

**INITIAL PROPOSED DRAFT
OF
CENTRAL IOWA WATER WORKS
28E/28F AGREEMENT**

***Disclaimer:** This document has been prepared by the Des Moines Water Works to set forth in detail possible terms under which a regional water supply entity may be created for purposes of review and discussion by and among all prospective participants. The Des Moines Water Works does not by issuance of this document make any commitment to join in the document in this form. This document is an invitation for further discussion and is not to be construed as an offer open to acceptance by any other party or parties. The Des Moines Water Works reserves the right to propose additional or different terms as discussions progress and as the exact composition of founding participants is defined.*

Received and filed by Board of Water Works Trustee of the City of Des Moines, Iowa on Feb. 22, 2022.

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**CENTRAL IOWA WATER WORKS
28E/28F AGREEMENT**

WHEREAS, the Board of Water Works Trustees of the City of Des Moines, Iowa, a municipal water utility organized and existing under Chapter 388, Iowa Code (“DMWW”), the Board of Water Works Trustees of the City of West Des Moines, Iowa, a municipal water utility organized and existing under Chapter 388, Iowa Code (“WDMWW”), the Water Utility Board of Trustees of the City of Urbandale, Iowa, a municipal water utility organized and existing under Chapter 388, Iowa Code (“UWU”), the City of Waukee, Iowa (“Waukee”),

[add additional Founding parties]

(the “Founding Agencies”) are each duly established public agencies in the State of Iowa that own and operate public water supply systems serving retail customers and others and each consider it to be desirable, in their best interests, and in the best interests of their respective entities and water consumers to establish a shared regional system of drinking water production and supply facilities under regional governance to meet their existing and future needs for safe, sufficient, reliable, and reasonably priced drinking water to be delivered by them in turn to their respective customers;

WHEREAS, the Founding Agencies desire to exercise and share their respective powers pursuant to Chapter 28E and Chapter 28F, Iowa Code, to create a new regional water authority as a separate public entity to be known as the “Central Iowa Water Works” to act as a regional water wholesale production and supply provider under the terms of this Agreement; and

WHEREAS, the Founding Agencies have agreed that from and after the Effective Date the terms of this Agreement shall be given full effect and shall govern the matters set forth herein.

NOW, THEREFORE, the undersigned Founding Agencies agree as follows:

ARTICLE I. PURPOSES AND ESTABLISHMENT OF LEGAL ENTITY

Section 1. Purposes. The purposes of this Agreement are: (a) to create, to establish, and to provide for operation of, a separate entity under Chapter 28E and Chapter 28F, Iowa Code; (b) to create and provide for operation of a regional water wholesale production and supply entity that is able to serve, and shall serve as provided by this Agreement, as the exclusive water supply provider to the Founding Agencies and other agencies subsequently admitted to membership as provided by this Agreement; (c) to otherwise achieve the objectives set forth in Section 5 of this Article; (d) to delegate to such entity certain powers and authorities of the Founding Agencies and other agencies subsequently admitted to membership as provided by this Agreement; and (e) to otherwise govern and provide for the operation and governance of such entity.

Section 2. Founding Data. The terms of this Agreement are based on the historic annual finished water demand (“Annual Demand”) and the historic maximum day utilization of capacity (“Max Day Demand”) of the Founding Agencies as defined and set forth in Schedule I-2 attached. The parties agree that the Annual Demand and Max Day Demand information stated in Schedule I-2 is true and correct for the calendar years 2017 through 2021, inclusive, for all

purposes of this Agreement. Schedule I-2 shall be augmented to include the Annual Demand and Max Day Demand data for the preceding five years for each new agency admitted to membership after the Effective Date of this Agreement. Schedule I-2 shall be updated to include data for each calendar year after the Effective Date, subject to approval of the Board.

Section 3. Creation of Entity and Name. An entity is hereby established under Chapter 28E and 28F, Iowa Code. Its name shall be:

CENTRAL IOWA WATER WORKS

(referred to herein as “CIWW”).

Section 4. Membership. Each of the Founding Agencies shall be a member of CIWW upon execution of this Agreement. Additional public agencies meeting the eligibility requirements of this Agreement, and approved for admission to membership as provided herein, shall become Member Agencies upon the effective date of their joinder in this Agreement. References herein to “Member Agency” and “Member Agencies” shall mean the Founding Agencies, and any other public or private agency subsequently admitted to membership as provided herein (“New Member Agency”). Entities to which a Member Agency provides water service under a Total Service Agreement as defined in Article IV or other wholesale agreement are not Member Agencies.

Section 5. CIWW Objectives. The objectives of CIWW shall be:

- (a) To be a membership organization governed by, and operated for the mutual benefit of, its Member Agencies;
- (b) To manage the natural resource of water as a region to ensure drinking water remains safe, in sufficient supply, and available to meet the needs of the people of central Iowa;
- (c) To manage water costs to ratepayers by providing value and stability to central Iowans through economies of scale and regional public governance and management;
- (d) To improve the governance of regional water production to include wider representation within the region served by the Member Agencies;
- (e) To consolidate the authority for the planning and expansion of Water Supply Facilities including construction of new Water Supply Facilities;
- (f) To establish shared ownership of existing Water Supply Facilities of the Founding Agencies;
- (g) To provide for the ownership, operation, and maintenance of Water Supply Facilities of the Member Agencies;
- (h) To act as the exclusive wholesale supplier of water to the Member Agencies and to establish rates for water production consistent with its expenses and capital needs;
- (i) To retain and not displace the structure and governance of all existing Member Agency water utility boards, city water utilities and rural water districts in all matters related to distribution of water to their residential, business, and other customers; and

- (j) To advance and promote regional and statewide water resource management as a critical quality of life and economic development asset in the context of climate change and source water quality and quantity challenges.

Section 6. Status as Separate Legal Entity. Pursuant to Sections 28E.4, 28E.5, and 28F.1, Iowa Code, CIWW shall be constituted as a legal and administrative entity to be governed by the Board established under Article VIII, subject to the Member voting requirements of Article XI. As so constituted, CIWW shall be a public body corporate that is separate and distinct from its Member Agencies, but organized and operated for their mutual benefit.

Section 7. Governmental Status. CIWW shall be a political subdivision of the State of Iowa under Iowa Code Chapter 28E and Chapter 28F. CIWW shall be a governmental body subject to open meetings requirements under Iowa Code Chapter 21, and a government body subject to open records requirements under Iowa Code Chapter 22, to the extent provided by law, as amended. CIWW shall be operated to be exempt from federal and state income tax to the fullest extent permitted by law.

Section 8. Limited Liability of Member Agencies. Except as otherwise provided by Iowa Code Chapter 28F and by this Agreement, no Member Agency of CIWW shall be liable in such capacity for any acts or omissions, debts, or other obligations of CIWW. No assets, revenues, or taxing authority of any Member Agency may be reached, attached, or executed upon by any creditor of, or claimant against, CIWW.

Section 9. Initial Capital Contributions. The Founding Agencies shall make initial start-up Capital Contributions to CIWW based on their proportionate shares of Annual Demand in the amounts set forth in Schedule I-9 (“Initial Capital Contributions”). Such Initial Capital Contributions shall be made in cash within ten (10) days of the Effective Date. The Board shall evaluate the sufficiency of CIWW’s initial capital after the Effective Date under the provisions of Section 2 of Article XV, and if required upon such evaluation, the Board shall increase the Initial Capital Contribution of each Member Agency, and cause Schedule I-9 to be revised accordingly. Capital Contributions shall earn no interest or other investment return and shall be non-refundable, except as otherwise expressly provided in this Agreement. Each New Member Agency shall make an initial capital contribution in the amount as required by the Board.

Section 10. No Seal. CIWW shall have no seal.

Section 11. Effective Date. This Agreement shall be effective, and the existence of CIWW shall commence, after all of the Founding Agencies have authorized and executed this Agreement, on the date of its filing with the Iowa Secretary of State as provided by Iowa Code § 28E.8. The date the fully executed Agreement is filed shall be the “Effective Date.”

Section 12. Operational Commencement. CIWW shall commence operations as a wholesale water supply utility on July 1, 2023, or on such later date as may be determined by the Board (the “Operational Commencement Date”).

Section 13. Term and Period of Existence. The initial term of this Agreement, and the

initial period of existence of CIWW, shall be forty (40) years from the Effective Date. Early termination and any extension of such term of existence shall be governed by Article XXIV.

Section 14. Manner of Financing. The manner of financing of the joint and cooperative undertakings hereunder shall be Capital Contributions from Member Agencies, operating revenues, and issuance of bonds and indebtedness under Chapter 28F, Iowa Code.

Section 15. Individual Ownership and Responsibility. Except as otherwise explicitly provided herein, each party to this Agreement shall at all times hold and own its respective properties. Each party shall be solely authorized to supervise, direct, and manage its own activities and the activities of its respective employees and agents. Each party shall retain sole responsibility and liability for its own acts and omissions hereunder and for the acts and omissions of its respective employees and agents hereunder.

ARTICLE II. POWERS OF CIWW

Section 1. Powers Generally. Except as expressly limited under this Agreement, CIWW shall have and may exercise, under the direction of the Board constituted under Article VIII, any and all powers necessary and proper to the accomplishment of the purposes provided herein, to the fullest extent permitted under Chapter 28E and Chapter 28F, Iowa Code, as the same may be amended and supplemented in the future, or under any other applicable law.

Section 2. Specific Enumeration of Powers. Without limiting the generality of the powers conferred under Section 1 of this Article, the powers of CIWW include, but are not limited to, the power to do all of the following within the limitations provided by this Agreement:

- (a) To acquire drinking water for re-sale to its Member Agencies or to non-member public water supply customers, as defined in Iowa Code Chapter 455B;
- (b) To produce drinking water for sale to its Member Agencies and to any non-member customer that is a public water supply, as defined in Iowa Code Chapter 455B;
- (c) To sell water on a wholesale basis to Member Agencies and to non-member public water supply customers, and to provide for the terms of such service by rule or by contract;
- (d) To establish rules and regulations governing its operation and provision of wholesale water service;
- (e) To establish rates and charges for wholesale water service;
- (f) To plan for, acquire, or construct such Water Supply Facilities as it deems necessary or proper;
- (g) To contract with any public or private entity to acquire supplies of water for re-sale or to acquire Water Supply Facilities, and any other services as it may require;
- (h) To take any actions necessary or appropriate to secure or improve the quality and available quantity of source waters required for the provision of safe drinking water to its Member Agencies and otherwise to advance and promote regional and state-wide water resource management;
- (i) To do all things necessary and proper to operate as a regional water wholesale supply utility;

- (j) To rent, lease, or purchase, or otherwise acquire any tangible personal property, real estate or services reasonably necessary to fulfill the purposes of this Agreement;
- (k) To approve its own budget, including approval and payment of its costs of operation and maintenance;
- (l) To make provision for its capital needs and requirements;
- (m) To contract for services or employ such staff as it deems necessary, or both;
- (n) To establish a system of accounting and budgeting, and a system for receiving and disbursing payments;
- (o) To insure its properties and its risks against loss;
- (p) To retain legal counsel, accountants and other professional advisers needed in order to fulfill the purposes of this Agreement;
- (q) To establish Bylaws as provided by Section 12 of Article VIII;
- (r) To sue or be sued;
- (s) To enter into agreements, contracts or other arrangements for the financing of its operational and capital requirements, including the issuance of bonds or other debt;
- (t) To merge or consolidate with another entity;
- (u) To sell or dispose of any or all of its assets;
- (v) To apply for grants or other funding from state government, federal government, or non-governmental entities;
- (w) To exercise the powers generally possessed and exercised by a city utility under Iowa law, except to the extent inconsistent with this Agreement; and
- (x) To exercise any of the powers of Member Agencies delegated to CIWW to the maximum extent permitted under Iowa Code Chapter 28E, and all powers granted to entities under Iowa Code Chapter 28F.

ARTICLE III. LIMITATIONS OF SCOPE AND CIWW POWERS AND OPERATIONS

Section 1. Prohibited Activities. Notwithstanding the provisions of Article II, CIWW shall not have the power under this Agreement to do any of the following:

- (a) Sell or distribute water to any customer or consumer that is not a public water supply, as defined in Iowa Code Chapter 455B, or otherwise engage in distribution of water at retail to customers;
- (b) Directly serve customers within the individual distribution systems of Member Agencies;
- (c) Have any power over the rates charged by Member Agencies, except as expressly provided by the Water Shortage Plan in Article XIX;
- (d) Provide free water to any private or public agency;
- (e) Provide any preference in service to any Member Agency or discriminate in service against any Member Agency;
- (f) Establish any rates or rate methods that unreasonably favor or discriminate against any Member Agency;
- (g) Enter into any other business other than provision of water to Member Agencies;
- (h) Enter into any Total Service Agreements as defined by Article IV; or
- (i) Pledge the assets or revenue of CIWW to any person or entity, or to serve as a surety

for any Member Agency, except as expressly provided in Article XVII related to the issuance of bonds.

