

WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

ITEM:

DATE: January 7, 2019

5. Recommendations from Committees
 - a. Planning & Regionalization
 1. Resolution – Adopting Second Amendment to Chapter 28E Agreement By and Among the City of Norwalk, Iowa, the City of Cumming, Iowa, and the Board of Water Works Trustees of the City of Des Moines, Iowa Providing for Joinder By the Board of Water Works Trustees of the City of West Des Moines

FINANCIAL IMPACT:

\$533,562.50 for construction of the Joint Maffitt Lake Booster Station Building to be taken from budget account 00800-170-18004

SUMMARY:

In November 2017, the Board of Trustees approved the First Amendment to a 28E agreement between the Des Moines Water Works, and the Cities of Norwalk and Cumming. This amendment allowed WDMWW to join with the other entities in design and construction of a joint water transmission main near Maffitt Lake Park. The amendment also allowed for WDMWW participation in the design of a Joint Booster Station to be shared amongst the entities.

Des Moines Water Works has completed design and bidding of the joint booster station. The Second Amendment to the original 28E amendment allows for award of the contract and establishes the financial responsibility of the parties in funding the project.

Brick Gentry has reviewed this 28E document on behalf of West Des Moines Water Works.

BACKGROUND:

At the November 6, 2017, meeting the Board of Trustees entered into an agreement the City of Norwalk, City of Cumming and Board of Trustees of the Des Moines Water Works. This agreement provided for construction of a joint water main from the McMullen Water Treatment plant to the future site of a booster station. The agreement also provided for

design of a joint booster station to be shared between the entities.

During the design process, it was determined that separate pump trains would be required due to the different system pressures provided by WDMWW and the Cities of Norwalk and Cumming.

The Norwalk/Cumming pump train was procured separately and will be installed by this project at no cost to WDMWW.

The WDMWW pump train is under design and will be installed in the future.

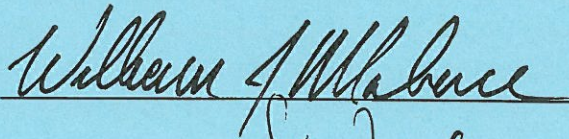
The second amendment allocates project cost amongst the entities based on whether the responsibility to the parties based on shared building costs or costs specific to either utility.

The Second Amendment to the 28E will allow the awarding and construction of the joint booster station building.

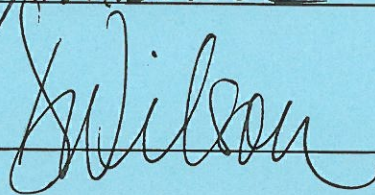
RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To concur with the recommendation of the Planning Committee and adopt a resolution entitled "Approving Second Amendment to Chapter 28E By and Among the City of Norwalk, Iowa, the City of Cumming, Iowa, the Water Works Trustees of the City of Des Moines, Iowa, and the Water Works Trustees of the City of West Des Moines, Iowa."

Prepared by:



Approved for Content by:



**A RESOLUTION FOR ADOPTING THE SECOND AMENDMENT TO CHAPTER 28E
AGREEMENT BY AND AMONG THE CITY OF NORWALK, IOWA, THE CITY OF
CUMMING, IOWA, AND THE BOARD OF WATER WORKS TRUSTEES OF THE
CITY OF DES MOINES, IOWA PROVIDING FOR JOINDER BY THE BOARD OF
WATER WORKS TRUSTEES OF THE CITY OF WEST DES MOINES**

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

WHEREAS, on July 25, 2017, Des Moines Water Works (DMWW) executed a 28E agreement with the City of Norwalk and the City of Cumming for design, construction and funding of a joint southwest pumping station and feeder main; and

WHEREAS, on November 6, 2017, WDMWW executed the first amendment to the 28E agreement providing for joinder by the WDMWW to the original agreement; and

WHEREAS, design and bidding of the Joint Booster Station has been completed by DMWW; and

WHEREAS, the staffs of WDMWW, DMWW, the City of Norwalk, Iowa, and the City of Cumming, Iowa, have negotiated an amendment to authorize DMWW to award a construction contract for a Joint Booster Station and assigning a cost allocation to the parties;

**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 the second amendment to the 28E Agreement between the WDMWW, DMWW, City of Cumming and City of Norwalk to participate in the joint southwest pumping station and feeder main project.

