said parcels of land shall hereafter be referred to as the "Quarry"). Once the current mining operation at the Quarry is terminated or substantially wound down, the Quarry can be a source of clean potable water. The parties to this Agreement desire to work together to use the Quarry as a water source while preserving the County's right to develop the land in a manner consistent with the water use. The parties agree that any rights granted to WDMWW under this Agreement are subject to and limited by the provisions of the Irrevocable Offers of Dedication and the County makes no representations as to what, if any, rights are conveyed to the County by the two "Irrevocable Offer of Dedication" documents.

PURPOSE

The purpose of this Agreement is as follows:

- A. To allow WDMWW to develop and use the Quarry in a manner that WDMWW and Dallas County residents will have access to a safe and cost-effective water source.
- B. To allow the County to develop permitted uses within the Quarry consistent with the operations of the WDMWW facilities located on site.

COUNTY RESPONSIBILITIES

The County shall grant WDMWW an easement over those portions of the Quarry identified by WDMWW as required for the construction, operation, and maintenance of the facilities that will be located on the Quarry. The WDMWW and the County shall cooperate in the placement of the on site improvements. WDMWW will inform the County of the various locations where improvements could be placed and the County shall have the right to select the location of the on site improvements from the options presented by the WDMWW. The County shall execute the easement once WDMWW's pending application before the Iowa Department of Natural Resources that includes the use of the Quarry as a water source for the cities of West Des Moines, Waukee and Van Meter is approved; and WDMWW forms a sub regional water utility comprised of the cities receiving the water.

WDMWW RESPONSIBILITIES

- 1. WDMWW will construct and maintain a water facility on the Quarry for the benefit of the members of the sub regional water facility. WDMWW will work with the County to insure the construction of the water facilities at the Quarry will be done in a way that

¹ See legal descriptions attached as Exhibit "A."

allows the County, at its sole expense, to develop the remaining property for uses consistent with the operation of the regional water facility and applicable laws and regulations. All costs of construction, development and maintenance of the Quarry as a water facility will be paid by the members of the regional utility. WDMWW shall have 5 years from the date it receives written notice from the County that the County has acquired the Quarry to request the easement necessary to utilize the Quarry as a water source.

2.

WATER USE TO BENEFIT DALLAS COUNTY CITIZENS

The access to the water source identified in the Agreement is presently intended to be used by a sub-regional water works comprised of the cities of West Des Moines, Van Meter and Waukee to serve the water needs of the constituents served by those communities. It is mutually understood by the parties to this Agreement that the intention to form a sub-regional water works may not come to fruition, or that over time the parties to such regional or sub-regional water works may change. Regardless of these events, the parties commit to the proposition that the water accessed by means of this Agreement will accrue to the benefit of the WDMWW and the members of the regional utility, specifically including the citizens of Dallas County.

AMENDMENT OF AGREEMENT

Amendment of the Agreement shall be by the approval of both parties by the same procedures by which this Agreement was approved and executed, provided, however, that this Agreement shall never be amended in any way so as to adversely affect the interests of bond holders or other obligations of the County or the cities who are member users of the water facilities.

GENERAL PROVISIONS

1. This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts when taken together shall constitute one and the same instrument.

2. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Iowa.

This Agreement is made this 2nd day of October 2018.


{signature pages to follow}

(SEAL)

County of Dallas

By: 
Chairman

Attest


Auditor

West Des Moines Water Works

By: _____
Chairman

Attest

Manager

Clerk

EXHIBIT "A"

Martin Marietta Materials Real Estate Investments, Inc. Land

<u>Parcel No.</u>	<u>Acres</u>	<u>S/T/R</u>	<u>Legal</u>
1627200005	23.01	27-78-26	SW NE S of RY
1627100003	29.93	27-78-26	S1/2 NW S of RY
1627300001	39.48	27-78-26	NW SW
1627300002	39.46	27-78-26	NE SW
1627400001	37.17	27-78-26	NW SE
1628400003	39.41	27-78-26	SW SW
1627300004	34.69	27-78-26	SE SW EX 5.36AC S of RIV
1627400004	9.94	27-78-26	SW SE / EX 6.9AC S of RIV
1627400005	39	27-78-26	SE SE EX N2RDS
1628400004	35.75	28-78-26	SE SE EX ROAD
1628400002	39.66	28-78-26	NE SE & THE PT SE NE S OF RY / EX ROAD
1634200002	38.63	34-78-26	NE NE N of RIV & 6.9A N & E of RIVER; NW NE
1635100001	39.04	35-78-26	NW NW
TOTAL	445.17		

Hallett Construction Company D/B/A Hallett Materials Land

<u>Parcel No.</u>	<u>Acres</u>	<u>S/T/R</u>	<u>Legal</u>
1626300004	40	26-78-26	SW SW
1626300005	40	26-78-26	SW SW (6.84 AC FR)
1626400002	21	26-78-26	SW SE W OF RIVER (14.65 AC FR)
1626400001	40	26-78-26	NW SE (24.35 AC FR)
1626300003	40	26-78-26	NE SW
1626300002	29.5	26-78-26	NW SW/EX W22 RD
1626300001	16.03	26-78-26	W 11 AC NW SW & W 9AC SW NW S OF RY/EX 66'
1626300006	3.5	26-78-26	E 66' W 9AC SW NW S OF RR & E 66' W 11 AC NW SW (Private Road)
1626100003	23.5	26-78-26	SW NW / EX W 22RD
1626100005	28.44	26-78-26	SE NW & NE NW S OF RY/EX PT OF PARCEL A (4.49AC FR)
1626200005	16.43	26-78-26	SW NE/EX PART OF PARCEL A (7.37 AC FR)
1626200006	31.78	26-78-26	SE NE & N 1/2 NE S OF RY/ EX E 175' & EX PART OF PARCEL A/(17.38AC FR)
1627400002	39.77	27-78-26	NE SE
1627200006	26.6	27-78-26	TH PT SE NE LYG S OF RR
TOTAL	396.55		