Section 2. No Private Inurement. No part of the net earnings of CIWW shall inure to the benefit of, or be distributable to any private persons or private agency, except CIWW is authorized and empowered to pay reasonable compensation or consideration for goods, services, materials, or properties that it obtains.

ARTICLE IV. CIWW EXCLUSIVE SUPPLY RIGHTS AND SERVICE OBLIGATIONS AND DEDICATION OF EXISTING FACILITIES

Section 1. Exclusive Supply Rights. Each of the Founding Agencies hereby grants to CIWW the exclusive right to supply all finished drinking water required by their respective water utilities, on a wholesale basis on terms as provided herein, to be effective as of the Operational Commencement Date. Each new Member Agency shall grant the same rights to CIWW as a condition of its membership.

Section 2. Definitions of Water Supply Activity and Water Distribution Activity.

(a) As used in this Agreement, “Water Supply Activity” shall mean and include:

- (i) Acquisition and withdrawal of surface water or groundwater as a raw source of water for treatment and re-sale;
- (ii) Storage of raw source water;
- (iii) Treatment of raw source water to produce finished drinking water;
- (iv) Storage of treated water for later delivery on a wholesale basis to a public water supply system;
- (v) Transmission, pumping, and supply of finished water on a wholesale basis to a Member Agency or other public water supply system; and
- (vi) Other activities necessary and appropriate for CIWW to meet its water supply obligations to Member Agencies under this Agreement.

(b) As used in this Agreement, “Water Distribution Activity” shall mean and include:

- (i) Acquisition of finished water from CIWW;
- (ii) Distribution, storage, delivery, and metering of finished water to the customers of a Member Agency, and
- (iii) All activities, other than a Water Supply Activity, required to conduct business as a public water supply utility.

(c) Water Supply Activity shall not include Water Distribution Activity and Water Distribution Activity shall not include Water Supply Activity. The Board shall refer any uncertainty or dispute regarding the scope of Water Supply Activity and Water Distribution Activity to the Technical Committee for review and recommendation to the Board regarding proper classification. The Board shall make a final decision regarding whether an activity is a Water Supply or Water Distribution Activity after

receipt of the Technical Committee's recommendation.

Section 3. Definitions of Water Supply Facilities and Water Distribution Facilities.

- (a) As used in this Agreement, "Water Supply Facilities" shall mean the assets and facilities used to conduct Water Supply Activity by or on behalf of CIWW. This definition includes source water systems, water treatment plants, aquifer storage and recovery ("ASR") systems used for Water Supply Activity, and the transmission pumps, mains, and systems required to conduct Water Supply Activity on an efficient basis. Except as any Founding Member and CIWW may otherwise agree as to any specific property or facility, Water Supply Facilities shall not include the existing office buildings of the Founding Agencies or any existing grounds or facilities made available to the public for park or other recreational use.
- (b) As used in this Agreement, "Water Distribution Facilities" shall mean the assets and facilities used to conduct Water Distribution Activity by a Member Agency, either individually or on a shared basis, including water feeder and distribution mains, water towers, ASR systems not used for Water Supply Activity, and other storage of finished water by a Member within its system of distribution, as required to conduct Water Distribution Activity on an efficient basis.
- (c) Water Supply Facilities shall not include Water Distribution Facilities and Water Distribution Facilities shall not include Water Supply Facilities.
- (d) The differentiation and line of demarcation between Water Supply Facilities and Water Distribution Facilities shall be based on the principles that facilities that primarily provide a system-wide water supply benefit shall be deemed Water Supply Facilities, while facilities, whether or not shared, that primarily provide benefit to individual Member Agencies shall be deemed Water Distribution Facilities. Any uncertainty or dispute regarding the scope of Water Supply Facilities and Water Distribution Facilities shall be referred by the Board to the Technical Committee for review and recommendation. The Board shall make a final decision regarding whether a facility is a Water Supply or Water Distribution Facility after receipt of the Technical Committee's recommendation.

Section 4. Limitations on Founding Agency Water Supply Activities.

- (a) Beginning on the Operational Commencement Date, the Founding Agencies shall not:
 - (i) Engage in Water Supply Activity, except as a supplier to CIWW or as permitted under Sections 9, 10, and 11 of this Article;
 - (ii) Contract for drinking water supplies from any party other than CIWW;
 - (iii) Acquire or expand assets providing for Water Supply Activity that infringe on CIWW's exclusive right to serve as described in this Article, except to the extent approved in advance by the Board;

- (iv) Apply for water allocation permits from the State of Iowa, or in any way alter the flows or water quality of surface or groundwater supplies, allocated to CIWW or to CIWW's contract suppliers, unless directed to by CIWW.
- (b) Notwithstanding Article IV, Section 4(a), each of the Founding Agencies has the right to conduct Water Distribution Activity, and to supply water as permitted under Sections 9, 10, and 11 of this Article.
- (c) Each New Member Agency shall agree to the foregoing limitations and reservations as a condition of its membership.

Section 5. CIWW Service Obligations. Effective as of the Operational Commencement Date, CIWW shall supply the drinking water required by Member Agencies on a non-discriminatory basis, within the limits of its capacity, at one or more connection points approved by the Board in accordance with the service obligations standards as set forth in Schedule IV-5. CIWW shall take reasonable steps required to maintain and expand its capacity to meet the projected finished water needs of the Member Agencies in accordance with the CIWW Long Range Plan, and to assure that drinking water delivered by CIWW shall meet all applicable state and federal water quality regulations.

Section 6. Dedication and Operation of Existing Water Supply Facilities. As of the Operational Commencement Date, DMWW, WDMWW, [and possibly others] shall operate their existing Water Supply Facilities for the benefit of CIWW and shall dedicate them to the production of water to be delivered to CIWW to meet CIWW's requirements. The specific facilities to be dedicated and operated are set forth in Schedule IV-6 (the "Designated Water Supply Facilities"). Each Member Agency dedicating a Designated Water Supply Facility is a "Water Producing Member Agency," or collectively the "Water Producing Member Agencies." Water Producing Member Agencies shall exclusively dedicate their use of waters of the state of Iowa under permits from the Iowa Department of Natural Resources to production under this Agreement. The Water Producing Member Agencies will be compensated for the dedication and operation of those facilities pursuant to the provisions of Article V and Article XIII.

Section 7. Asset Transfer. Each of the Water Producing Member Agencies shall transfer the ownership interests in Designated Water Supply Facilities as set forth in Schedule IV-6 to CIWW at the time or times, and on the terms provided in Article XIII of this Agreement. CIWW shall acquire ownership as provided in Article XIII.

Section 8. Ownership, Operation, and Expansion of Water Supply Facilities prior to Asset Transfer.

- (a) Each of the Water Producing Member Agencies shall continue to own and operate its respective Dedicated Water Supply Facilities, until such time as the transfer of such assets to CIWW is consummated hereunder. Until such asset transfer is consummated, each Water Producing Member shall have the right and the obligation to undertake such repair, replacement and improvement of its Dedicated Water Supply Facilities as it determines are reasonably needed to maintain its

Dedicated Water Supply Facilities in good sound operational condition and to maintain their full operational capacity.

- (b) From and after the Operational Commencement Date, and until asset transfer is consummated, the cost of repair, replacement and improvement of Dedicated Water Supply Facilities shall be paid by CIWW as provided in Section 2 of Article V. The currently planned facility projects listed in Schedule IV-8 shall be constructed by the Founding Agencies as listed without further Board approval and the costs thereof shall be paid by CIWW.
- (c) Each of the Water Producing Member Agencies shall expand the capacity of their Designated Water Supply Facilities to the extent directed by the Board, provided that CIWW makes provision to pay for the full cost of such Capacity Expansions. Water Producing Member Agencies shall not otherwise expand the capacity of the respective Designated Water Supply Facilities without the consent of the Board.

Section 9. Total Service Agreements. As used in this Agreement "Total Service Agreement" means an agreement, now existing or hereafter arising, between a Member Agency and another retail public water supply entity whereby the Member Agency serves the consumers of the other retail entity on a direct basis that includes supplying water, distribution to a consumer's connection point, operation and maintenance of the distribution system, and billing and collection of rates and charges. Total Service Agreements existing as of the Effective Date are listed in Schedule IV-9 hereto. Each Member Agency retains the right to provide water service under existing Total Service Agreements, and the consumers served under such agreements shall, for all purposes of this Agreement, be considered retail customers of the Member Agency providing such total service. However, for new Total Service Agreements established after the Effective Date, CIWW shall be the wholesale supplier to the counterparty under the new Total Service Agreement unless such customer cannot be directly served by CIWW due to lack of geographic proximity, available transmission facilities, or other good reason.

Section 10. Wholesale Water Service Master Agreement. The existing Wholesale Water Service Master Agreement among DMWW, other Founding Agencies, and others dated June 10, 2005, which made provision for "purchased capacity" (the "Purchased Capacity Master Agreement") shall be deemed terminated as among the Founding Agencies as of the Operational Commencement Date. The Purchased Capacity Master Agreement shall otherwise remain in full force and effect as to other purchasing parties that are not Member Agencies, and DMWW shall retain the right to set rates and provide service under the Purchased Capacity Master Agreement for parties that are not Member Agencies of CIWW.

Section 11. Other Preexisting Wholesale Relationships. Water Producing Member Agencies may continue to supply their pre-existing wholesale customers listed in Schedule IV-11 for the full term of any existing agreement, including any contract renewal periods, and until such agreement expires or is terminated. The retail customers served through pre-existing wholesale customers shall, for all purposes of this Agreement, be considered retail customers of the Water Producing Member Agency.

Section 12. Wheeling. Each Member Agency grants to CIWW the right to wheel water through its water distribution mains without further contract or other action so long as doing so does not adversely affect service to the Member Agency or otherwise adversely affect the Member Agency's operations. If CIWW exercises this right, CIWW shall reimburse the Member Agency for reasonable cost of the proportionate distribution main capacity so diverted to serve others.

Section 13. Member Agency Obligations. Each Member Agency shall be solely responsible for its own assets and operations related to Water Distribution Activity and shall solely bear all costs thereof.

ARTICLE V. WATER SUPPLY CONTRACTS, DEDICATED WATER SUPPLY, AND CAPACITY EXPANSION

Section 1. Requirements of Contracts. CIWW shall contract with Water Producing Member Agencies to obtain the entire requirements for drinking water of all of its Member Agencies, from the Designated Water Supply Facilities, beginning on the Operational Commencement Date and until the transfer of the Designated Water Supply Facilities to CIWW. The contract between CIWW and each Water Producing Member Agency relating to each Designated Water Supply Facility will continue for a minimum period of twenty (20) years from the Operational Commencement Date or until the Asset Transfer Date for such Asset transfer Facility whichever first occurs. Such contract shall be on the terms provided this Article and in Section 3 of Article XIV and Schedule XIV-3. The output of any new Water Supply Facility constructed by CIWW as part of a Capacity Expansion shall be an exception to the obligation of CIWW to acquire its water requirements from the Designated Water Supply Facilities.

Section 2. Actual Cost Recovery. CIWW shall pay the Water Producing Member Agencies for the supply of water to CIWW under this Article amounts that are equal to their full actual cost of providing such service plus two percent (2%), to be determined on the basis of the principles set forth in Schedule V-2 attached. Such amount shall be paid in monthly installments based on estimated costs, with a periodic true up to reflect actual costs incurred, as provided in Schedule V-2. In addition to payment of costs of operation, CIWW shall reimburse each Water Producing Member Agency for the full actual cost of all capital projects for repair, replacement and improvement of its Designated Water Supply Facilities incurred after the Operational Commencement Date and before consummation of asset transfer of the Designated Water Supply Facilities, as such costs are incurred. To the extent a specific project benefits both Designated Water Supply Facilities and Water Distribution Facilities, the project costs shall be allocated between CIWW and the Water Producing Member Agency based on relative benefit conferred. CIWW shall at all times maintain sufficient capital and reserves to assure its ability to meet its financial obligations under this Section, and the Board shall make Capital Calls or issue Emergency Member Agency Assessments under Article XV as needed to make timely payment to Water Producing Member Agencies.

Section 3. Initial Capacity Allocations. The initial total capacity of CIWW to supply the Member Agencies as of the Effective Date is determined to be 136.5 Million Gallons per Day ("MGD"). Such capacity shall be allocated among the Member Agencies for use under this

Agreement. Each Member Agency's capacity allocation is referred to herein as its "Allocated Capacity." The initial Allocated Capacity of each Founding Agency is set forth in Schedule V-3. Schedule V-3 shall be updated by the Board when and as the Allocated Capacity of any Member Agency Changes.

