CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Resolution -- Financing Agreement between the City and West Des Moines Water Works for Water System Improvements

DATE: February 19, 2019

FINANCIAL IMPACT: The City of WDM will front costs for certain water infrastructure projects associated with the Microsoft Osmium Data Center. As reimbursement for those project costs, West Des Moines Water Works (WDMWW) will remit to the City annually in January an amount equal to 50% of what they collect through the Raccoon River Water Connection Fee District in the prior calendar year, until such time as the improvements are fully reimbursed. This is a similar arrangement to financing of the infrastructure associated with Project Alluvion. Overall estimated cost of WDMWW-specific improvements is $7,852,350.

A formal payment schedule is not available because payments are dependent on development. However, Project Osmium should generate a significant portion of the required reimbursement. The City is initially funding the roadway improvements through an advance from the General Fund and then through TIF funds associated with Project Osmium.

BACKGROUND: The proposed Finance Agreement details the repayment for water infrastructure improvements required to provide service to the Microsoft Osmium Data Center. The Microsoft Osmium project in the Raccoon River Water Connection Fee District area of West Des Moines requires development of treated water and additional infrastructure to serve the large seasonal demands of the data center. The required infrastructure to serve the data center includes a looped large diameter water main as well as the potential future construction of an Aquifer Storage and Recovery (ASR) system a pump station. The Finance Agreement details the financing responsibility for the water mains.

The proposed agreement defines the financial responsibilities for improvements, specifically assigning WDMWW responsibility for repayment of the costs benefitting the public water system, which at this time is the water main installation. WDMWW and City staff have negotiated the terms of the agreement and consider the content reasonable with appropriate allocation of responsibility for project costs.

The WDMWW will also be considering this agreement at its meeting of February 19. 2019.

RECOMMENDATON: Approve Resolution authorizing the Mayor and City Manager to execute the Finance Agreement with WDMWW on behalf of the City.

Lead Staff Member: Tim Stiles, Finance Director

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	**Finance & Administration**		
Date Reviewed	**January 23, 2019**		
Recommendation	Yes	No	Split

RESOLUTION

APPROVING FINANCE AGREEMENT BETWEEN THE CITY OF WEST DES MOINES AND WEST DES MOINES WATER WORKS FOR WORK ASSOCIATED WITH THE MICROSOFT PROJECT OSMIUM WATER INFRASTRUCTURE EXPANSION

WHEREAS, City and WDMWW (collectively the "Parties") desire to enter into an Agreement to define financial obligations for water related projects in order to upgrade the capacity of the potable water system and deliver said water at acceptable levels in support of industrial demands created by Microsoft Corporation's Project Osmium; and

WHEREAS, to meet known and future anticipated objectives, certain improvements including water main, river and interstate crossings and a future Aquifer Storage and Recovery (ASR) well within the WDMWW system must be designed and constructed; and

WHEREAS, the City desires to provide economic incentives in support of water delivery to current and future industrial development; and

WHEREAS, the parties desire to share in the cost of certain projects and proceed with necessary design, bidding and construction as provided herein; and

WHEREAS, in anticipation of required infrastructure expansion, WDMWW Board of Trustees adopted a Resolution Establishing the Raccoon River Water Connection Fee District (RRWCFD) in April, 2017. Establishment of a fee district provides for a per acre charge on development projects to fund the estimated cost of major water facilities to serve the defined district.

NOW, THEREFORE, BE IT RESOLVED BY THE WEST DES MOINES CITY COUNCIL AS FOLLOWS:

That the Financing Agreement between the City of West Des Moines and West Des Moines Water Works for work associated with the Microsoft Project Osmium Infrastructure Expansion attached to this Resolution is hereby approved, and that the Mayor is authorized to execute the Financing Agreement on behalf of the City.

PASSED AND APPROVED this 19th day of February, 2019

_____
Steven K. Gaer
Mayor

Attest:

_____
Ryan Jacobson
City Clerk

FINANCE AGREEMENT BETWEEN THE CITY OF WEST DES MOINES AND WEST DES MOINES WATER WORKS FOR WORK ASSOCIATED WITH MICROSOFT PROJECT OSMIUM INFRASTRUCTURE EXPANSION 2018/2019 THIS AGREEMENT (hereinafter "Agreement") made and entered into by and among the CITY OF WEST DES MOINES ("City") and BOARD OF TRUSTEES OF THE WEST DES MOINES WATER WORKS ("WDMWW") as of the dates set forth below.

