

Date December 17, 2018

**SETTING PUBLIC HEARING ON
PROPOSED CONNECTION FEE ORDINANCE FOR
LITTLE FOUR MILE TRUNK SEWER SYSTEM BENEFITED DISTRICT**

WHEREAS, this City Council has determined the necessity and advisability of constructing the Little Four Mile Trunk Sanitary Sewer Project (“Project”), a public improvement project for the construction of a trunk sanitary sewer system to provide sanitary sewer service for the area lying north of the Iowa Interstate Railroad right-of-way, south of E Broadway Avenue, west of Highway 65, and generally east of E 50th Street on the north and E 54th Street on the south; and

WHEREAS, the Project will allow the area to be developed and provide for the projected growth that is anticipated with the Highway 65 corridor; and

WHEREAS, the Little Four Mile Trunk Sanitary Sewer is a sanitary sewer designed to serve the Little Four Mile Trunk Sanitary Sewer Benefited District described as follows:

The project consists of two separate reaches of sewer. The first reach is located along N.E. 56th Street from the Iowa Interstate Railroad right-of-way to north of N.E. 23rd Street. The second reach is located along the westerly side of U.S. Highway 65 from Little Four Mile Creek to E. Douglas Avenue, and along the westerly side of E. 56th Street from Douglas Avenue northerly approximately 1,300 feet.

WHEREAS, this City Council proposes that the costs of designing and constructing said Project are estimated to be \$2,684,356.00, and should be recovered by the imposition of a connection fee upon the owners of properties which will connect to and derive service from said sewer; and

WHEREAS, the area that the Little Four Mile Trunk Sanitary Sewer is designed to serve, to be known as the Little Four Mile Trunk Sanitary Sewer Benefited District, is described as follows:

This district is located in the area lying north of NE 23rd Avenue and NE Oak Hill Drive and NE 27th Avenue, south of E Broadway Avenue, west of Highway 65, and generally east of E 50th Street on the north and E 54th Street on the south.

Date December 17, 2018

WHEREAS, a proposed connection fee ordinance has been prepared for said purpose, which ordinance would establish a benefited district to be known as the Little Four Mile Trunk Sanitary Sewer System Benefited District and would establish the boundaries of said district as follows:

Beginning at the intersection of the centerline of the right of way of NE 56th Street and the centerline of the right of way of NE Oak Hill Drive; thence northeast along said right of way centerline of NE Oak Hill Drive to the centerline of the right of way of NE 27th Avenue (E Sheridan Avenue); thence easterly along said right of way centerline of NE 27th Avenue to the point of intersection with the westerly right-of-way line of U.S. Highway 65; thence northerly along said westerly right-of-way line of U.S. 65 to the point of intersection with the north line of South ½ of the Northeast ¼ Section 22, Township 79 North, Range 23 West of the Fifth Principal Meridian; thence west along said north line of the south ½ of the Northeast ¼ of said Section 22 to the Northwest Corner of the South ½ of the Northeast ¼ of said section 22; thence south along the west line of the south ½ of the Northeast ¼ of said Section 22 to the center of said Section 22; thence south along the west line of the Southeast ¼ of said Section 22 to the South ¼ corner of said Section 22; thence east along the south line of the Southeast ¼ of said section to the northwest corner of the property described as the West 10 rods of the North 16 rods of the Northeast ¼ of the Northeast ¼ of Section 27, Township 79 North, Range 23 West of the Fifth Principal Meridian; thence south along the west line of the West 10 rods of the North 16 rods of the Northeast ¼ of the Northeast ¼ of said Section 27 to the southwest corner of the property described as West 10 rods of the North 16 rods of the Northeast ¼ of the Northeast ¼ of Section 27, Township 79 North, Range 23 West; thence east along the south line of the west 20 rods of the north 16 rods of the Northeast ¼ of the Northeast ¼ of said Section 27 to the southeast corner of the west 20 rods of the North 16 rods of the Northeast ¼ of the Northeast ¼ of Said Section 27, said point being on the west line of Lot 1 of Fini Acres Plat 2, an official plat; thence south along the said west line of Lot 1 Fini Acres Plat 2 to the southwest corner of said Lot 1; thence east along the south line of said Lot 1 to the southeast corner of Lot 1 Fini Acres Plat 2; thence continuing east along a straight line to the northwest corner of Lot 54 Brook Landing Plat 1, an official plat, said corner being on the east right-of-way line of E 56th Court; thence southerly along said east right-of-way line to the north right-of-way line of Brook View Avenue; thence southeasterly to the intersection of the east right-of-way line of said E 56th Court and the north right-of-way line of said Brook View Avenue; thence southeasterly along said east right-of-way line, said east right-of-way line also being easterly line of Lot F in said Brook Landing Plat 1, to the southeast corner of said Lot F of said Brook Landing Plat 1; thence along as straight line across Outlot X of said Fini Acres Plat 2 and across Outlot X of Fini Acres Replat, an official plat, to the northwest corner Lot 1 Fini Acres Replat; thence south along the west line of Lots 1, 2 and 3 of said Fini Acres Replat to the southwest corner of said Lot 3 Fini Acres Replat; thence south across said Outlet X Fini Acres Replat to the northwest corner Lot 4 Fini Acres Replat; thence south along the west line of Lots 4, 5 and 6 of said Fini Acres Replat to the southwest corner of said Lot 6 Fini Acres Replat, said southwest corner being on the northerly line of Lot 1 Silverado, an official plat;