Section 4. New Member Agency Allocations. After the Effective Date, a New Member Agency shall be admitted only to the extent that CIWW has, after taking into consideration any new capacity acquired from the New Member Agency, sufficient capacity available to provide for the New Member Agency's estimated Max Day Demand, and if need be, there are sufficient existing Member Agencies willing to voluntarily reduce their Allocated Capacity in exchange for payment as provided under this Section.

The following provisions shall govern the Allocated Capacity of New Member Agencies:

- (a) The New Member Agency's minimum requirement for Allocated Capacity ("Required New Member Capacity") in order to be admitted shall be the highest maximum day demand during the previous full five (5) calendar years plus ten percent (10%).
- (b) If the New Member Agency has physical production capacity to be dedicated or transferred to CIWW by the New Member Agency, such capacity shall be allocated to the New Member Agency.
- (c) To the extent that the New Member Agency is a party to a Total Service Agreement with a Founding Agency under Section 9 of Article IV or is a wholesale customer of a Founding Agency under Section 11 of Article IV, the average Max Day Demand for the previous five years supplied to it by the Founding Agency shall be reallocated from such Founding Agency to the New Member Agency. Such Founding Agency shall be compensated for such reallocation as provided in Subsection (f) of this Section.
- (d) To the extent that the New Member Agency is a customer of DMWW under Section 10 of Article IV, the average Max Day Demand for the previous five years supplied to it by DMWW thereunder shall be reallocated from DMWW to the new Member Agency and the Purchased Capacity Master Agreement and all right thereunder shall be deemed terminated as between the New Member Agency and DMWW as of the effective date of admission. DMWW shall be compensated for such reallocation as provided in Subsection (f) of this Section.
- (e) To the extent the Required New Member Capacity is not allocated to the New Member Agency under subsections (b), (c), and (d), it must be obtained by the New Member Agency by voluntary reductions in the Allocated Capacity of existing Member Agencies. Such Member Agencies shall be compensated for such reductions as provided in Subsection (f) of this Section.
- (f) The payment required from a New Member Agency with respect to its acquisition

of Allocated Capacity under Subsections (c), (d), and (e) of this Section shall be at the rate determined by the Board pursuant to the principles set forth in Schedule V-4. Such payment shall be made by the New Member Agency to CIWW. To the extent a reallocation is made under Subsections (c) or (d), the Founding Agency affected by a reduction of its Allocated Capacity shall be paid a share of such payment that is equal to the increase in the asset transfer consideration that such Founding Agency would have been due if the New Member Agency had become a founding agency when this Agreement was executed less any amount previously recovered by the Founding Agency from the New Member Agency as a capital cost of wholesale service to the new Member Agency, plus interest on the amount computed to be due at the rate of four percent (4%) per annum. The balance, if any, of the payment shall be retained by CIWW as additional capital. Any payment under Subsection (e) of this Section shall be paid to the reducing Member Agencies in proportion to their agreed respective reductions of their Allocated Capacities.

If there are insufficient voluntary reductions by existing Member Agencies to accommodate a New Member's Required New Member Capacity, the New Member Agency may request membership in CIWW based on its participation in Capacity Expansion Projects pursuant to Section 6 of this Article. If the New Member Agency meets all the other requirements of this Agreement and the Board for admission, the New Member Agency will be admitted after the requisite Capacity Expansion Projects have been completed and are producing finished water at rated capacity.

Section 5. Capacity Expansions. CIWW shall construct, own and operate new or expanded additional Water Supply Facilities, to increase water output available to CIWW consistent with the CIWW Long Range Plan established under Article VII (each a "Capacity Expansion"). A project that creates a Capacity Expansion is a "Capacity Expansion Project." All Capacity Expansion Projects required to meet expected growth in demand by Member Agencies as expected under the CIWW Long Range Plan shall be funded by the Member Agencies as stated in Section 6 of this Article. Other Capacity Expansion Projects may be funded either from CIWW funds or by prospective New Member Agencies, or by Member Agencies as provided in the CIWW Long Range Plan and the CIWW Capital Plan. The additional water output capacity created by a Capacity Expansion Project funded by Member Agencies shall be allocated to Member Agencies in proportion to the amount such Member Agency pays for a part of a Capacity Expansion Project or by a New Member Agency under Section 6 of this Article. The additional water output capacity created by a Capacity Expansion Project funded from CIWW sources of funds shall be allocated to Member Agencies in proportion to their previously Allocated Capacities prior to the Capacity Expansion, except to the extent the Board determines to maintain an unallocated reserve capacity for business and operational reasons it deems sufficient.

Section 6. Costs of Member Agency-Funded Capacity Expansions. The costs of Capacity Expansion Projects funded by Member Agencies shall be allocated among, and be borne by, the Member Agencies as follows:

- (a) Nine per cent (9%) of the total cost of the Capacity Expansion Project shall be allocated to all Member Agencies based on each Member Agency's pro rata share of Allocated Capacity as of the date the Board approves the Capacity Expansion

Project;

- (b) Ninety-one per cent (91%) of the total cost of the Capacity Expansion Project shall be allocated pro rata based upon the forecasted increases in projected demand of each Member Agency having a projected increased demand as set forth in the CIWW Long Range Plan that forms the basis of the Board's approval of the Capital Expansion Project; and
- (c) Notwithstanding subsection (a) and (b), one hundred percent (100%) of the cost of any Capacity Expansion Project, or any part thereof, which is constructed to meet the Required New Member Capacity of a New Member Agency, shall be paid by such New Member Agency.
- (d) Each Member Agency or New Member Agency shall pay or satisfy its share of the costs of each Capacity Expansion Project by payment of such share to CIWW from its own funds or by agreement to participate in the payment of one or more bond offerings by CIWW under Chapter 28F, or by agreement to participate in other debt financing by CIWW.

ARTICLE VI. WHOLESALE RATES TO MEMBER AGENCIES

Section 1. Rates to Recover Costs. The Board shall establish wholesale rates to be charged to Member Agencies that are calculated in the aggregate based on the anticipated total Revenue Requirements of CIWW as determined by the Board. CIWW's "Revenue Requirements" shall be the amount determined to be sufficient to defray all of the costs of water and other expenses of CIWW, to provide for capital requirements, and the current and future financing of CIWW's capital requirements, and to provide reasonable unrestricted cash reserves as determined by the Board of Directors. The Board may adjust the operating reserves from time to time.

Section 2. Annual Determination of Revenue Requirement. CIWW's Revenue Requirements and the rates to be charged to Member Agencies collectively and individually, shall be determined annually by the Board in its sole judgment. The Revenue Requirements will be prospective and developed as part of the budget process under Article XV. The Board shall obtain a cost of service study annually based on the American Water Works Association M-1 Manual or similar standard that is widely accepted in the water supply industry, and shall apply such study in a manner consistent with the mandatory rate principles set forth in Schedule VI-2. In setting rates, the Board will assign the actual cost of service to each member, and recover costs from each within a reasonable degree of precision and certainty.

Section 3. Volume and Max Day Demand of Member Agencies. The volume of water provided by CIWW to each Member Agency and the Max Day Demand utilized by each Member Agency shall be determined by metering at the point of delivery to the extent meters now existing or hereafter created allow such measurement. All other volumes and Max Day Demands shall be estimated based on the methods and assumptions set forth in Schedule VI-3 hereto.

Section 4. Individual Rates. The rates to Member Agencies shall be based on the

principles and methodologies as set forth in Schedule VI-2. The Board's judgment, reasonably reached, shall be final as to the establishment of water rates to Member Agencies, subject only to the dispute resolution provisions of Article XXV of this Agreement.

Section 5. Charges for Excess Consumption. Water delivered in a daily quantity that is greater than a Member Agency's Allocated Capacity is deemed to be "Excess Consumption" and further deemed to be the use of the Allocated Capacity of other Member Agencies. CIWW is not obligated to supply water on any day to any Member Agency that is in excess of its Allocated Capacity. However, to the extent Excess Consumption is provided to a Member Agency then the Member Agency shall be subject to Capacity Leasing Charges as defined by Schedule VI-5. Capacity Leasing Charges shall be billed to Member Agencies incurring the charges and CIWW shall credit the receipts thereof to the Member Agencies not incurring such charges on such days on a proportionate basis as defined in Schedule VI-5. Member Agencies who have Excess Consumption for more than ten (10) days in any CIWW fiscal year shall have the maximum amount of the Excess Consumption added to the Member Agency's projected demand in the Long Range Plan prepared according to Article VII.

Section 6. Initial Rates. The initial rates to be charged and applied effective as of the Operational Commencement Date are contemplated to be as set forth in Schedule VI-6, subject to revision by the Board following development of the Initial Budget. The Board will analyze, review and revise rates, annually as provided by the terms of this Agreement.

Section 7. Billing, Payment. Member Agencies shall be billed monthly in arrears for actual delivery at the established rates, and shall pay the billing in full without offset or reduction, except for the netting specified in Section 8, within twenty-five (25) days of the date of issuance of the bill.

Section 8. Netting of Payments Due Under This Agreement. Any amounts due or credits due between CIWW and any Member Agency for services, charges, or other obligations arising under this Agreement may be netted against any other billings between them, but billings shall not otherwise be offset against any other obligations between them.

Section 9. Member Agency Financial Covenant. Each Member Agency covenants that it will set its own rates and charges to its retail, Wholesale and Total Service Agreement customers, and collect such charges, to assure that the Member Agency has revenue sufficient to meet the Member Agency's expenses and financial obligations, including all financial obligations to CIWW.

ARTICLE VII. LONG RANGE PLAN AND WATER QUALITY

Section 1. Long Range Plan. The Board shall prepare and adopt a long-range plan to meet the needs for drinking water of the Member Agencies over a planning horizon of not less than ten (10) years (the "CIWW Long Range Plan") and shall revise such plan as needed as new Member Agencies are admitted and as other circumstances dictate. The CIWW Long Range Plan shall take into account all factors relevant to the mission of CIWW, including without limitation:

(a) expected growth in water requirements of the Member Agencies; (b) source water availability and quality; (c) long range trends affecting source water supplies and allocations, including impacts of climate change; (d) water treatment capacities and requirements; and (e) all other matters necessary to assure the safety of drinking water supplies and sufficiency of quantity to meet demands, at reasonable cost. The initial CIWW Long Range Plan shall be adopted by the Board prior to the Operational Commencement Date. The initial CIWW Long Range Plan will be based on the existing DMWW long-range plan prepared with such changes as may be proposed to the Board by the Long Range Planning and Capital Improvements Committee, and by the Technical Committee, or that the Board determines to be appropriate.

Section 2. Update to Plan. The CIWW Long Range Plan shall be updated on a regular basis, and in any event no less frequently than every five (5) years.

Section 3. Member Agency Participation. Each Member Agency shall participate in, and support, the process of preparing and updating the CIWW Long Range Plan by making its data and information available to CIWW and to its planning staff and contractors. Each Member Agency shall supply its best estimates of future water requirements and demand in support of CIWW's planning efforts within a reasonable time upon request. CIWW shall have no service obligation to meet any Member Agency's demand to the extent the Member Agency's demand exceeds the Member Agency's forecasted demand expressed in the CIWW Long Range Plan.

Section 4. Implementation of CIWW Long Range Plan. The Board shall be responsible, in its discretion, to operate CIWW in accordance with the CIWW Long Range Plan and to implement the CIWW Long Range Plan's provisions.

Section 5. Source Water Quality Protection and Improvement. The Board shall establish and implement a program to protect and improve the water quality of CIWW's actual and potential water sources. The program will include outreach and cooperation with federal, state and local agencies, and with other parties with interests in the watersheds and aquifers on which CIWW relies. CIWW's implementation of a water quality program may include expenditures of CIWW funds under the direction of the Board after determination that such expenditures will further the goals of protecting and improving the quality of CIWW's source waters.

ARTICLE VIII. GOVERNING BOARD

Section 1. Governing Body. CIWW shall be governed by a Board of Trustees ("Board") as constituted and established in this Article. Members of the Board shall receive no compensation from CIWW for service on the Board. Except as limited by the Member Agency Vote requirements of Article XI, and by the terms of this Agreement, the Board shall have full and plenary authority over CIWW, and over the conduct of CIWW's business and affairs.

Section 2. Initial Composition of Board. The initial Board shall consist of _____ (___) Trustees, with one Trustee appointed by and representing each of the Founding Agencies, and with DMWW entitled to appoint and be represented by one Additional Trustee by application of the additional Trustee provision of Section 4 of this Article. It is intended that water systems served by Member Agencies under Sections 9, 10, and 11 of Article IV shall be represented on the Board

by the Trustee(s) appointed by the Member Agency providing service to such water systems.