PASSED AND APPROVED this 7th day of January, 2019

BOARD OF TRUSTEES, WEST DES MOINES WATER WORKS

Brian Rickert
Chair

Attest:

Diana Wilson
Secretary

**SECOND AMENDMENT TO CHAPTER 28E AGREEMENT BY AND AMONG
THE CITY OF NORWALK, IOWA
THE CITY OF CUMMING, IOWA
THE BOARD OF WATER WORKS TRUSTEES OF THE
CITY OF DES MOINES, IOWA
AND
THE BOARD OF WATER WORKS TRUSTEES OF THE
CITY OF WEST DES MOINES, IOWA**

THIS SECOND AMENDMENT TO CHAPTER 28E AGREEMENT (hereinafter "Second Amendment") is made and entered into by and among the CITY OF NORWALK, IOWA ("Norwalk"), CITY OF CUMMING, IOWA ("Cumming"), the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA ("DMWW") and the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF WEST DES MOINES ("WDMWW") (each a "party" and collectively "the parties") as of the dates set forth below.

PREAMBLE

WITNESSETH:

WHEREAS, Norwalk, Cumming, and DMWW are parties to a 28E Agreement dated July 25, 2017, that was filed with the Iowa Secretary of State on August 24, 2017, as Agreement Number M510271 that provides for the parties to undertake water distribution infrastructure projects on a joint basis in the area as described and depicted therein (the "28E Agreement");

WHEREAS, Section 3 of Part IV of the 28E Agreement provided for the joinder by WDMWW in the 28E Agreement, and WDMWW joined in the 28E Agreement by First Amendment that was filed with the Iowa Secretary of State on December 7, 2017, as Agreement Number M510564.

WHEREAS, the 28E Agreement, as amended, contemplated the design and construction of an expanded booster station by DMWW under the Phase 2 provisions of the 28E Agreement, as amended, (the "Phase 2 Project") with the cost thereof to be paid by the parties in shares to be set forth in an additional amendment to the 28E Agreement.

WHEREAS, the parties desire to proceed with the Phase 2 Project and provided for the payment and sharing of its costs as herein provided.

NOW THEREFORE, in consideration of the mutual undertakings hereby provided, DMWW, Norwalk, Cumming, and WDMWW hereby agree as follows:

- A. Amendment. The parties agree that the 28E Agreement, as amended, shall be further amended as provided herein.
- B. Award of Contract. The parties agree that DMWW shall award the contract for the construction of the Phase 2 Project under the Phase 2 provisions of the 28E Agreement, as amended, with Alternate 1 and Alternate 2, as previously solicited to the low bidder, Edge Commercial, LLC ("Contractor") in the total amount of \$1,280,190.00. The parties agree that process of soliciting bids for such contract has been completed, that the bids

obtained are satisfactory and sufficient, and that DMWW should be, and hereby is, authorized to proceed to execute the contract and cause the work to be performed in accordance therewith. Any further or different notice, review and approval requirements are hereby waived.

C. Cost Allocations.

1. Reimbursement of DMWW. Norwalk, Cumming, and WDMWW shall reimburse DMWW for the full cost of construction of the Phase 2 Project in the shares as provided herein.
2. Cost Shares of Contract Amount as Awarded. Subject to changes and additions as provided herein, the cost shares of Norwalk, Cumming, and WDMWW in the Phase 2 Project, as awarded in the total contract amount of \$1,128,190.00, shall be as follows, based on the allocation as set forth in Exhibit A hereto:

Norwalk	\$ 597,302.00
Cumming	\$ 149,325.50
WDMWW	<u>\$ 533,562.50</u>
Total	\$ 1,128,190.00

The allocation is based on the Schedule of Values provided by the apparent low bidder for the Phase 2 Project and the ratio of these values to the values anticipated by the Engineer's Estimate of Probable Cost prepared by DMWW prior to the project bid.