Date December 17, 2018

thence westerly along said northerly line of Lot 1 Silverado Acres to the northwest corner of said Lot 1 Silverado Acres, said northwest corner also being the northeast corner of Lot 7 Josiah F. Oglevie Estate, an official plat; thence northwesterly along the northerly line of said Lot 7 Josiah F. Oglevie Estate to the northwest corner of said Lot 7 Josiah F. Oglevie Estate; thence south along the west line of said Lot 7 Josiah F. Oglevie Estate to the northwest corner of Parcel A of said Lot 7 Josiah F. Oglevie Estate, Parcel A recorded in Book 8356 pages 999-1000 at the Recorder's office of Polk County, Iowa; thence east along the north line of said Parcel A to the northeast corner of said Parcel A; thence south along the east line of said Parcel A to the southeast corner of said Parcel A; thence continuing south along the southerly extension of the east line of said Parcel A to the centerline of the right of way of NE 23rd Avenue; thence east along said right of way centerline of NE 23rd Avenue to the centerline of the right of way of NE Oak Hill Drive; thence northeast along said right of way centerline of NE Oak Hill Drive to the point of beginning.

WHEREAS, pursuant to said ordinance, property owners would be eligible to connect to said sewer upon application therefore and payment of a connection fee in the amount of \$4,234 per acre for each acre of land to be connected to and served by said sewer plus interest at a rate of 3.5% per annum; and

WHEREAS, pursuant to said ordinance, the city council may authorize the connection of properties outside the corporate limits of Des Moines to the Little Four Mile Trunk Sanitary Sewer as provided in Division 5 of Municipal Code Chapter 118 and upon payment of the connection fee and compliance with all other requirements of the code; and

WHEREAS, pursuant to Section 384.38(3) of the Iowa Code, the City is required to hold a public hearing upon the proposed connection fee ordinance following public notice thereof.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That the City Council shall hold a public hearing, at which the adoption of said connection fee ordinance is to be considered, on January 14, 2019, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, for the purpose of hearing property owners within the proposed Little Four Mile Trunk Sanitary Sewer System Benefited District and members of the public for or against the construction of said sewer improvement, its cost, the boundaries of the benefited district, or the proposed connection fee. Unless a property owner files objections with the Clerk at the time of the hearing on the connection fee ordinance, the property owner shall be deemed to have waived all objections pertaining to the regularity of the proceedings and the legality of using the connection fee procedure.
2. That the Clerk is hereby instructed to work with the Public Works Department to mail notice to each person whose property will be served by connecting to the Project as required by law, said Notice to be in substantially the form attached hereto.

★ **Roll Call Number**

Agenda Item Number

32

Page 4


Date December 17, 2018

3. That the Clerk is hereby further instructed to cause notice to be published as required by law concerning the proposal to adopt said connection fee ordinance and of the time and place of hearing objections thereto, said Notice to be in the form hereto attached, all in accordance with §384.38(3) and §384.50 of the Iowa Code and Municipal Code Section 118-208.
4. A copy of said proposed ordinance is on file and available for public inspection in the office of the City Clerk.

