

RESOLUTION NO. 0414-1

A RESOLUTION REVISING THE SOUTHWEST 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 Southwest 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 9th day of September, 2003, The Board of Trustees of the West Des Moines Water Works adopted Resolution No. 0802-1, A Resolution Establishing the Southwest 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 15th day of April 2013 the Board of Trustees of the West Des Moines Water Works adopted Resolution No. 0313-2, a resolution revising the Southwest 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 west of Interstate Highway 35, north of the Raccoon River, and south of Interstate Highway 80 (the "Southwest Area Water Connection Fee District") with said revisions including (1) expanding the area of the Southwest Water Connection Fee District easterly along Ashworth Road.

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

SECTION 1. Southwest Area Water Connection Fee District The Southwest Area Water Connection Fee District consists of a tract of land in Sections 19 and 30, of the Fifth Principal Meridian, Polk County, Iowa, and in Sections 2, 3, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34 and 35, of the Fifth Principal

Meridian, Dallas County, Iowa, more particularly described as follows, and as graphically depicted on Exhibit A attached hereto and made a part hereof:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 19 OF THE FIFTH PRINCIPAL MERIDIAN;

THENCE WEST, ALONG THE SOUTH LINE OF SECTION 19 TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 19;

THENCE NORTH, ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 19, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOONEVILLE ROAD;

THENCE NORTHWEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF BOONEVILLE ROAD, TO A POINT ON THE EAST LINE OF SECTION 24;

THENCE NORTH, ALONG THE EAST LINE OF SECTION 24, TO THE NORTHEAST CORNER OF SECTION 24;

THENCE WEST, ALONG THE NORTH LINE OF SECTION 24, TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 13;

THENCE NORTH, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 13, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13;

THENCE WEST, ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 13 TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 14;

THENCE NORTH ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 14, TO THE EAST QUARTER CORNER OF SECTION 14;

THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 14, TO THE CENTER OF SECTION 14;

THENCE NORTH, ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14;

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THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF
THE NORTHWEST QUARTER OF SECTION 14, TO THE NORTHWEST CORNER OF
THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14;

THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF
THE NORTHWEST QUARTER OR SECTION 14, TO THE NORTHWEST CORNER OF
THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF
THE NORTHEAST QUARTER OF SECTION 15, TO THE SOUTHWEST CORNER OF
THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15;

THENCE NORTH, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF
THE NORTHEAST QUARTER OF SECTION 15 TO THE NORTHWEST CORNER OF
THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15;

THENCE NORTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF
THE SOUTHEAST QUARTER OF SECTION 10, TO THE NORTHWEST CORNER OF
THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10;

THENCE EAST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 10 TO THE NORTHEAST CORNER OF THE
SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10;

THENCE NORTH ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF
SECTION 10 A DISTANCE OF 490 FEET;

THENCE WEST ALONG A LINE PARALLEL TO THE NORTH LINE OF THE
SOUTHEAST QUARTER OF SECTION 10 A DISTANCE OF 396 FEET (DESCRIBED)
FOR 395.50 FEET (MEASURED);

THENCE EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER
OF THE NORTHWEST QUARTER OF SECTION 10 A DISTANCE OF 530.20
FEET;

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THENCE NORTH A DISTANCE OF APPROXIMATELY 830.25 FEET TO A POINT ON
THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 10 SAID POINT
BEING A DISTANCE OF 396 FEET WEST OF THE EAST QUARTER CORNER OF
SECTION 10;

THENCE EAST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF
SECTION 10 TO THE EAST QUARTER CORNER OF SECTION 10;

THENCE EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 11 A DISTANCE OF 530.20 FEET.

THENCE NORTH ALONG A LINE PARALLEL TO AND 530.02 FEET EAST THE
WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF
SECTION 11 TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER
OF THE NORTHWEST QUARTER OF SECTION 11;

THENCE EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 11 TO THE NORTHEAST CORNER OF THE
SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11;

THENCE EAST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 11 TO THE NORTHEAST CORNER OF THE
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11;

THENCE NORTH ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF
SECTION 11 TO THE NORTHWEST CORNER OF BARTLETT FARM PLAT 5;

THENCE EAST ALONG THE NORTH LINE OF BARTLETT FARM PLAT 5 TO THE
NORTHEAST CORNER OF BARTLETT FARM PLAT 5;

THENCE EAST ALONG THE NORTH LINE OF BARTLETT FARM PLAT 7 TO THE
SOUTHWEST CORNER OF WESTBRIDGE;

THENCE NORTH ALONG THE WEST LINE OF WESTBRIDGE TO THE CENTERLINE
OF ASHWORTH ROAD;

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THENCE EAST ALONG THE CENTERLINE OF ASHWORTH ROAD TO A POINT
SOUTH OF THE SOUTHWEST CORNER OF DEPOT AT ASHWORTH PLAT 2;

THENCE NORTH TO THE SOUTHWEST CORNER OF DEPOT AT ASHWORTH
PLAT 2;

THENCE NORTH ALONG THE WEST LINE OF DEPO AT ASHWORTH PLAT 2 TO
THE SOUTHWESTERLY LINE OF THE RAILROAD RIGHT-OF-WAY;

THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY RAILROAD RIGHT-
OF-WAY LINE TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF
INTERSTATE 80;

THENCE SOUTHWEST AND WEST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF
INTERSTATE 80 TO THE POINT OF INTERSECTION WITH THE WEST LINE OF THE
SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9;