Section 3. Size of Board. The number of Trustees shall always be equal to the number of Member Agencies of CIWW plus one or more Additional Trustees based on population served as provided in Section 4 of this Article.

Section 4. Additional Trustees. In addition to the one Trustee representative provided for each Member Agency, any Member Agency that serves areas with a total population in excess of one hundred thousand (100,000) persons shall be entitled to one additional Trustee representative (an "Additional Trustee"). The Additional Trustee shall be identified as such by the appointing authority at the time of appointment. Population shall be determined on the basis of the most recently available United States Census data, including any United States Census estimates that are issued after the last decennial United States Census. For the purposes of this Section, the area served by a Member Agency shall include the areas directly served by the distribution system of the Member Agency, and the area served by the Member Agency under Sections 9, 10 and 11 of Article IV.

Section 5. Board Appointments and Terms. Each Trustee, including any Additional Trustee, shall be appointed by the Member Agency being represented. In the case of a Member Agency that is a city, the appointment shall be made by the mayor of the City, subject to approval of its City Council. In the case of any other Member Agency, the appointment shall be made by resolution of its governing body. Trustees shall serve three (3) year staggered terms or until their replacement is appointed. For the purpose of providing staggered terms, the Board shall be divided into three classes of equal size, or as nearly equal size as possible, with terms expiring on a staggered basis. The initial staggered terms of the Trustees representing the Founding Agencies shall be established by division of the Board into classes that are assigned by lot at the first meeting of the Board after the Effective Date, subject to the requirement that the regular Trustee representing any Member Agency and any Additional Trustee representing such Member Agency shall be assigned to different classes. Upon the occurrence of any vacancy on the Board for any reason, the Member Agency being represented by shall appoint a replacement for the unexpired term of the vacant position. Trustees may be appointed for any number of terms in the discretion of the appointing Member Agency. When a New Member Agency is admitted under this Agreement, the New Member Agency shall appoint a Trustee, and if applicable an Additional Trustee, to represent it, with each such Trustee assigned to a class by resolution of the Board.

Section 6. Removal. Any Trustee may be removed by the appointing Member Agency at any time for any reason or for no reason. Any Trustee may also be removed for cause by vote of the Board. Any such removal shall create a vacancy to be filled as provided in Section 5 of this Article. Any Trustee removed for cause by vote of the Board shall not be eligible for re-appointment.

Section 7. Effect of Withdrawal of Member Agency on Board. If any Member Agency withdraws from membership in CIWW or is for any other reason no longer a Member Agency, the size of the Board shall be automatically reduced and Any Trustee representing the departed Member Agency, shall be deemed to no longer serve on the Board effective as of the date of the Member Agency's withdrawal or departure.

Section 8. Quorum. The presence of at least a majority of the Trustees, including Additional Trustees, shall constitute a quorum required to be present to convene a meeting of the Board and for the conduct of its business. The Chair shall determine whether a quorum exists, shall cause the names of the Trustees present to be entered into the meeting minutes, and shall call the meeting to order if a quorum exists.

Section 9. Voting. Except as provided in Section 10 of this Article, each Trustee, including each Additional Trustee, shall have one (1) vote, and the majority vote of the Trustees present and voting, if a quorum is established, shall prevail on any vote. No vote shall be taken without a quorum of the Board being present. The Chair, or in the Chair's absence the Vice-Chair, of the Board shall be entitled to vote and participate in discussion, but shall not make or second a motion.

Section 10. Weighted Voting by Board.

- (a) Trustees representing any two (2) or more Member Agencies may request a weighted vote on any of the following matters that come before the Board for action:
- (i) Any proposal to the Member Agencies to amend or terminate this Agreement or to amend any Schedules to be submitted for Member Agency vote under Article XX;
 - (ii) Any Board action to update or amend the Board Modifiable Schedules as defined in Section 2 of Article XX;
 - (iii) Any amendment or termination of an Operating Contract established under Section 3 of Article XIV;
 - (iv) Admission of New Member Agencies and the terms thereof under Article XII;
 - (v) Adoption of the Initial Budget under Section 2 of Article XV;
 - (vi) Adoption of each Annual Budget under Article XV, or any amendment to an approved Annual Budget;
 - (vii) Setting of rates and charges payable by Member Agencies;
 - (viii) Adoption of the initial Long Range Plan under Article VII;
 - (ix) Any modification of the Long Range Plan under Article VII;
 - (x) Adoption of any CIWW Capital Plan or modification to the CIWW Capital Plan under Article XV, including without limitation adoption of the Initial Capital Plan or any Capital Call;
 - (xi) Issuance of any Emergency Member Agency Assessments under Section 9 of Article XV;
 - (xii) Issuance of any bonds;
 - (xiii) Incurring any non-bonded debt in excess of One Million Dollars (\$1,000,000.00);
 - (xiv) Adoption or amendment to the Bylaws;
 - (xv) Declaration of Default of a Member Agency under Article XXIII;

- (xvi) Hiring or terminating the Executive Director, Legal Counsel, or Third-Party Fiduciary;
 - (xvii) Removal of a Trustee for cause;
 - (xviii) Any Amendment to the CIWW Water Shortage Plan; or
 - (xix) Determination of any issues pertaining to the meaning or application of the definition of Water Supply Activity, Water Distribution Activity, Water Supply Facility or Water Distribution Facility.
- (b) No action on any matter listed in Section 10(a) that is eligible for a request for weighted vote shall be considered by the Board at any meeting unless the matter is placed on the Agenda of the Board prior to the meeting and written notice of such agenda item is given at least five (5) days before the meeting to all Trustees. A request for weighted vote must be made by the requisite number of Trustees before the vote on the matter that is the subject of such request. Upon any timely request, any Board action on such matter shall be suspended, and the Board will hold a weighted vote on the matter subject to such request at its next meeting. Notwithstanding the foregoing action on any Emergency Member Agency Assessments may be taken immediately at the meeting when proposed provided that at least ten (10) days' notice thereof is given in writing to each Member Agency.
- (c) For purposes of weighted voting, the full voting power of the Board shall be proportionately allocated and assigned among the Trustees representing the Member Agencies, excluding any Additional Trustees, on the basis of the average of the Annual Demand as set forth in Schedule I-2 as updated for the immediately preceding five full calendar years preceding the date of the vote. The allocation shall be recomputed when New Member Agencies are admitted, and shall be recomputed each year based upon the total Annual Demand of each Member Agency for the five full calendar years preceding the vote.
- (d) The weighted voting power of a Trustee representing any New Member Agency admitted after the Effective Date shall be based on a transition formula based upon actual or expected Annual Demand established by the Board at the time of its admission.

Section 11. Meetings of Board.

- (a) Regular meetings shall be held at least monthly at the place, day and hour set forth in a schedule of regular meetings for the following year that is approved by the Board at its Annual Meeting each year. The regular meeting of the Board in December of each year shall be the Annual Meeting. A copy of the agenda and all materials to be considered at each meeting of the Board shall be mailed, e-mailed, or delivered to each Trustee and to the elected official or administrator designated by each Member Agency to receive notice hereunder, at least two (2) days prior to

the meeting, or as may otherwise be set forth in the Bylaws.

- (b) Special meetings of the Board, for any purpose or purposes consistent with this Agreement may be called by the Chair and shall be called by the Chair at the request of any two Member Agencies. The requirements of subsection (a) of this Section shall apply except that the notice of any special meeting shall be given not less than five (5) nor more than ten (10) days prior to the date of the special meeting.
- (c) Notices under this section shall be deemed given upon actual delivery of a written notice, or by actual delivery of an e-mail, or three (3) days after deposit in the United States mail.
- (d) All meetings of the Board shall be public meetings to the extent required by Chapter 21, Iowa Code, or any successor laws, as the same may be amended or supplemented in the future, and such rules of order as the presiding officer shall determine. Proceedings of the Board shall be published as provided by Section 28E.6(3), Iowa Code or other applicable law.

Section 12. Bylaws. The Board may adopt bylaws relating to its proceedings, the conduct of the affairs of CIWW, and the terms of service for water provided to Member Agencies that are not inconsistent with this Agreement. Such bylaws may be adopted, and may be amended or repealed, by vote under this Article, provided that such Bylaws or proposed amendment or repeal of such Bylaws, was presented in writing at a prior regular meeting of the Board, and provided that notice of the impending vote thereon is contained in the meeting notice and agenda of the meeting at which such vote is to be taken.

ARTICLE IX. OFFICERS OF BOARD

Section 1. Number and Term. The officers of the Board shall be the Chair, the Vice-Chair and the Secretary, each of whom shall be elected from among the members of the Board by vote of the Board at an Annual Meeting of the Board to serve for the following two calendar years. Each of the officers shall be a representative of a different Member Agency. Officers shall be elected for a two-year term, with a possible second term available. In no event shall a person hold one specific officer position for more than two (2) consecutive terms. Although not required, it is anticipated that the Vice-Chair will move into the position of the Chair, and the Secretary shall move into the position of Vice-Chair.

Section 2. Duties of Chair. The Chair shall preside at all meetings of the Board. The Chair, or the Vice-Chair in the absence of the Chair, shall sign any instruments that the Board has authorized to be executed, except in cases where the signing of instruments shall be required by law to be otherwise signed or executed, or where the resolution of the Board authorizes the signing of such instrument by another person.

Section 3. Duties of Vice-Chair. In the absence of the Chair, or in the event of the death, inability to act, or refusal to act by the Chair, the Vice-Chair shall perform the duties of the

Chair, and when so acting, shall have all the powers of and be subject to all the restrictions upon that office.

Section 4. Duties of Secretary. The Secretary shall have the following duties and responsibilities, any or all of which may be delegated or assigned by Board resolution to one or more assistant secretaries who need not be Trustees or representatives of Member Agencies:

- (a) The taking and preservation of minutes of the meetings of the Board;
- (b) The giving of all notices in accordance with this Agreement, any bylaws, as directed by the Board, or required by law;
- (c) Acting as custodian of the records of CIWW;
- (d) Signing and certification of documents and instruments authorized by the Board or by law;
- (e) Keeping a current registry of the names and addresses of Trustees, the Member Agencies, and the officer of each Member Agency designated to receive notices.

Section 5. Election. The Trustees serving on the Board shall elect the Board Officers. The Nominating Committee shall select and offer nominations for each office at the Board's Annual Meeting. Nominations for the officer positions shall also be accepted from the Trustees present at that Annual Meeting. All nominees, including those offered by the Nominating Committee, must receive a second for the nomination to be considered a candidate and voted on for said office.

Section 6. Vacancy. Each officer shall hold office until his or her successor has been elected. A vacancy in the office of Chair, Vice-Chair, or Secretary shall be filled by the Board for the unexpired portion of the term.

ARTICLE X. COMMITTEES OF BOARD

Section 1. Executive Committee.

- (a) An Executive Committee is established for the purposes of reviewing and advising on budget and policy issues at the request of the Executive Director or the Board and making recommendations to the Executive Director, and of making recommendations to the Board regarding the appointment of the Executive Director and thereafter periodically reviewing the performance of the Executive Director and to otherwise assist and advise the Board and the Executive Director. The Executive Committee shall be chaired by the Board Chair.
- (b) For the first three calendar years after the Effective Date, the Executive Committee shall be comprised of (i) the current Chair, (ii) a Trustee representing DMWW unless it is already represented on the Executive Committee, (iii) a Trustee representing WDMWW unless it is already represented on the Executive Committee; (iv) a Trustee representing UWU unless it is already represented on the Executive Committee; (v) the most recently presiding Chair prior to the current Chair who remains a current Trustee, if applicable; and (vi) one additional Trustee

selected at-large. The forgoing provision notwithstanding, at no time shall the membership of the Executive Committee equal or exceed the quorum for the full Board. If the size of the Executive Committee must be reduced to meet this condition, the membership of the Executive Committee shall be reduced by eliminating one or more categories named above in reverse order as named above, that is category (vi), then (v) and so on.

- (c) After the first three calendar years, the Executive Committee shall be comprised of (i) the current Chair; (ii) the most recently presiding Chair prior to the current Chair who remains a current Trustee; and (iii) four (4) additional Trustees representing Member Agencies with the highest Annual Demand over the preceding five-year period unless those Trustees are already represented on the Committee. The forgoing notwithstanding, at no time shall the membership of the Executive Committee equal or exceed the quorum for the full Board. If the size of the Executive Committee must be reduced to meet this condition, the number of committee members in category (iii) shall be reduced as required to meet this condition, by eliminating the representative of the Member Agency with the lowest Annual Demand followed by the next lowest, and so on.
- (d) The Executive Committee shall meet at the call of the Chair or at the request of the Executive Director to fulfill its purposes as set forth herein and such other duties as may be assigned to the Executive Committee by resolution of the Board. The Executive Director and the general managers of Water Producing Member Agencies shall all be provided advance notice of, and an Agenda for, all meetings of the Executive Committee.