Moved by _____ to adopt.

APPROVED AS TO FORM:

(Council Communication No. *18-679*)



 Lisa A. Wieland
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding and enacting a new Section 118-218, relating to and establishing the Little Four Mile Trunk Sanitary Sewer System Benefited District and imposing a connection fee on all properties within said district whose owners hereafter apply to make connection to said sewer; and by adding and enacting a new Section 21-70.11 of Appendix G thereto, establishing the boundaries of the Little Four Mile Trunk Sanitary Sewer System Benefited District.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by adding and enacting a new Section 118-218, relating to and establishing the Little Four Mile Trunk Sanitary Sewer System Benefited District and imposing a connection fee on all properties within said district whose owners hereafter apply to make connection to said sewer; and by adding and enacting a new Section 21-70.11 of Appendix G thereto, establishing the boundaries of the Little Four Mile Trunk Sanitary Sewer System Benefited District, as follows:

Sec. 118-218. - Fee for connection to the Little Four Mile Trunk Sanitary Sewer System Benefited District.

- (a) Pursuant to section 118-208 of this division, the Little Four Mile Trunk Sanitary Sewer System Benefited District is established for the purpose of collecting within such district a fee from those property owners who shall make application to connect their properties to the sewer.
- (b) The boundaries of the Little Four Mile Trunk Sanitary Sewer System Benefited District shall be described in article I of appendix G to this Code.
- (c) A connection fee is established and imposed upon the owners of properties within the Little Four Mile Trunk Sanitary Sewer System Benefited District who shall hereafter make application to connect their properties to the sewer pursuant to section 118-208 of this division. The connection fee for the Little Four Mile Trunk Sanitary Sewer System Benefited District shall be \$4,234 for each acre of property for which application is hereafter made for connection to said trunk sewer; provided, however, that upon completion of construction of said sewer, the said connection fee shall be subject to adjustment if the actual cost of constructing said sewer is less than the estimated cost thereof; and further provided that upon completion of the construction of said sewer, it is the city's intention to amend this provision to include a schedule of connection fees herein,

pursuant to which there will be an annual adjustment of the connection fee as of July 1st of each year, increasing the connection fee in each subsequent year by applying simple interest thereto at the rate of three and one-half percent per annum.

- (d) Single-family residences within the Little Four Mile Trunk Sanitary Sewer System Benefited District, in existence or under construction upon the effective date of the ordinance from which this section derives, and located within the corporate limits are eligible for connection to the major sanitary sewer facility. Owners of such residences on parcels of less than one acre in size located within the city and within the benefited district may connect such residences to the Little Four Mile Trunk Sanitary Sewer System upon approval of their application for connection, payment of the connection fee for the parcel, and construction of appropriate connection structures, as determined necessary by the city engineer, and owners of such residences on parcels in excess of one acre in size located within the city and within the benefited district may connect such residences to the Little Four Mile Trunk Sanitary Sewer upon approval of their application of connection, subdivision of the parcel into a residence parcel and an outlot, payment of the connection fee for the residence parcel, and construction of appropriate connection structures, as determined necessary by the city engineer. All other property located within the corporate limits and within the Little Four Mile Trunk Sanitary Sewer System Benefited District shall be eligible for connection to the Little Four Mile Trunk Sanitary Sewer upon approval of an application for connection by the owner thereof and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and provided that all sanitary sewer improvements necessary to serve the property have been constructed and approved by the city. The city council may authorize the connection of properties outside the corporate limits of Des Moines to the Little Four Mile Trunk Sanitary Sewer as provided in this division and upon payment of the connection fee and compliance with all other requirements of this code.

21-70.11. Little Four Mile Trunk Sanitary Sewer System Benefited District.