PREAMBLE

WITNESSETH:

WHEREAS, City and WDMWW (collectively "Parties") desire to enter into an Agreement to define financial obligations for water related projects hereinafter described in order to upgrade the capacity of the potable water system and deliver said water at acceptable pressures and flows in support of industrial demands created by Microsoft Corporation's Project Osmium which requires the redundant delivery of large volumes of potable water on a seasonal basis; and

WHEREAS, to meet known and future anticipated objectives in providing necessary water service, certain improvements including water main, river and interstate crossings and a future Aquifer Storage and Recovery (ASR) well within the WDMWW system must be designed and constructed; and

WHEREAS, the City desires to provide economic incentives in support of water delivery to current and future industrial development; and

WHEREAS, the parties desire to share in the cost of certain projects and proceed with necessary design, bidding and construction as provided herein; and

WHEREAS, in anticipation of required infrastructure expansion, WDMWW Board of Trustees adopted a Resolution Establishing the Raccoon River Water Connection Fee District (RRWCFD) in April, 2017. Establishment of a fee district provides for a per acre charge on development projects to fund the estimated cost of major water facilities to serve the defined district.

NOW THEREFORE, in consideration of the mutual undertakings hereby provided, the parties hereby agree as follows:

Part I – Responsibility of Project Costs

1. Project Components Eligible for Reimbursement. City agrees to pay the entirety of costs associated with water improvements and receive reimbursement by WDMWW for the design and construction costs associated with the certain water infrastructure as outlined in Part I, Section 2 and Part III, Section 1.

2. Reimbursable Infrastructure. Infrastructure eligible for reimbursement by WDMWW shall include 24 inch diameter water main, associated river and interstate crossings, hydrants, valves and other necessary water appurtenances along alignment within the RRWCFD shown in Exhibit A and/or constructed as part of the City of West Des Moines Projects listed in Exhibit B.

3. Aquifer Storage and Recovery Well. The large, seasonal demand expected by Project Osmium will be handled through construction of an Aquifer Storage and Recovery (ASR) well or similar storage infrastructure. City shall be responsible for full payment of design, construction, utility work, laboratory analysis, cycle testing, and treatment of discharge until the well is in full operation and incorporated into the public distribution system.

Part II – Responsibilities of Improvement Construction, Ownership and Operation

1. Project Responsibility – Water Main. City agrees to coordinate design and construction of necessary water main infrastructure within planned sewer, fiber and road projects to provide timely service to Project Osmium. WDMWW shall provide construction inspection and concur with City prior to project acceptance and issuance of final contract payments.

2. Project Responsibility – ASR. The ASR site, design and construction shall be coordinated between the City and WDMWW. City shall be responsible to provide adequate land for initial construction and future operation and maintenance of the facility. WDMWW shall have the final authorization of location, size of parcel, schedule, design and selection of consultants. WDMWW shall be responsible for management of the project and coordination with various agencies, including Iowa Department of Natural Resources and Environmental Protection Agency.

3. Operation and Maintenance. Upon completion of the water main and ASR facilities, WDMWW shall operate and maintain the infrastructure as part of the municipal water system.

4. Ownership of Completed Improvements. WDMWW will be the sole owner of the water main and ASR facilities. Upon completion of each improvement within the overall Microsoft Project Osmium, and the City's acceptance of each project, WDMWW will accept the assets into the WDMWW system.

Part III – Terms of Repayment

1. Reimbursement Amount. Reimbursement for design and engineering services shall be based on the prorata share of eligible water infrastructure over total project cost. Reimbursement for

water infrastructure construction as identified in Part I, Section 2 shall include 100% of the final accepted project construction costs, including awarded bid amounts and WDMWW authorized change orders. Construction line items necessary for both City and WDMWW project portions (e.g. traffic control, seeding, erosion control, etc.) shall be shared on a prorata basis, similar to design and engineering services.

2. Responsibility of City. Upon final acceptance of each project eligible for reimbursement, as determined under Part I, Section 2, City is responsible to provide WDMWW evidence of total cost of work, including a copy of the awarded design and construction contracts, individual pay requests, change orders and as-constructed record drawings. City shall calculate each project's reimbursable amount and provide to WDMWW for review and concurrence. Upon the final acceptance of all eligible project work, City shall develop and provide to WDMWW a net balance of reimbursable project expenses.