Section 2. Long Range Planning and Capital Improvements Committee.

- (a) A Long Range Planning and Capital Improvements Committee is established to provide planning and technical advice and recommendations to the Board with respect to planning and capital, including but not limited to: (i) adoption and modification of the CIWW Long Range Plan under Article VII, and the CIWW Capital Plan under Article XV; (ii) planning for modifications, or additions to, source water and water treatment facilities and timeline(s) for potential construction; and (iii) such other duties requiring technical, or business expertise as may be assigned by Board resolution.
- (b) The Long Range Planning and Capital Improvements Committee shall be comprised of one individual appointed by each Member Agency, who may be, but is not required to be a Trustee representing such Member Agency, but who shall be an individual familiar with the current and long-range drinking water requirements of the Member Agency and with regional assets and infrastructure. Each Member Agency may also appoint an alternate representative. The Long Range Planning and Capital Improvements Committee shall include the Executive Director or his or her designee who shall not be a voting member of the Committee.

- (c) The Long Range Planning and Capital Improvements Committee shall be chaired by a member of the Committee elected by the voting Members of the Committee. The Long Range Planning and Capital Improvements Committee shall meet in accordance with a meeting schedule approved by the Committee, at the call of the Chair of the Committee, or at the direction of the Board.

Section 3. Finance & Audit Committee.

- (a) A Finance & Audit Committee is hereby established for the purposes of reviewing issues and items referred to it by the Board. In addition, the Finance & Audit Committee shall make recommendations to the Board on the following: (i) finances, budgets, and budget amendments; (ii) audits of CIWW finances and CIWW records; (iii) rates and charges to Member Agencies; and (iv) such other duties as may be assigned by Board resolution.
- (b) Members of the Finance & Audit Committee shall be appointed annually by the Board Chair after the Annual Meeting. The Membership of the Committee shall not equal or exceed the number constituting a quorum for the full Board. The Finance & Audit Committee shall include the Executive Director or his or her designee, and contracted Third-Party Advisors of the Board, neither of which will be a voting member of the committee.
- (c) The Finance & Audit Committee shall meet in accordance with a meeting schedule approved by the committee, at the call of the Chair of the committee, or at the direction of the Board.

Section 4. Nominating Committee. A Nominating Committee, consisting of at least three Trustees, is established for the purpose of selecting and offering nominations for election to each office of the Board at the Annual Meeting of the Board. Members of the Nominating Committee shall be appointed by the Chair, with the appointments announced at a regular Board meeting held at least three (3) months prior to the Annual Meeting of the Board. The Nominating Committee shall be chaired by a committee member selected by the members of the Nominating Committee.

Section 5. Technical Committee.

- (a) A Technical Committee is hereby established to provide technical advice or recommendations to the Board in areas requiring technical, business, or operation expertise, including but not limited to:
 - (i) Determination of each Member Agency's water consumption, including its Annual Demand, Max Day Demand, average day demand, average consumption over a specified number of years (e.g., 3 or 5 years), and average consumption over a specified number of years;
 - (ii) Computation of updates to Schedule I-2 as soon as may be practical annually after the end of each calendar year;

- (iii) Determination of designs for all capacity enhancements to be constructed by, or at the request and cost of, CIWW;
 - (iv) Recommendations regarding capacity enhancements or other improvements proposed by one or more Member Agencies or any proposed new Prospective Member Agencies;
 - (v) Determining the population served by each Member Agency for purposes of Section 4 of Article VIII;
 - (vi) Review of the operational sufficiency of the preliminary budget proposed by the Executive Director each year;
 - (vii) Review and recommendations to the Board regarding the meaning or application of the definitions of Water Supply Activity, Water Distribution Activity, Water Supply Facility or Water Distribution Facility; and
 - (viii) Such other duties requiring technical or business expertise as may be assigned by Board resolution.
- (b) The Technical Committee shall be comprised of one individual appointed by each Member Agency, who may be, but is not required to be a Trustee representing such Member Agency, but who shall be an individual familiar with the Member Agency's local distribution or business operations. Each Member Agency may also appoint an alternate representative. The Technical Committee shall include the Executive Director or his or her designee, who shall not be a voting member of the Technical Committee. Each Member Agency is entitled to one vote on the Technical Committee to be cast either by the appointed individual or alternate.
- (c) The voting members of the Technical Committee shall elect a chair. The Technical Committee shall meet in accordance with a meeting schedule approved by the committee, at the call of the chair of the committee, or at the direction of the Board.

Section 6. Other Committees. By resolution, the Board may designate two or more Trustees or other persons to constitute a committee. Such committee shall, if authorized by resolution of the Board, provide advice and recommendations to the Board or otherwise act pursuant to the authority delegated by the Board resolution. The designation of such committees shall not relieve the Board of any responsibility unless such responsibility is specifically delegated to the committee by Board resolution. Meetings of such committees may be held at such time and place as the committees or Board may fix from time to time.

ARTICLE XI. MEMBER AGENCY VOTE

Section 1. Requirement for Member Agency Vote. The following matters adopted or proposed by the Board shall require a vote of the Member Agencies to be effective:

- (a) Any proposal adopted by the Board to amend or terminate this Agreement, except updates or amendments to the Board Modifiable Schedules as defined in Section 2 of Article XX may be approved by the Board without Member Agency vote;
- (b) Any proposed merger or consolidation of CIWW with any other agency or entity or any sale of all, or substantially all, of the assets of CIWW; and

- (c) Any matter regarding bonds that, in the opinion of bond counsel to CIWW, requires a vote of the Member Agencies.

Section 2. Member Agency Votes. Each Member Agency will have one vote on each matter requiring a member vote under this Agreement.

Section 3. Vote by Written Ballot. A vote of The Member Agencies shall be conducted by written ballot cast on a form of ballot for each measure coming before the Member Agencies that shall be provided by the Secretary, with such ballots cast required to be received by The Secretary within thirty-one (31) days of dispatch to the Member Agency. Member Agency votes shall be at the direction of the governing body of the Member Agency pursuant to a resolution of such governing body. Multiple measures may be submitted on a single form of ballot, provided that the ability to vote for or against each separate matter is preserved.

Section 4. Vote Required for Member Action. The affirmative vote of not less than a majority of the votes entitled to be cast by Member Agencies shall be required for approval or adoption of any matter coming before the Member Agencies for vote regardless of the actual total number of votes cast, except that a vote to terminate this Agreement, or a vote to amend this Agreement that effectively terminates this Agreement shall require the affirmative vote of two-thirds (2/3) of all Member Agencies as provided in Section 1 of Article XX, and the required vote on bond matters shall be as specified in Article XVII.

ARTICLE XII. ADMISSION OF NEW MEMBER AGENCIES

Section 1. Admission of Additional Member Agencies. During the term of this Agreement, one or more additional qualified public or private entities meeting the definition of a public water supply system in Iowa Code Chapter 455B, as amended, (“Prospective Member Agency”) may be admitted to membership as a Member Agency within the meaning of this Agreement, and thereby become entitled to, and subject to, all of the benefits and obligations of this Agreement. To be qualified for membership the Prospective Member must be a licensed public water supply entity within the geographic area that it is physically practical for CIWW to serve and that CIWW has the capacity to serve.

Section 2. Application for Membership. Any qualified public or private entity may apply for membership in CIWW by submitting a request for membership addressed to the Board. Upon receipt of any such request, the Executive Director, the Executive Committee, and the Technical Committee shall investigate such request, and each shall make their recommendations to the Board regarding the application as promptly as circumstances reasonably permit. The Prospective Member Agency shall pay an application fee in an amount determined by the Board that is sufficient to cover the actual costs incurred by CIWW to review such application. The Board shall approve or reject each application for membership.

Section 3. Conditions of Membership. The Board shall specify conditions of admission to membership for each Prospective Member Agency, which conditions shall include:

- (a) The amount of the Prospective Member Agency’s initial capital contribution;
- (b) The new Prospective Member Agency’s initial Allocated Capacity, and the

- payment or payments required to be made for such capacity, if any;
- (c) The adoption of resolutions by the governing body of the Prospective Member Agency: (i) authorizing its joinder in this Agreement (ii) accepting all terms and conditions of this Agreement, including without limitation the bond resolutions under Article XVII, and (iii) agreeing to any conditions of membership the Board specifies;
 - (d) Provisions for the point or points of connection of the Prospective Member Agency to the facilities and sources of supply of CIWW and for the metering or calculation of the quantity of water to be supplied;
 - (e) Provisions for dedication of any Water Production Facilities and their transfer to CIWW to the extent of benefit to CIWW. New Member Agencies admitted to membership shall be compensated for dedication of production capacity only to the extent the dedicated capacity exceeds the New Member Agency's Total Capacity Requirement. The compensation paid for any dedication of production capacity shall be the net book value of the surplus capacity dedicated by the New Member Agency and in substantially the same manner described in Schedule XIII-1;
 - (f) The effective date of membership and of operational connection; and
 - (g) Any other terms and conditions of membership that the Board deems to be necessary or appropriate.

The financial conditions applied to admission of each Prospective Member Agency shall never be more favorable than the terms on which the Founding Agencies received when establishing CIWW. Absent exceptional circumstances, the financial conditions for each Prospective Member Agency shall include a premium to reflect the risk incurred by the Founding Agencies in creating CIWW, and the benefits created by the Founding Agencies in establishing CIWW.

Section 4. Effecting Membership. A Prospective Member Agency approved by the Board for membership shall become a New Member Agency after compliance with any conditions of membership specified by the Board, by authorization of its governing body and execution of an agreement of joinder in this Agreement that is filed as required by Iowa Code Section 28E.8. Such membership shall be effective as of the date of admission specified by the Board or the date of filing with the Iowa Secretary of State, whichever is later.

Section 5. Effect of Joinder. By signing a joinder to this Agreement, each New Member Agency agrees to all of the terms of this Agreement and covenants to take all steps necessary to meet all of its obligations to CIWW, and to enable CIWW to meet its bond obligations under Article XVII.

ARTICLE XIII. TRANSFER OF ASSETS

Section 1. Acquisition of Designated Water Supply Facilities. As provided in Article IV, Section 7, CIWW shall acquire the Designated Water Supply Facilities from the Water Producing Member Agencies on such date or dates as the parties may agree that is not later than five (5) years from the Effective Date (each such date is an "Asset Transfer Date"). The consideration to be paid for asset transfers and other terms and conditions of such acquisitions

shall be as set forth in Schedule XIII-1 hereto. Each Member Agency transferring assets shall, except as it may otherwise agree in writing between the Member Agency and CIWW, retain ownership of its office building, but may lease space to CIWW for CIWW's purposes. Each Member Agency shall retain ownership of any grounds it makes available for public use for park or recreational purposes, subject to such rights of ingress, egress, and use that CIWW may require to make full use of the Designated Water Supply Facilities. Any alteration of the Member Agency's grounds, including, but not limited to, excavation, in order to access the Designated Water Supply Facilities may only occur after obtaining permission from the affected Member Agency, which shall not be unreasonably withheld. CIWW will be responsible for restoring a Member Agency's property that is altered at CIWW's direction. Each Member Agency reserves the right to control its parks and recreation grounds and to make rules governing park or recreational use of its grounds.

Section 2. Outstanding Obligations Secured by the Transferred Assets. No transfer of assets shall occur under this Article unless full and adequate provision is made for payment or defeasance of any bonds or other obligations secured by the assets to be transferred or proper consent is obtained such that there will be no default or breach of covenants under any such bonds or obligations. Asset transfers shall be free of all liens and encumbrances, except the reversionary interest provided in Section 3 of this Article.

Section 3. Reversionary Interests in Transferred Assets. Each Member Agency that transfers assets under this Article shall retain reversionary interests in the assets, properties and interests transferred by it to CIWW under this Article, under which such assets, properties and interests shall be revert and be re-conveyed back to such Member Agency upon any invalidation of this Agreement or upon the expiration or complete termination of this Agreement. The reversionary interest shall not extend to or include any Capacity Expansion funded by CIWW after the Asset Transfer Date. The reversionary interest shall be recorded as a matter of public record with respect to any of the assets either in the instrument of transfer or in a separate document.

Section 4. Funding of Consideration for Asset Transfer. CIWW shall procure funding for cash payments required for asset transfer through capacity payments from Member Agencies, including New Member Agencies, under Article V or Article XII, or payments from Member Agencies as set forth in Schedule XIII-1, or by issuance of Bonds or other obligations, provided that the Debt Service for such Bonds or other obligations shall be provided by Member Agencies that have a net obligation as set forth in Schedule XIII-1.