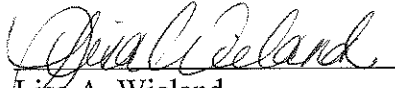
The boundaries of the Little Four Mile Trunk Sanitary Sewer System Benefited District [as provided in Section 118-218 of the Code of Ordinances] shall be as follows:

Beginning at the intersection of the centerline of the right of way of NE 56th Street and the centerline of the right of way of NE Oak Hill Drive; thence northeast along said right of way centerline of NE Oak Hill Drive to the centerline of the right of way of NE 27th Avenue (E Sheridan Avenue); thence easterly along said right of way centerline of NE 27th Avenue to the point of intersection with the westerly right-of-way line of U.S. Highway 65; thence northerly along said westerly right-of-way line of U.S. 65 to the point of intersection with the north line of South ½ of the Northeast ¼ Section 22, Township 79 North, Range 23 West of the Fifth Principal Meridian; thence west along said north line of the south ½ of the Northeast ¼ of said Section 22 to the Northwest Corner of the South ½ of the Northeast ¼ of said section 22; thence south along the west line of the south ½ of the Northeast ¼ of said Section 22 to the center of said Section 22; thence south along the west line of the Southeast ¼ of said Section 22 to the South ¼ corner of said Section 22; thence east along the south line of the Southeast ¼ of said section to the northwest corner of the property described as the West 10 rods of the North 16 rods of the Northeast ¼ of

the Northeast $\frac{1}{4}$ of Section 27, Township 79 North, Range 23 West of the Fifth Principal Meridian; thence south along the west line of the West 10 rods of the North 16 rods of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 27 to the southwest corner of the property described as West 10 rods of the North 16 rods of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 27, Township 79 North, Range 23 West; thence east along the south line of the west 20 rods of the north 16 rods of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 27 to the southeast corner of the west 20 rods of the North 16 rods of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Said Section 27, said point being on the west line of Lot 1 of Fini Acres Plat 2, an official plat; thence south along the said west line of Lot 1 Fini Acres Plat 2 to the southwest corner of said Lot 1; thence east along the south line of said Lot 1 to the southeast corner of Lot 1 Fini Acres Plat 2; thence continuing east along a straight line to the northwest corner of Lot 54 Brook Landing Plat 1, an official plat, said corner being on the east right-of-way line of E 56th Court; thence southerly along said east right-of-way line to the north right-of-way line of Brook View Avenue; thence southeasterly to the intersection of the east right-of-way line of said E 56th Court and the north right-of-way line of said Brook View Avenue; thence southeasterly along said east right-of-way line, said east right-of-way line also being easterly line of Lot F in said Brook Landing Plat 1, to the southeast corner of said Lot F of said Brook Landing Plat 1; thence along as straight line across Outlot X of said Fini Acres Plat 2 and across Outlot X of Fini Acres Replat, an official plat, to the northwest corner Lot 1 Fini Acres Replat; thence south along the west line of Lots 1, 2 and 3 of said Fini Acres Replat to the southwest corner of said Lot 3 Fini Acres Replat; thence south across said Outlet X Fini Acres Replat to the northwest corner Lot 4 Fini Acres Replat; thence south along the west line of Lots 4, 5 and 6 of said Fini Acres Replat to the southwest corner of said Lot 6 Fini Acres Replat, said southwest corner being on the northerly line of Lot 1 Silverado, an official plat; thence westerly along said northerly line of Lot 1 Silverado Acres to the northwest corner of said Lot 1 Silverado Acres, said northwest corner also being the northeast corner of Lot 7 Josiah F. Oglevie Estate, an official plat; thence northwesterly along the northerly line of said Lot 7 Josiah F. Oglevie Estate to the northwest corner of said Lot 7 Josiah F. Oglevie Estate; thence south along the west line of said Lot 7 Josiah F. Oglevie Estate to the northwest corner of Parcel A of said Lot 7 Josiah F. Oglevie Estate, Parcel A recorded in Book 8356 pages 999-1000 at the Recorder's office of Polk County, Iowa; thence east along the north line of said Parcel A to the northeast corner of said Parcel A; thence south along the east line of said Parcel A to the southeast corner of said Parcel A; thence continuing south along the southerly extension of the east line of said Parcel A to the centerline of the right of way of NE 23rd Avenue; thence east along said right of way centerline of NE 23rd Avenue to the centerline of the right of way of NE Oak Hill Drive; thence northeast along said right of way centerline of NE Oak Hill Drive to the point of beginning.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

A handwritten signature in cursive script, appearing to read "Lisa A. Wieland", written over a horizontal line.

Lisa A. Wieland
Assistant City Attorney