3. Responsibility of WDMWW. Upon receipt from City of the net balance of reimbursable project expenses, WDMWW shall convert the amount to an equivalent number of developable acres based on the per acre fee in effect at the time the Project Osmium work is completed and the net balance of project expenses is calculated. Unless otherwise agreed, the date for each individual project will be the date of acceptance by the City Council. WDMWW shall be responsible to pay the City and keep record of the remaining equivalent reimbursable acres as described in Part III, Section 4. Payments shall be made by WDMWW until the equivalent reimbursable acres are paid in full.

4. Method of Reimbursement. In January of each year WDMWW will calculate the total RRWCFD acres developed during the previous calendar year and shall pass 50% of the fees collected at the rate in effect at time the fee was collected to the City. If no RRWCFD acres are developed within a calendar year, no funds shall be passed through to City during that calendar year period.

5. Reimbursement Considerations. No Payment Schedule will be developed due to the nature of the reimbursement agreement. WDMWW Board of Trustees has the discretion to make payment to City in addition to the RRWCFD fees collected without penalty. Revenue collected by WDMWW from other Connection Fee Districts will not be applied to reimbursement as part of this agreement.

Part IV – General Provisions

1. Notices and Invoices. All notices, project documents, balances, revisions and payments shall be in writing and may be personally delivered or sent US Post to the addresses hereafter provided. Mailed notices, payments or other correspondence shall be deemed received by

the party to whom directed when they are postmarked. Such notices, payments and other correspondence shall be delivered or mailed to the following persons at the addresses listed:

Notices to City:
City Manager
City of West Des Moines
PO Box 65320
4200 Mills Civic Parkway
West Des Moines, IA 50265-0320

Notices to WDMWW:
General Manager
West Des Moines Water Works
1505 Railroad Avenue
West Des Moines, IA 50265

2. Payment. Annual reimbursement to the City shall be made after approval by the WDMWW Board of Trustees at the regularly scheduled meeting held in January. Payment shall be made by check and personally delivered to the City Manager or designated alternate within seven (7) calendar days of the approval.

CITY OF WEST DES MOINES, IOWA
an Iowa municipality

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

COUNTY OF POLK)
) ss
STATE OF IOWA)

On this ____ day of _____, 2019, before me a Notary Public in and for said County, personally appeared Steven K. Gaer and Ryan T. Jacobson to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of West Des Moines, Iowa, a Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipal Corporation, and that said instrument was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council as contained in the Resolution adopted under Roll Call No. 19-_____, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipal Corporation by it voluntarily executed.

_____
Notary for the State of Iowa

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

By: _____
Brian P. Rickert, Chairman

Attest:

_____
Josh Heggen, Secretary

COUNTY OF POLK)
) ss
STATE OF IOWA)

On this ____ day of _____, 2019, before me a Notary Public in and for said County, personally appeared Brian P. Rickert and Josh Heggen to me personally known, who being duly sworn, did say that they are the Board Chairman and Secretary of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF WEST DES MOINES, IOWA, that no seal has been procured by the entity; that the instrument was signed and sealed on behalf of the entity by authority of its Board as contained in the resolution adopted by the Board on the ____ day of _____, 2019, and that said Board Chairman and Secretary acknowledged the execution of the instrument to be the voluntary act and deed of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF WEST DES MOINES, IOWA, by it and by them voluntarily executed.