ARTICLE XIV. CIWW STAFF, CONSULTANTS, MANAGEMENT SUPPORT, AND OPERATING CONTRACTS

Section 1. Staffing. CIWW shall employ an Executive Director selected by the Board who shall be the CEO and General Manager of CIWW and serve at the pleasure of the Board. The Board may elect to engage a qualified firm to provide the Executive Director's services in lieu of hiring an Executive Director.

Section 2. Initial Administrative Support Contract. CIWW and one or more Member Agencies selected by the Board may enter into one or more initial administrative support

agreements for a minimum term of three (3) years from the Effective Date. The Member Agency or Member Agencies will provide administrative services to CIWW, and be compensated as set forth in Schedule XIV-2 to this Agreement. The Board may renew the agreements after three (3) years, or retain a different entity to provide administrative support in the Board's full discretion.

Section 3. Supply and Operating Contracts. CIWW and each of the Water Producing Member Agencies shall enter into an water supply and facility Operating Contracts for supplying water to CIWW from, and operation of, the particular Water Producing Member's Designated Water Supply Facility on terms as provided in Schedule XIV-3 to this Agreement, which shall include reimbursement of costs as provided in Section 2 of Article V and Schedule V-2 both before and after the Asset Transfer Date . Each contract shall be in full force before and after the Asset Transfer Date, and shall be for a minimum term of twenty (20) years from the Operational Commencement Date.

Section 4. Third Party Financial Advisor. CIWW shall engage one or more qualified consultants to advise and support the Board in financial matters including budgeting, cost allocation studies, rate setting, indebtedness, and other financial matters as set forth in Schedule XIV-4. The financial advisor or advisors shall have professional responsibility to the Board to advise on a competent and impartial basis. The initial advisor shall be [Insert Name] who shall serve as interim financial adviser until the Board engages a financial advisor.

Section 5. Legal Counsel. CIWW shall select and engage a general counsel ("Legal Counsel") on terms specified by the Board and such special counsel as the Board may from time to time determine.

Section 6. Primary Engineering Consultant. CIWW shall select and engage a primary engineering advisor on terms specified by the Board and such special engineering advisors as the Board may from time to time determine.

Section 7. Other Staff and Contracts. The Board may determine to employ such other staff and engage other consultants and advisors for such purposes and on such terms as it determines to be necessary or appropriate, and may contract with third parties for all necessary or desirable services and may define and enforce applicable parameters and benchmarks for the same.

ARTICLE XV. BUDGET AND CAPITAL PLANS

Section 1. Fiscal Year. CIWW shall operate on the same fiscal year as a city under Iowa law.

Section 2. Initial Budget, Capital Plan, and Capital Adjustment. On or before the Operational Commencement Date or within twelve (12) months of the Effective Date, whichever first occurs, the Board shall establish an Initial Budget and an Initial CIWW Capital Plan to govern the period from the Effective Date to the expected Operational Commencement Date, and for the first fiscal year after the Operational Commencement Date. If the Initial CIWW Capital Plan and Initial Budget require additional capital plan indicate a need for an increase in the capital of CIWW to assure that CIWW is able to meet its financial obligations as they become due until

commencement of operations and for the first fiscal year thereafter, then the Board shall increase the Initial Capital Contributions specified in Section 9 of Article I and Schedule I-9, and each Member Agency shall make the additional Initial Capital Contributions in accordance therewith, within thirty (30) days of the Board's adoption of the Initial Budget and Initial CIWW Capital Plan.

Section 3. Annual Budget Preparation. The Board shall establish an "Annual Budget" for each fiscal year after the Initial Budget. On or before December 31 preceding each new fiscal year, the Executive Director, with the assistance of the Third Party Financial Advisor and input from the Member Agencies, shall cause to be prepared and submitted to the Board a proposed preliminary CIWW budget for the next fiscal year. The Executive Committee, Finance and Audit Committee, and Technical Committee shall review and propose revisions to the preliminary budget. The Executive Director shall revise the preliminary budget based on the committees' review. The preliminary budget shall be considered by the Board after a public hearing at a regular Board meeting in March of each year and shall be adopted as the Annual Budget by the Board with such revisions as it deems proper at its next regular meeting after the March public hearing.

Section 4. Required Budget Provisions. The Annual Budget shall specify the expected revenues and expenses of CIWW for the fiscal year, and shall make adequate provisions to meet the obligations of CIWW, including Debt Service Obligations, and adequate provisions for operating reserves, capital reserves, Capacity Expansions, and funding for asset transfers.

Section 5. CIWW Capital Plan Annual Review. The Board shall annually review and update the Initial CIWW Capital Plan and any subsequently adopted CIWW Capital Plan as part of the Annual Budget process. Based on such review, the Board shall annually modify either the Initial CIWW Capital Plan or any subsequently adopted CIWW Capital Plan as the Board determines is necessary or appropriate to assure CIWW has adequate capital to achieve the Long Range Plan, and to meet CIWW's financial obligations as they become due.

Section 6. Modification of CIWW Capital Plan. The Board may vote to modify the Initial CIWW Capital Plan or any subsequent CIWW Capital Plan only after providing at least sixty (60) days' written notice to all Member Agencies. A CIWW Capital Plan may provide for a capital call on Member Agencies under Section 7 of this Article.

Section 7. Capital Call on Member Agencies. A CIWW Capital Plan, as adopted or modified under Section 6 of this Article, may provide for a capital call on Member Agencies payable in one or more installments, provided that the payment shall become due at a time that is at least sixty (60) days after the adoption of the CIWW Capital Plan (a "Capital Call"). Any Capital Call shall be allocated among the Member Agencies on the basis of their respective Allocated Capacities at the time of adoption of the Capital Call. Any Capital Call created by a Capital Plan creates a payment obligation for all Member Agencies to be paid according to the terms of the Capital Plan.

Section 8. Return of Capital. Upon admission of each new Member Agency, the Board may, to the extent funds are available for such purpose, provide for a pro-rata return of the capital contributed by each prior Member Agency, plus a deemed rate of return based on any capital

premium charged to the New Member Agency. For so long as CIWW shall remain in existence, no Member Agency or former Member Agency shall otherwise be entitled to any return of capital at any time except in accordance with the provisions of the CIWW Capital Plan.

Section 9. Emergency Member Agency Assessments. In the event that unforeseen or exigent circumstances arise such that CIWW's revenues and capital resources are insufficient to allow CIWW to meet its financial obligations as they become due, the Board shall issue one or more "Emergency Member Agency Assessments" to the Member Agencies. Each Member Agency's portion of the Emergency Member Agency Assessment will be based on the Member Agency's pro rata share of the total Allocated Capacity as defined in Schedule V-3, as amended. Each Emergency Member Agency Assessment shall be due and payable within ten (10) days of adoption of the assessment by the Board. Emergency Member Agency Assessments shall be repaid, without interest, to the Member Agencies when and as the financial condition of CIWW permits.

ARTICLE XVI. FUNDS AND ACCOUNTS

Section 1. Funds and Investments. The Board shall establish and maintain appropriate funds and accounts for the purposes set forth in this Agreement. All funds held by the Board shall be accounted for, managed and invested in compliance with Iowa law, including but not limited to, Iowa Code Chapters 12B and 12C.

Section 2. Annual Audit. An independent auditor selected by the Board will annually review the financial statements of CIWW. Following the receipt of the audit report, the Board shall deliver a copy of the annual audit to the Member Agencies and shall schedule a meeting of the Board for the purpose of having representatives of the independent auditing firm submit an oral presentation of the audit, and answer questions as may be posed to them by the Board.

ARTICLE XVII. ISSUANCE OF BONDS

Section 1. Obligations Authorized. The Board is authorized to issue its Bonds and Refunding Bonds under the authority of Chapter 28F of the Code, or as otherwise may be authorized by law from time to time for the purposes set forth in this Agreement. The Board also is authorized, in its discretion, to utilize existing reserves or other available funds to pay all or any portion of the costs associated with the acquisition, construction or expansion of any such water facilities deemed necessary or appropriate, in lieu of issuing Bonds for the same under this Agreement.

Section 2. Consent to Issuance.

(a) By their approval and execution of this Agreement, the Founding Agencies hereby consent to and authorize the Board, pursuant to Section 28F.3, Iowa Code, to issue Bonds in the aggregate principal amount not to exceed \$_____ for the purposes of acquiring, constructing or expanding any facilities contemplated by this Agreement. Such Bonds may be issued and sold by the Board in multiple series, at such times and from time to time over a period of years, in such amounts, to such purchasers and for such purposes, by either public or private

sale, at fixed or variable rates of interest as shall be prevailing at the time of issuance of the Bonds, but which shall not exceed 12% in any event, with such covenants and terms and in such form and manner as the Board shall determine to be appropriate, in its sole discretion. Each new Member Agency shall be deemed to so agree upon joinder in membership.

(b) In addition to the Bonds authorized in subsection (a) hereof, the Founding Agencies hereby consent to and authorize the Board, pursuant to Section 28F.10 of the Iowa Code, to issue Refunding Bonds for the purpose of refunding or refinancing any of the Bonds during the term of this Agreement. Such Refunding Bonds may be issued and sold by the Board in multiple series, at such times and from time to time over a period of years, in such amounts, to such purchasers by either public or private sale, at such rates of interest as shall be prevailing at the time of issuance of the Refunding Bonds, but which shall not exceed 12% in any event, with such covenants and terms and for the purpose of refunding or refinancing such series of Bonds as the Board shall determine to be appropriate. Notwithstanding the foregoing, in the event (i) the final maturity date of a series of Refunding Bonds is later than the final maturity date of the series of Bonds being refunded or (ii) the issuance of such Refunding Bonds will not produce, in the opinion of an independent financial consultant engaged by the Board, net present value debt service savings for the Member Agencies that are making debt service payments on the Bonds being refunded, after taking into account all costs and expenses of the refunding, then in such event the Board representatives of all Member Agencies that will pay Debt Service on such Refunding Bonds must vote in favor of the authorization of such Refunding Bonds. Each new Member Agency shall be deemed to so consent, authorize and so agree upon joinder in membership.

(c) To the extent permitted by law, the Board is authorized to and may enter into, amend or terminate, as it determines to be necessary or appropriate, Interest Rate Agreements or other contracts entered into for the benefit of CIWW or for the benefit of any of the holders of the Bonds or Refunding Bonds to facilitate the issuance, sale, resale, purchase, repurchase or payment of any of the Bonds or Refunding Bonds, including bond insurance, letters of credit and liquidity facilities.

Section 3. Not General Obligations. The principal of and interest on all Bonds and Refunding Bonds issued under this Agreement shall be payable solely from and secured by the net revenues of CIWW and from other funds of CIWW lawfully available therefore as provided in Section 28F.5 of the Iowa Code, or other applicable provisions of law, and the Bonds and Refunding Bonds shall not in any respect be general obligations of the Member Agencies, nor shall the Member Agencies be in any manner liable by reason of such net revenues or other funds being insufficient to pay the Bonds and Refunding Bonds.

Section 4. Allocations of Debt Service.

(a) Following the issuance of the Bonds and Refunding Bonds and for so long as any of the Bonds and Refunding Bonds remain outstanding, the Debt Service thereon shall be allocated to the Member Agencies in accordance with this Agreement, and each Member Agency agrees to pay its allocated share of such Debt Service to CIWW at the times set forth in this Agreement.

(b) Prior to any Bond sale, any Member Agency may make a cash payment for its

estimated share of one or more of the improvements to be funded from the specific Bond issue. At the retirement of the Bond issue used to finance such improvements, the Board shall reconcile the Member Agency's cash contribution to its actual share of the project costs as determined under this Agreement. The difference between the Member Agency's actual cost and its cash contribution shall be paid by or to the Member Agency within 12 months.

Section 5. Restriction on Withdrawal. No Member Agency may withdraw or in any way terminate, amend or modify its obligations under this Agreement to the detriment of the holders of CIWW Bonds and CIWW Refunding Bonds while any CIWW Bonds and CIWW Refunding Bonds are outstanding and unpaid, and the provisions of Section 28F.3 of the Iowa Code with respect thereto are hereby approved and accepted.

Section 6. Future Interpretation. The provisions of this Article are intended and shall be construed as to fully invoke the provisions of Chapter 28F of the Iowa Code with respect to the issuance of the Bonds and Refunding Bonds by the Board as described herein, and to reflect the full authorization, consent and agreement of the Member Agencies with respect thereto.

