WEST DES MOINES WATER WORKS
BOARD OF TRUSTEES MEETING COMMUNICATION

DATE: November 16, 2026

ITEM:

7. Recommendations from Staff
   - f. Resolution - Authorizing Acquisition of Property for Source Water Protection of Purple Martin Lake – 400' Buffer
   - g. Resolution - Authorizing Acquisition of Property for Source Water Protection of Purple Martin Lake – Use Restriction

FINANCIAL IMPACT:

Commerical Appraisers value of the 400' foot easement is $35,700. Commerical Appraisers value of the Use Restriction easement is $242,000.

SUMMARY:

This action was deferred from the November 2nd board meeting for further review. This action will formally authorize staff to engage in negotiations pursuant to Iowa Code chapter 6B with WB Realty related to the just compensation for these two easements. WB realty has indicated via letter that they approve the easement language for all three easements. Per the Memorandum of Agreement executed by both parties, permanent water will be provided to the site upon execution of the easements to the West Des Moines Water Works. WB Realty has not executed the easements. Compensation for the stormwater access easements was agreed upon in the Memorandum of Agreement at $1.00.

WB Realty has provided a request for compensation for both easement 1 (400' buffer) and easement 3 (use restriction) of $6,400,000.

The resolution directs WDMWW staff to review WB Realty's appraisal and determine if additional compensation is warranted and to engage in formal negotiations. Should the parties not reach an agreement, this resolution authorizes West Des Moines Water Works to move forward with the eminent domain process, provided WB Realty satisfies all required conditions of the Memorandum of Agreement.

BACKGROUND:

A Memorandum of Agreement documenting the terms of the three easements and next steps was approved at the April 1, 2026 special board meeting of the WDMWW Trustees. An amendment related to zoning and its impact on the valuation of easements one and three was approved at the April 15th Board meeting. Now that the easement language

has been approved by WB Realty, should we not reach an agreement on compensation, WDMWW should move forward with condemnation as outlined in the Memorandum of Agreement. This action authorizes the General Manager to start the condemnation proceedings in accordance with the Memorandum of Agreement.

RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To Authorize the Acquisition of Property for Source Water Protection Easements.

Prepared by: _____

Approved for Content by: _____

4919-5897-4685-1\11336-037

November 16, 2026

The Board of Trustees of the West Des Moines Water Works, in the City of West Des Moines, Iowa, met in _____ session, in the West Des Moines Water Works offices at 1505 Railroad Avenue, West Des Moines, Iowa 50265, at _____ o'clock _____.M., on the above date. There were present Vice Chairperson _____, in the chair, and the following named Board Members:

_____

_____

_____

_____

Absent: _____

Vacant: _____

* * * * * * * * *

Board Member _____ introduced the following Resolution entitled "RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY FOR SOURCE WATER PROTECTION FOR PURPLE MARTIN LAKE – SOURCE WATER PROTECTION UTILITY EASEMENT 400' BUFFER" and moved that it be adopted. Board Member _____ seconded the motion to adopt, and the roll being called thereon, the vote was as follows:

AYES: _____

_____

NAYS: _____

Whereupon, the Board Vice Chair declared the measure duly adopted as follows:

RESOLUTION

RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY FOR SOURCE WATER PROTECTION FOR PURPLE MARTIN LAKE – SOURCE WATER PROTECTION UTILITY EASEMENT 400' BUFFER

WHEREAS, the Board of Trustees of West Des Moines Water Works (hereinafter "Board" and "WDMWW", respectively) has heretofore authorized the necessary regulatory steps for a project known as "Source Water Protection for Purple Martin Lake" (the "Project"); and

WHEREAS, on April 1, 2026, WDMWW entered into a Memorandum of Agreement with WB Realty company, LLC, as agent for the title property owners of the necessary property interests, which was subsequently amended on April 15, 2026 (collectively the "MOA"); and

WHEREAS, Section 5(d) the MOA provides that, in the event there is disagreement as to compensation to be paid for the 400' Buffer Source Water Protection Easement contemplated under section 4(a) of the MOA, WDMWW will immediately initiate eminent domain proceedings in accordance with Iowa code section 6B.3; and

WHEREAS, to complete the project, it is necessary for the Board to authorize the acquisition of private property by eminent domain if voluntary agreement cannot be reached; and

WHEREAS, the Board finds that there is a reasonable expectation that it will be able to achieve its public purpose, comply with all applicable standards, and obtain any necessary permits to complete the Project as described herein.

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

Section 1. The location of the Project as determined by the WDMWW General Manager and project engineer is hereby approved; there is a reasonable expectation the WDMWW will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits; and the Board of Trustees hereby approves the use of condemnation to acquire the necessary property interests for the Project.