THENCE SOUTH, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF
THE SOUTHEAST QUARTER OF SECTION 9 TO THE SOUTHWEST CORNER OF
THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9;

THENCE SOUTH, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF
THE NORTHWEST QUARTER OF SECTION 16, TO THE SOUTHEAST CORNER OF
THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF
THE NORTHWEST QUARTER OF SECTION 16 TO THE SOUTHWEST CORNER OF
THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF
THE NORTHEAST QUARTER OF SECTION 17, TO THE SOUTHWEST QUARTER OF
THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17;

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THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OR
THE NORTHEAST QUARTER OF SECTION 17 TO THE SOUTHWEST CORNER OF
THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17;

THENCE SOUTH, ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 17 TO THE SOUTHEAST CORNER OF THE
SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, SAID
POINT BEING THE CENTER OF SECTION 17;

THENCE WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF
THE NORTHWEST QUARTER OF SECTION 17 TO THE SOUTHWEST CORNER OF
THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17;

THENCE SOUTH, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF
THE SOUTHWEST QUARTER OF SECTION 17 TO THE SOUTHWEST CORNER OF
THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17;

THENCE SOUTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF
THE SOUTHWEST QUARTER OF SECTION 17 TO THE SOUTHWEST CORNER OF
THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17;

THENCE EAST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION 17 TO THE SOUTHEAST CORNER OF THE
SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 17, SAID
POINT ALSO BEING THE NORTH QUARTER CORNER OF SECTION 20;

THENCE SOUTH, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF
SECTION 20 TO THE CENTER OF SECTION 20;

THENCE WEST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF
SECTION 20 TO THE WEST QUARTER CORNER OF SECTION 20;

THENCE SOUTH ALONG THE WEST LINE OF SECTION 20 TO THE SOUTHWEST
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THENCE SOUTH, ALONG THE WEST LINE OF SECTION 29, TO THE SOUTHWEST
QUARTER CORNER OF SECTION 29;

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THENCE SOUTH, ALONG THE WEST LINE OF SECTION 32, TO THE HIGH WATER MARK ON THE NORTH BANK OF THE RACCOON RIVER;

THENCE EASTERLY, ALONG THE HIGH WATER MARK ON THE NORTH BANK OF THE RACCOON RIVER THROUGH SECTIONS 32, 29, 33, 28, 34, 27, 35, 26, 25 AND 30, TO THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 35;

THENCE NORTH, ALONG THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 35 TO THE NORTH LINE OF SECTION 30;

THENCE WEST OF THE NORTH LINE OF SECTION 30, TO THE POINT OF BEGINNING.

SECTION 2. Water Connection Fees Water Connections Fees are hereby established and shall be imposed on owners of properties within the Southwest Area Water Connection Fee District, pursuant to West Des Moines Water Works Resolution No. 0802-1 and 0313-2, fully in accordance with the provisions of Resolution No. 0213-1 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 \$2,554 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 Southwest Area Water Connection Fee District which use or derive benefit from any of the major water distribution facilities constructed for the Southwest Area Water Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.
- (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

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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.
- (G) Issues pertaining to water service previously provided within the Benefitted District by a rural water district(s), will be settled in

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accordance with laws and regulations of the State of Iowa and the Federal government.

- (1) Customers connected to and served by Xenia Water at the time the West Des Moines Water Works applied the interest of Xenia Water within the Southwest 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 Southwest 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 Southwest 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 Southwest Area Connection Fee District by not greater than 5% shall not require the Water Works to re-establish fee in the Southwest 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 Southwest 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.

- (I) 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.

- (J) The Water Works, at its discretion may exclude from the area of a final plat subject to the Water Connection Fee the area of land to be conveyed to the City of West Des Moines as a public park to the extent the Water Works considered the park area as undevelopable for purposes of determining the estimated developable area in the Southwest Connection Fee District.

- (K) Any property owner within the Southwest Area Connection Fee District that prior to the date of adoption of this Resolution paid a Water Connection Fee to the Water Works for area located in the 88th Street/EP True Parkway Water Connection District shall be credited with having paid the Water Connection Fee in the Southwest Area Connection Fee District for the number of acres determined by dividing the previous payment by the amount set forth in "A" of this Resolution. The credited area will be reduced by the area in the 88th Street/EP True Parkway Water Connection District for which the fee was paid to determine the net credited area that can be applied to areas within the Southwest Area Connection Fee District for which the fee was not paid or the date of adoption of this Resolution. The net credited area will be rounded up to the nearest 0.1 acre.

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The net credited area may be used by the property owner against a future Water Connection Fee owed by the property owner, or may be assigned in writing to the owner of other property within the District.

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 Southwest 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 All 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 1, 2014.

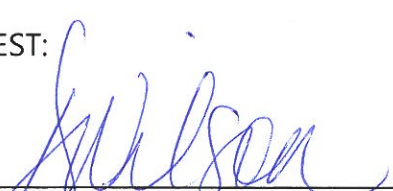
PASSED AND APPROVED this 15th day of April, 2014 (First Reading Only)

PASSED AND APPROVED this 19th day of May, 2014 (Second Reading Only)

PASSED, APPROVED AND ADOPTED IN FINAL FORM this 19th day of May, 2014.


Karen Novak Swalwell
Chair

ATTEST:



Diana Wilson
Secretary

The foregoing was published as Resolution No. 0414-1 in the *Des Moines Register* on the 2 day of June 2014