ARTICLE XVIII. ACQUISITION AND DISPOSITION OF PROPERTY

Section 1. Acquisition. In addition to asset transfers under Article XIII, CIWW may acquire such property as it needs to accomplish its purposes by purchase, gift, exchange, transfer, conveyance or otherwise, and shall hold all real, personal and intangible property which it acquires in its own name. To the extent authorized by law, CIWW also may acquire real property or an interest therein for a public use or purpose related to CIWW's function by use of the power of eminent domain. CIWW is authorized to bring an eminent domain action in its own name, or CIWW may request a Member Agency to bring such action, which the Member Agency shall then do so long as CIWW shall fully reimburse the Member Agency for all costs of the proceeding, including reasonable attorneys' fees and damages to be paid to the owner of the property being so acquired, and all related administrative and legal expenses. In the event the Board determines not to pay the award made by the compensation commissioners and take possession of the property at the conclusion of the eminent domain proceedings or any appeal thereof, CIWW shall nevertheless reimburse the Member Agency for the costs and expenses, including any attorney fees or damages awarded to the property owner.

Section 2. Disposition. CIWW may dispose of any of its property and shall do so in the same manner as a city under the Iowa Code, provided, however, that any such transfer shall be subject to any rights of reversion provided by this Agreement, unless released or waived by the holder of the right of reversion. CIWW shall provide notice to any purchaser or recipient of CIWW property of any reversionary interests held by a Member Agency. All proceeds from the sale or disposition of property, no matter the origin of such property shall be the property of CIWW, except for any payment made to any holder of a reversionary interest that is made in exchange for release of such reversionary interest.

ARTICLE XIX. WATER SHORTAGE ORDINANCES AND RULES

Section 1. Water Shortage Plan. The Water Shortage Plan attached as Schedule XIX

is hereby adopted by CIWW effective as of the Operational Commencement Date. Such Water Shortage Plan may be amended by the Board at any time.

Section 2. Adoption of Rules and Ordinances. The Founding Agencies shall enact water shortage provisions in their respective rules and ordinances governing water service to their respective customers that are consistent with the Water Shortage Plan, and shall at all times reasonably enforce such provisions. New Member Agencies shall similarly adopt rules and ordinances as a condition of their membership.

ARTICLE XX. AMENDMENTS TO THIS AGREEMENT

Section 1. Amendments. This Agreement, including its Schedules, may be amended by action of the Board that is confirmed by Member Agency vote under Article XI, except that any amendment that effectively terminates this Agreement shall require the affirmative vote of two-thirds (2/3) of all Member Agencies.

Section 2. Board Modifiable Schedules. Notwithstanding Section 1 of this Article, the following Schedules may be updated or amended by vote of the Board and without a Member Agency vote: Schedule I-2, Schedule I-9 Schedule V-3, Schedule XIV-2, Schedule XIV-4, and Schedule XIX (the “Board Modifiable Schedules”)

Section 3. Limits on Amendments to Terms and Schedules.

- (a) Notwithstanding Section 1 of this Article, for a period of seven (7) years from the Effective Date, no amendment shall be made without the unanimous consent of the Member Agencies to the following Articles, Sections and Schedules of this Agreement:
 - (i) The following section of Article I Purposes and Establishment of Legal Entity:
 - a. Section 13 Term and Period of Existence
 - (ii) The following section of Article III Limitations of Scope and CIWW Powers and Operations:
 - a. Section 1 Prohibited Activities
 - (iii) The following sections of Article IV CIWW Exclusive Supply Rights and Service Obligations and Dedication of Existing Facilities:
 - a. Section 1 Exclusive Supply Rights
 - b. Section 4 Limitations on Founding Agency Water Supply Activities
 - c. Section 6 Dedication and Operation of Existing Water Supply Facilities
 - d. Section 7 Asset Transfer
 - e. Section 8 Ownership, Operation, and Expansion of Water Supply Facilities prior to Asset Transfer
 - f. Section 9 Total Service Agreements
 - g. Section 10 Wholesale Water Service Master Agreement
 - h. Section 11 Other Preexisting Wholesale Relationships

- i. Section 13 Member Agency Obligations
 - (iv) The following sections of Article V Water Supply Contracts, Dedicated Water Supply, and Capacity Expansion:
 - a. Section 1 Requirements of Contracts
 - b. Section 2 Actual Cost Recovery
 - c. Section 3 Initial Capacity Allocations
 - d. Section 4 New Member Agency Allocations
 - e. Section 5 Capacity Expansions
 - f. Section 6 Costs of Member Agency Funded Capacity Expansions
 - (v) The following sections of Article VI Wholesale Rates to Member Agencies:
 - a. Section 1 Rates to Recover Costs
 - b. Section 2 Annual Determination of Revenue Requirement
 - c. Section 3 Volume and Max Day Demand of Member Agencies
 - d. Section 4 Individual Rates
 - e. Section 5 Charges for Excess Consumption
 - (vi) The following sections of Article VIII Governing Board:
 - a. Section 1 Governing Body
 - b. Section 2 Initial Composition of Board
 - c. Section 3 Size of Board
 - d. Section 4 Additional Trustees
 - e. Section 10 Weighted Voting by Board
 - (vii) The entirety of Article XIII Transfer of Assets
 - (viii) The following section of Article XIV CIWW Staff, Consultants, Management Support, and Operating Contracts:
 - a. Section 3 Operating Contracts
 - (ix) The following section of Article XX Amendments to this Agreement:
 - a. Section 1 Amendments
 - (x) The following section of Article XXII Withdrawal of Member Agencies:
 - a. Section 3 Restrictions and Limitations on Voluntary Withdrawal of Member Agencies
 - (xi) The entirety of Article XXIV Extension and Termination of Agreement
 - (xii) The following schedules:
 - a. IV-6 Designated Water Supply Facilities
 - b. V-2 Costs Payable to Water Producing Member Agencies
 - c. V-4 Charges for Future Capacity Allocations
 - d. VI-2 Mandatory Rate Principles
 - e. VI-3 Assumptions Used to Estimate Volume of Water Used by Unmetered Member Agencies
 - f. VI-5 Charges for Excess Consumption
 - g. XIII-1 Asset Transfer Terms
 - h. XIV-3 Operating Contract
 - i. XXII-3 Mandatory Exit Payments for Voluntary Termination of Agreement
- (b) Notwithstanding Section 1 of this Article, the Board and Member Agencies may

not adopt, nor purport to adopt, any amendment to the Agreement that adversely affects any operating contract rights, asset transfer provisions, or rights of reversion of any Water Producing Member as provided in this Agreement without the affirmative consent of the governing body of the affected Water Producing Member. Affirmative consent for purposes of this section requires a resolution adopted by the governing body of the affected Water Producing Member.

Section 4. Explanation of Amendment. An explanation of the reasons for any proposed amendment requiring a vote of the Member Agencies shall be adopted by the Board and shall be included in the transmission of the proposed amendment to the Member Agencies prior to their vote.

Section 5. Filing and Effectiveness. If any proposed amendment is approved as provided herein, the amendments shall be filed with the Iowa Secretary of State as required by Section 28E.8, Iowa Code, and shall be effective, unless the amendment otherwise provides, upon such filing. Any such amendment shall be binding upon all Member Agencies without further agreement or joinder by any Member Agency.

ARTICLE XXI. BEST EFFORTS/LIMITATION OF LIABILITY/INDEMNITY

Section 1. Disclaimers. The Founding Agencies agree that the Designated Water Supply Facilities and any CIWW facilities designed and constructed for or by CIWW are special purpose facilities. Neither CIWW, the Board, nor any of the Water Producing Member Agencies warrants or guarantees that the facilities existing as of the date of this Agreement or created under this Agreement have been, or will be designed or constructed to function efficiently or accomplish the purpose for which they are used or were designed. CIWW accepts, and shall at the time of asset transfer accept, all of the Designated Water Supply Facilities “as-is” and with all faults. CIWW acknowledges that no representations or warranties have been provided to CIWW regarding the Designated Water Supply Facilities, and CIWW takes such facilities at its own risk.

Section 2. Best Efforts. Each Member Agency agrees to cooperate in good faith with CIWW, the Board, and the other Member Agencies to exercise diligence in performing its obligations hereunder, and to use its best efforts to carry out the provisions of this Agreement. The Board will exercise the judgment that a public body generally exercises in the selection of the design engineer or engineers, letting the construction contracts, and in monitoring the actual construction of any new facilities.

Section 3. No Liability. Neither CIWW nor any of the Water Producing Member Agencies shall be liable to any Member Agency by reason of any failure to provide any water services contemplated by this Agreement, or for any error of judgment on the part of the Board or Water Producing Member Agencies, except for any bad faith or willful disregard for the terms of this Agreement. CIWW agrees to defend and indemnify any Water Producing Member from any claims brought by any Member Agency or any third party related to any failure to provide any water services contemplated by this Agreement, or for any error of judgment on the part of the Board or Water Producing Member Agencies, except for bad faith or willful disregard for the terms of this Agreement. The indemnity provided by this section includes CIWW’s payment of Water Producing Member Agency’s reasonable attorneys’ fees incurred in defending any action or claim.

Section 4. Limitations of Liability. NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY UNDER THIS AGREEMENT FOR ANY CLAIM FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR REVENUE OR THE LOSS OF USE OF EITHER, OR COSTS OF REPLACEMENT CAPITAL, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT.

Section 5. Indemnification. Each of the Member Agencies and CIWW (“Indemnifying Party”), to the fullest extent permitted by law, hereby agree to indemnify, defend, pay on behalf of, and hold harmless any other Member Agency and CIWW and their respective elected officials, as appointed officials, agents, employees and volunteers, and others working on behalf of such party (“Indemnitied”), against any and all claims, demands, suits, damages or losses, together with any and all outlay and expense connected therewith including, but not limited to, attorneys’ fees and court costs, that may be asserted or claimed against, recovered from or suffered by the Indemnitied by reason of any injury or loss arising out of any wrongful act or omission of the Indemnifying Party, including, but not limited to, bodily injury or death, property damage, including loss of use thereof, and economic damages that arise out of or are in any way connected to this Agreement. No party shall have any right of indemnity for damages or claims proximately caused by its own negligent or intentionally wrongful acts. Each party’s agreements and obligations as set forth in this Section are applicable for the duration of and following expiration or termination of this Agreement, regardless of the manner of termination, and notwithstanding other provisions of this Agreement.

ARTICLE XXII. WITHDRAWAL OF MEMBER AGENCIES

Section 1. Duration of Membership. Each Founding Agency and each New Member Agency shall continue its membership until the Member Agency voluntarily terminates its membership herein, as hereafter provided. Any withdrawal by a Member Agency shall not constitute or cause termination of this Agreement.

Section 2. Voluntary Termination of Membership. Subject to the restrictions and limitations of Section 3 of this Article, a Member Agency may voluntarily withdraw from membership in CIWW on not less than five (5) years’ written notice to the Board to be effective on the last day of the calendar year after the requisite period of notice has elapsed. In order to withdraw from membership, the governing authority of the Member Agency must adopt a resolution to withdraw, and a certified copy of the resolution to withdraw must be sent to the Board Chair, unless the Chair is a representative from the withdrawing Member Agency, in which case notice must be sent to the Vice-Chair.

Section 3. Restrictions and Limitations on Voluntary Withdrawal of Member Agencies.

- (a) The Member Agencies acknowledge that under current law no Member Agency may withdraw or in any other way terminate, amend or modify its obligations under this Agreement to the detriment of the holders of CIWW’s issued Bonds while any

of the Bonds are outstanding and unpaid. Accordingly, no withdrawal, termination, amendment, or modification of the obligations of a Member Agency under this Agreement shall be effective unless adequate provision is made for payment of Member Agency's obligations supporting issued and outstanding Bonds, including without limitation payment in full of any unpaid Capital Call.

- (b) The Board, in its sole discretion, may require the Member Agency seeking withdrawal from this Agreement to pay to CIWW an amount determined by the Board to be necessary to fully fund the future payment obligations of the Member Agency with respect to Debt Service on all Bonds as allocated to the Member Agency under the provisions of this Agreement or any other future agreement related thereto.
- (c) Any Member Agency that voluntarily withdraws shall pay within 30 days of the effective date of the termination of the Member Agency as a member of this Agreement: (i) a "Mandatory Exit Payment" calculated in the manner prescribed in in Schedule XXII-3; (ii) reasonable attorneys' fees incurred by CIWW related to the Member Agency's withdrawal; and (iii) any costs incurred by CIWW to disconnect the departing Member from CIWW Water Supply Facilities.
- (d) A Member Agency that voluntarily withdraws from membership and participation in this Agreement relinquishes its rights to previously contributed capital, and to any reversionary interests in any assets transferred to CIWW. Any Member Agency that voluntarily withdraws is not entitled to any interest in any CIWW assets if after the Member Agency voluntarily withdraws, CIWW's existence terminates as provided in this Agreement. The Member Agency voluntarily withdrawing is not entitled to compensation for the interests relinquished.