Section 2. As part of the Project, the WDMWW hereby determines it is reasonable and necessary to acquire the necessary property interest located in Polk County, Iowa, to wit:

> A parcel of land owned by SBBP JV21, L.L.C.; SBWH2, LLC; and SBBP OWNER ASSOCIATION, INC. consisting of:
>
> PUBLIC UTILITY SOURCE WATER PROTECTION EASEMENT
>
> Lot 1, South Branch Business Park Plat 1; Lot 2, South Branch Business Park Plat 2; and Outlot A, South Branch Business Park Plat 1; all lots within and now forming a part of the City of West Des Moines, Polk County, Iowa.
>
> (the "necessary property interest").

Section 3. Pursuant to the MOA authorizing voluntary agreement to commence proceedings in eminent domain to acquire the necessary utility easement for the Source Water Protection for Purple Martin Lake and by agreement with all affected property owners, the necessary interests may be acquired by condemnation if necessary.

Section 4. The General Manager is hereby authorized and directed to undertake any and all lawful acts to acquire the necessary property interests with the assistance of legal counsel, in accordance with the laws of the State of Iowa, including all or any part of the land described above, which is hereby determined to be the minimum amount of land necessary for the Project and its public purpose.

Section 5. The General Manager or the General Manager's designated representative, with the assistance of legal counsel, is hereby authorized to secure appraisals of all lands which may need to be acquired through use of eminent domain powers, conduct good faith negotiations, and is further directed and authorized to do all things necessary to effectuate the acquisition of property necessary to complete the Project.

Section 6. If negotiations for the necessary property interests do not result in voluntary agreement, the General Manager and legal counsel are hereby authorized to file an application

for condemnation in the manner proscribed by law and as contemplated in the Memorandum of Agreement, to acquire the necessary property interests; provided that the General Manager, with the assistance of legal counsel, determines that all applicable conditions and contingencies of the MOA are satisfied.

Section 7. The law firm of Ahlers & Cooney, P.C., 100 Court Avenue, Suite 600, Des Moines, Iowa, 50309, is hereby authorized to institute proceedings in eminent domain on behalf of the WDMWW to acquire the necessary property interest.

Section 8. Repealer Clause. All resolutions, parts of resolutions, or motions adopted heretofore that conflict with this resolution are hereby repealed insofar as such resolutions, parts of resolutions, or motions conflict with this resolution.

Section 9. Severability Clause. If any section, provision, or part of this resolution adopted hereby shall be adjudged invalid or unconstitutional, then such adjudication shall not affect the validity of the resolution as a whole, and any section, provision, or part of the resolution or service rules that is not adjudged invalid or unconstitutional shall remain in full force and effect.

Section 10. Effective Date and Applicability. This resolution shall be in full force and effect upon its passage unless otherwise provided by law.

PASSED AND APPROVED this 16th day of November, 2026.

_____
Jody E. Smith
Vice Chairperson of the Board of Trustees

ATTEST:

_____
Christina Murphy
Secretary of the Board of Trustees

BOARD SECRETARY'S CERTIFICATE

STATE OF IOWA	)
	) SS
COUNTY OF POLK	)

I, the undersigned Secretary of the Board of Trustees of the West Des Moines Water Works, in the City of West Des Moines, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the Board of Trustees showing proceedings of the Board, and the same is a true and complete copy of the action taken by the Board with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Board and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Board (a copy of the face sheet of such agenda being attached hereto) pursuant to the local rules of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required such law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective offices as indicated therein, that no Board vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Board hereto affixed this sixteenth day of November, 2026.

_____

Secretary of the Board of Trustees of
West Des Moines Water Works

4907-5914-9277-2\11336-037

November 16, 2026

The Board of Trustees of the West Des Moines Water Works, in the City of West Des Moines, Iowa, met in _____ session, in the West Des Moines Water Works offices at 1505 Railroad Avenue, West Des Moines, Iowa 50265, at _____ o'clock _____.M., on the above date. There were present Vice Chairperson _____, in the chair, and the following named Board Members:

_____

_____

_____

_____

Absent: _____

Vacant: _____

* * * * * * * * *

Board Member _____ introduced the following Resolution entitled "RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY FOR SOURCE WATER PROTECTION FOR PURPLE MARTIN LAKE – USE RESTRICTION" and moved that it be adopted. Board Member _____ seconded the motion to adopt, and the roll being called thereon, the vote was as follows:

AYES: _____

_____

NAYS: _____

Whereupon, the Board Vice Chair declared the measure duly adopted as follows:

RESOLUTION

RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY FOR SOURCE WATER PROTECTION FOR PURPLE MARTIN LAKE – USE RESTRICTION

WHEREAS, the Board of Trustees of West Des Moines Water Works (hereinafter "Board" and "WDMWW", respectively) has heretofore authorized the necessary regulatory steps for a project known as "Source Water Protection for Purple Martin Lake" (the "Project"); and