_____
Notary for the State of Iowa

Exhibit A

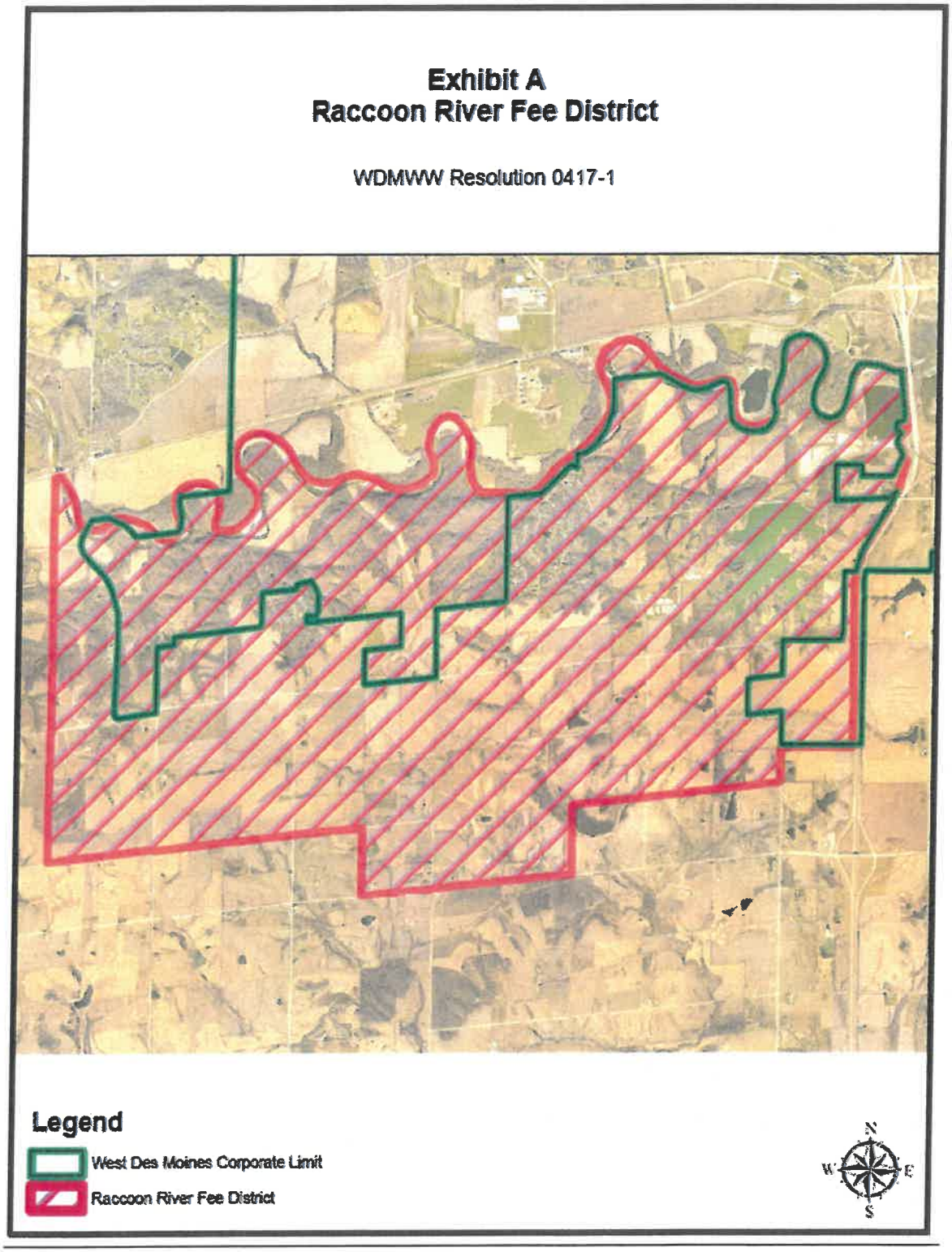
Exhibit A
Raccoon River Fee District
WDMWW Resolution 0417-1
Legend
West Des Moines Corporate Limit
Raccoon River Fee District
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Exhibit B

Osmium Projects with WDMWW Payment Responsibility

0510-062-2015 – South Grand Prairie Parkway – SE Madison Avenue to Raccoon River Drive
0510-007-2017 – Veterans Parkway – SE Maffitt Lake Road to Adams Street
0510-008-2017 – Veterans Parkway – Alluvion TIF Boundary to SE 50th Street
0510-009-2017 – Veterans Parkway – SE 50th Street to SW 60th Street
0510-010-2017 – Veterans Parkway – SW 60th Street to SW Wild Rose Lane
0510-012-2017 – SW Grand Prairie Parkway – Veterans Parkway to SE Madison Avenue
0510-047-2017 – Veterans Parkway over I-35 Approx 1.25 Miles N. of Co Rd G14

Osmium Projects with No WDMWW Payment Responsibility

0510-011-2017 – Veterans Parkway – Grand Prairie Parkway to Wild Rose Lane (no water infrastructure)
0510-013-2017 – SW 60th Street Paving
0510-014-2017 – SW 60th Street, SE 50th Street and SE/SW Adams Street
0510-015-2017 – Middle Creek Trunk Sewer Extension