3. Changes and Additions. If and to the extent there are changes or additions to the actual contract amounts payable to the Contractor by DMWW the amounts, specified in Section C(2) above shall be adjusted based on the allocation methodology set forth in Exhibit A with the costs changes relating to Norwalk/Cumming items allocated to them in 80%/20% shares, and WDMWW items allocated to it. For items without a clear nexus of cost responsibility, the parties agree to reasonably negotiate cost responsibility. All other adjustments will be allocated: (i) 50% to Norwalk and Cumming in 80%/20% shares; and (ii) 50% to WDMWW. Section II-2 of the 28E Agreement shall be amended as it applies to the Phase 2 Project contract with Contractor to reduce the threshold for notice and approval of change orders from twenty-five percent (25%) to fifteen percent (15%), with such threshold to be separately computed for each party based on the amount of responsible cost as described in Exhibit A.
 4. Other Costs. All other costs incurred, including but not limited to miscellaneous construction expenses and DMWW labor shall be allocated (i) 50% to Norwalk and Cumming in 80%/20% shares; and (ii) 50% to WDMWW.
- D. Except as amended and supplement hereby all terms of the 28E Agreement, as amended, shall remain in full force and effect.

[Signature pages follow]

Dated as of January ____, 2019.

BOARD OF WATER WORKS TRUSTEES
OF THE CITY OF DES MOINES, IOWA

By: _____
Diane C. Munns, Chairperson

ATTEST: _____
William G. Stowe, CEO and General Manager

[Signature page to Second Amendment to Chapter 28E Agreement by and among The City of Norwalk, Iowa, The City of Cumming, Iowa, The Board of Water Works Trustees of The City of Des Moines, Iowa, and the Board of Water Works Trustees of The City of West Des Moines]

Dated as of January ____, 2019

BOARD OF WATER WORKS TRUSTEES
OF THE CITY OF WEST DES MOINES, IOWA

By: _____
Brian Rickert, Chair

ATTEST: _____
Diana Wilson, General Manager

[Signature page to Second Amendment to Chapter 28E Agreement by and among The City of Norwalk, Iowa, The City of Cumming, Iowa, The Board of Water Works Trustees of The City of Des Moines, Iowa, and the Board of Water Works Trustees of The City of West Des Moines]

Dated as of January ____, 2019

CITY OF NORWALK, IOWA

By: _____

ATTEST: _____

[Signature page to Second Amendment to Chapter 28E Agreement by and among The City of Norwalk, Iowa, The City of Cumming, Iowa, The Board of Water Works Trustees of The City of Des Moines, Iowa, and the Board of Water Works Trustees of The City of West Des Moines]

Dated as of January ____, 2019

CITY OF CUMMING, IOWA

By: _____

ATTEST: _____

[Signature page to Second Amendment to Chapter 28E Agreement by and among The City of Norwalk, Iowa, The City of Cumming, Iowa, The Board of Water Works Trustees of The City of Des Moines, Iowa, and the Board of Water Works Trustees of The City of West Des Moines]

EXHIBIT A TO SECOND AMENDMENT

Cumming/Norwalk/West Des Moines Expanded Booster Station Cost Shares per Contract as Awarded	
Base Bid Price:	\$1,179,700.00
Alternate #1: Generator	\$ 88,490.00
Alternate #2: Timeline	\$ 12,000.00
<u>Total Expanded Station Costs:</u>	<u>\$1,280,190.00</u>
<u>Cumming/Norwalk-Items to be paid by Cumming/Norwalk*</u>	
Alternate #1: Generator	\$ 88,490.00
Alternate #2: Timeline	\$ 12,000.00
Piping/Electric/Metric Pit/Transfer Switch	\$ 121,875.00
<u>WDMWW-Items to be paid by WDMWW</u>	
WDMWW Discharge Piping Stub	\$ 9,300.00
Remaining Contract Cost**	\$1,048,525.00
<u>Building Cost Share at 50/50</u>	
Cumming/Norwalk	\$ 524,262.50
West Des Moines Water Works	\$ 524,262.50
<u>Resultant Total Cost Shares</u>	
Cumming*	\$ 149,325.50
Norwalk*	\$ 597,302.00
West Des Moines Water Works	\$ 533,562.50
Total	\$1,280,190.00
*Per existing 28E, Norwalk-Cumming to split their share 80/20	
**Remaining Contract Cost is to be split 50/50	

All amounts herein are subject to adjustment as provided by the contract and by approved change orders.