WHEREAS, on April 1, 2026, WDMWW entered into a Memorandum of Agreement with WB Realty company, LLC, as agent for the title property owners of the necessary property interests, which was subsequently amended on April 15, 2026 (collectively the "MOA"); and

WHEREAS, Section 5(d) the MOA provides that, in the event there is disagreement as to compensation to be paid for the Source Water Protection easement – SIC Use Restrictions contemplated under section 4(c) of the MOA, WDMWW will immediately initiate eminent domain proceedings in accordance with Iowa code section 6B.3; and

WHEREAS, to complete the project, it is necessary for the Board to authorize the acquisition of private property by eminent domain if voluntary agreement cannot be reached; and

WHEREAS, the Board finds that there is a reasonable expectation that it will be able to achieve its public purpose, comply with all applicable standards, and obtain any necessary permits to complete the Project as described herein.

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

Section 1. The location of the Project as determined by the WDMWW General Manager and project engineer is hereby approved; there is a reasonable expectation the WDMWW will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits; and the Board of Trustees hereby approves the use of condemnation to acquire the necessary property interests for the Project.

Section 2. As part of the project, the WDMWW hereby determines it is reasonable and necessary to acquire the necessary property interest located in Polk County, Iowa, to wit:

> A parcel of land owned by SBBP JV21, LLC; SBWH1, LLC; SBWH2, LLC; and SBBP OWNER ASSOCIATION, INC. consisting of:
>
> PUBLIC UTILITY SOURCE WATER PROTECTION EASEMENT – SIC USE RESTRICTIONS
>
> Lot 1, South Branch Business Park Plat 1; Lots 1, 2, and 3, South Branch Business Park Plat 2; and Outlot A, South Branch Business Park Plat 2; all lots within and now forming a part of the City of West Des Moines, Polk County, Iowa
>
> (the "necessary property interest").

Section 3. Pursuant to the MOA authorizing voluntary agreement to commence proceedings in eminent domain to acquire the necessary utility easement for the Source Water Protection for Purple Martin Lake and by agreement with all affected property owners, the necessary interests may be acquired by condemnation if necessary.

Section 4. The General Manager is hereby authorized and directed to undertake any and all lawful acts to acquire the necessary property interests with the assistance of legal counsel, in accordance with the laws of the State of Iowa, including all or any part of the land described above, which is hereby determined to be the minimum amount of land necessary for the Project and public purpose.

Section 5. The General Manager or the General Manager's designated representative, with the assistance of legal counsel, is hereby authorized to secure appraisals of all lands which may need to be acquired through use of eminent domain powers, conduct good faith negotiations, and is further directed and authorized to do all things necessary to effectuate the acquisition of property necessary to complete the Project.

Section 6. If negotiations for the necessary property interests do not result in voluntary agreement, the General Manager and legal counsel are hereby authorized to file an application for condemnation in the manner prescribed by law and as outlined in the Memorandum of Agreement, to acquire the necessary property interests; provided that the General Manager, with the assistance

of legal counsel, determines that all applicable conditions and contingencies of the MOA are satisfied.

Section 7. The law firm of Ahlers & Cooney, P.C., 100 Court Avenue, Suite 600, Des Moines, Iowa, 50309, is hereby authorized to institute proceedings in eminent domain on behalf of the WDMWW to acquire the necessary property interest.

Section 8. Repealer Clause. All resolutions, parts of resolutions, or motions adopted heretofore that conflict with this resolution are hereby repealed insofar as such resolutions, parts of resolutions, or motions conflict with this resolution.

Section 9. Severability Clause. If any section, provision, or part of this resolution adopted hereby shall be adjudged invalid or unconstitutional, then such adjudication shall not affect the validity of the resolution as a whole, and any section, provision, or part of the resolution or service rules that is not adjudged invalid or unconstitutional shall remain in full force and effect.

Section 10. Effective Date and Applicability. This resolution shall be in full force and effect upon its passage unless otherwise provided by law.

PASSED AND APPROVED this 16th day of November, 2026.

_____
Jody E. Smith
Vice Chairperson of the Board of Trustees

ATTEST:

_____
Christina Murphy
Secretary of the Board of Trustees

BOARD SECRETARY'S CERTIFICATE

STATE OF IOWA	)
	) SS
COUNTY OF POLK	)

I, the undersigned Secretary of the Board of Trustees of the West Des Moines Water Works, in the City of West Des Moines, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the Board of Trustees showing proceedings of the Board, and the same is a true and complete copy of the action taken by the Board with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Board and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Board (a copy of the face sheet of such agenda being attached hereto) pursuant to the local rules of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required such law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective offices as indicated therein, that no Board vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Board hereto affixed this sixteenth day of November, 2026.

_____

Secretary of the Board of Trustees of
West Des Moines Water Works

4896-4798-6653-2\11336-037