ARTICLE XXIII. DEFAULT & REMEDIES

Section 1. Definition of Event of Default. "Event of Default" as to CIWW or any Member Agency means:

- (a) The failure to make payment as required under this Agreement or perform or observe any obligations or covenants under this Agreement, including without limitation any obligation of or relating to water service or under any Capital Call, except that an Event of Default under this subsection (a) shall not include a delay or failure of payment that is cured within thirty (30) days of a demand for payment, or any other failure of performance that is cured within ninety (90) Days of a demand for cure or other corrective action;
- (b) The affirmative repudiation of any obligation of payment or of any covenant of this Agreement, or under any related agreement;
- (c) A Member Agency or CIWW becomes insolvent, fails or admits in writing its inability generally to pay its debts as they become due;

- (d) A Member Agency or CIWW makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (e) A Member Agency or CIWW institutes a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights;
- (f) A Member Agency or CIWW has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within ninety (90) days of the institution or presentation thereof.

Section 2. Member Agency Default and CIWW Remedy. Upon the occurrence of an Event of Default as defined in Section 1 of this Article by or attributable to any Member Agency, CIWW may, at the direction of the Board, give the Member Agency notice of default and after any applicable period of cure has expired:

- (a) Suspend provision of water service to the defaulting Member Agency until such time as Member Agency shall cure the default;
- (b) Bring a claim in arbitration for damages under Section 5 of Article XXV, or if CIWW so elects, in one or more actions at law or in equity in the Iowa District Court for Polk County to the extent allowed by Section 5 and 6 of Article XXV; or
- (c) Exercise any other rights and remedies individually or collectively available to it by law or agreement.

Section 3. CIWW Default and Member Remedy. Upon the occurrence of an Event of Default, as defined in Section 1 of this Article by or attributable to CIWW that adversely affects any Member Agency, the Member Agency shall have the right, at the direction of its governing body, to give CIWW notice of default and after any applicable period of cure has expired:

- (a) Terminate its membership under Section 2 of Article XXII, without regard to the five-year notice provided therein, and cancel its contracts with CIWW;
- (b) Commence proceeding for Termination of this Agreement under Section 2(b) of Article XXIV;
- (c) Bring a claim in Arbitration under Section 4 of Article XXV or if the Member Agency so elects, bring one or more actions at law or in equity in the Iowa District Court for Polk County to the extent allowed by Sections 5 and 6 of Article XXV;

- (d) Exercise any other rights and remedies available to it by law or agreement.

ARTICLE XXIV. EXTENSION AND TERMINATION OF AGREEMENT

Section 1. Extension of Term. This Agreement may be extended beyond the termination date specified in Section 13 of Article I for an additional specified term not to exceed forty (40) years by written consent of not less than two-thirds (2/3rds) of the Member Agencies. Any Member Agencies that do not consent to such extension within ninety (90) days after receiving notice that the requisite number of Member Agencies have consented to the extension shall be deemed to have voluntarily terminated their membership as provided in Section 2 of Article XXII without further notice by such Member Agency, with such termination to be effective as of the date the period of notice expires.

Section 2. Termination Provisions. This Agreement may terminate earlier than the Termination date only upon:

- (a) the requisite vote of the Board and the Member Agencies as provided by Article XI; or
- (b) A final order of a court having jurisdiction in an action by a Member Agency after a CIWW default where the Court finds that termination is warranted and in the best interests of the public.

Section 3. Disposal of Assets upon Termination. Upon termination of this Agreement after expiration of the Agreement's term, or for any other reason, the assets of CIWW that have not previously been disposed of by the Board, shall, after payment in full of, or making provision for payment in full of all CIWW liabilities, be distributed to the Member Agencies as follows:

- (a) Each Member Agency shall be deemed to acquire, and thereafter to possess ownership interests in the CIWW Water Supply Facilities and assets in which it has a reversionary interest on the date of CIWW's termination. Such ownership by reversion shall be documented and confirmed by deed, assignment, or other conveyance documents issued by CIWW to be effective as of the date of termination. In each case, the ownership interest of a Member Agency in a particular CIWW Water Supply Facility or asset shall be equal to the reversionary interest retained by the Member Agency in the specific CIWW facility or asset, under the terms of this Agreement according to the record of reversionary interests maintained by the Board. Such interest shall be conveyed as a tenancy in common with the other Member Agencies to the extent any particular property or asset has any non-reversionary interests held by CIWW on the date of termination, including without limitation by reason of Capacity Expansions after the Asset Transfer Date.
- (b) Except to the extent provided in Subsection (a) of this Section, all of the other assets and properties of CIWW, including without limitation Capacity Expansions constructed by CIWW after the Asset Transfer Date, shall be distributed to the

Member Agencies as tenants in common in proportion to their respective Allocated Capacities as of the date of termination, subject to any reversionary interest of any Member Agency under Subsection (a) of this Section. Such distribution shall be documented and confirmed by deed, assignment, or other conveyance documents issued by CIWW to be effective as of the date of termination.

ARTICLE XXV. GENERAL

Section 1. Provisions to be Severable. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the invalidity of any such provision shall not affect the other provisions of this Agreement that can be given effect without the provision determined to be invalid, and to that end, the provisions of this Agreement are severable.

Section 2. Insurance. CIWW shall procure and maintain its own insurance to cover applicable risk, including, but not limited to, cyber, property, casualty, and workers' compensation insurance. CIWW shall require all contractors and subcontractors to have and maintain bonds and insurance in applicable contract documents. Each Member Agency shall procure such insurance covering the Member Agency's risks as the Member Agency may determine. CIWW and each Member Agency waive subrogation for all claims, suits, damages, and demands that are covered by their own insurance, including but not limited to cyber, property, casualty, and workers' compensation insurance.

Section 3. Notices. Notices which CIWW or its Member Agencies are authorized or required to give one another pursuant to this Agreement shall be in writing and may be personally delivered, may be or sent by ordinary mail or delivery service to the addresses for such party reflected in the records of CIWW, or may be sent by electronic means, including email. Notice by personal delivery, by delivery service, or by electronic means shall be effective upon actual receipt. Mailed notices shall be effective and deemed to be received by the party to whom directed when they are postmarked.

Section 4. Arbitration.

- (a) CIWW and all Member Agencies agree that any challenge to rates or to any modification to the CIWW Capital Plan adopted by action of the Board and approved by the Member Agencies and any claims for money damages arising between or among them with regard to matters within the scope of this Agreement shall be submitted to mandatory, binding arbitration at the request of any party. A request for arbitration must be in the form of a written notice requesting arbitration. Such notice shall identify each disputed matter to be submitted to arbitration. In the absence of agreement by the parties to the contrary, the question or questions to be arbitrated shall be those specified in the notice requesting arbitration.
- (b) If the parties agree, there may be one arbitrator. If they fail to agree on a single arbitrator, there shall be three arbitrators, one named in writing by the party or parties requesting arbitration, one named in writing by the adverse party or parties, and the third chosen by the first two arbitrators so chosen.

- (c) The party or parties requesting arbitration shall choose an arbitrator within ten days following its demand. Its failure to do so shall be deemed a waiver of its request for arbitration. If the adverse party or parties desires to appoint a different arbitrator, they shall name their arbitrator within ten days following the receipt of notice of the naming of the first arbitrator. The two arbitrators first chosen shall name the third arbitrator within ten days following the selection of the second arbitrator. If the two arbitrators first chosen fail to appoint a third arbitrator, then application shall be made to the Chief Judge of the Iowa District Court for Polk County by the party or parties requesting arbitration to name such arbitrator. Should any party refuse or neglect to supply the arbitrators with any papers or information demanded in writing by the arbitrators, the arbitrators are empowered to proceed ex parte. The parties shall agree on the rules to govern the conduct of the arbitration, but in the absence of such an agreement, the most recently published commercial arbitration rules of the American Arbitration Association shall be deemed to apply. The arbitrator or arbitrators must provide a minimum of 30 days' notice before the date set for any hearing on the merits of the dispute.
- (d) No one shall be qualified to act as an arbitrator if service in such role would create a conflict of interest. Each arbitrator selected shall be qualified by experience and knowledge of the matter to be submitted to arbitration. Conflicts of interest include, but are not limited to: (i) current service on the board, commission, council, or other governing body of CIWW or any Member Agency that is a party to the dispute; (ii) current employment, either as an employee or independent contractor, by any CIWW or any Member Agency; (iii) employment, either as an employee or independent contractor, within the last five (5) years by CIWW or any Member Agency; (iv) any prior participation in negotiations related to the dispute; (v) any direct involvement in the dispute, including as a witness to relevant facts; and (vi) other circumstances that would materially impair the ability of the individual to serve as a neutral arbitrator.
- (e) If there is one arbitrator, the award of the sole arbitrator shall be binding; if three, the agreed upon award of any two shall be binding. The award may be set aside only for reasons permitted under Iowa law.
- (f) The award of the arbitrator or arbitrators shall be in writing and separately state the factual and legal analysis relied upon to reach the decision, and it shall not be open to objection on account of the form of the proceeding or the award.
- (g) The arbitrator or arbitrators may retain special counsel for the purpose of conducting the arbitration proceedings and preparing the arbitration award. In selecting special counsel, the arbitrator or arbitrators may not retain any attorney who has represented CIWW or a Member Agency within the last five (5) years.
- (h) The costs of arbitration shall be paid by the party requesting arbitration if it does not prevail in said arbitration proceedings. If the party requesting arbitration prevails in

the arbitration proceedings, the cost of arbitration shall be shared equally by the parties. Costs of the arbitration, include, but are not limited to, fees to the arbitrator or arbitrators, special counsel fees, and any other costs of the proceeding, including reasonable attorneys' fees. Unless CIWW is a party to the arbitration, CIWW will not be liable for any costs or fees related to the arbitration, except CIWW's own reasonable attorneys' fees if such fees are necessary.

- (i) All Member Agencies consent that any award granted through arbitration will be confirmed in the Iowa District Court for Polk County.

Section 5. Specific Performance. In addition to any other remedies available under applicable law, CIWW, the Board, and each Member Agency shall have the right to the equitable remedy of specific performance to enforce compliance with any provision of this Agreement.

Section 6. Actions in Court. Except for disputes covered by Section 4 Article XXV, any Party may bring an action in Court for declaratory relief, for specific performance, or for any equitable remedy. Any such action shall be brought in the Iowa District Court in Polk County. EACH PARTY WAIVES TRIAL BY JURY IN ANY SUCH ACTION.

Section 7. Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages under this Agreement and covenants that it will use reasonable efforts to minimize any damages it may incur as a result of an Event of Default involving any other Party.

Section 8. No Third Party Benefit and Limitation. Neither the provisions of this Agreement nor the provisions of any agreement that CIWW may have with any Member Agency or any other public or private agency shall inure to the benefit of any other entity, or any individual resident, taxpayer, or ratepayer of any Member Agencies. Except as expressly provided in this Agreement, neither this Agreement nor any agreement that CIWW may have with any Member Agency or any other public or private agency may be the basis of a claim or cause of action on behalf of any other person or entity against any Member Agency or any of their respective residents, taxpayers, or ratepayers.

Section 9. Entire Agreement. This Agreement, including the Schedules attached hereto, is the entire agreement between the parties respecting the formation and operation of CIWW. Any subsequent change or modification to the terms of this Agreement shall be in the form of a duly approved and executed amendment to this Agreement.

Section 10. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa.

Section 11. Partnership Disclaimer. Nothing in this Agreement is intended or shall be construed as in any way creating or establishing a partnership between the parties hereto, or as constituting any party as an agent or representative of the other for any purpose or in any manner, other than as specified herein.

Section 12. Counterparts. This Agreement may be executed in multiple counterparts, each of which so executed shall be deemed to be an original.

Section 13. Force Majeure. No party shall be liable for any failure to perform any or all of the provisions of this Agreement if and to the extent performance has been delayed or prevented by reason of any cause beyond the reasonable control of such party. The expression “cause beyond the reasonable control” and the term “Force Majeure” as used in this Agreement shall mean and be deemed to include, but not be limited to acts, regulations, laws, or restraints imposed by any governmental body; wars, hostilities, sabotage, riots, or commotions; acts of God; pandemic; or fires, floods, storms, or lightning.

ARTICLE XXVI. DEFINITIONS

Section 1. Definitions. For purposes of this Agreement, the following words and phrases shall have the following meanings:

- (a) “Additional Trustee” is defined in Section 4 of Article VIII.
- (b) “Agreement” shall mean this 28E/28F Agreement, as the same may be amended and supplemented from time to time.
- (c) “Allocated Capacity” is defined in Section 3 of Article V.
- (d) “Annual Budget” is defined in Section 3 of Article XV.
- (e) “ASR” shall mean aquifer storage and recovery.
- (f) “Asset Transfer Date” is defined in Section 1 of Article XIII.
- (g) “Board” shall mean the board of trustees CIWW created under this Agreement.
- (h) “Board Modifiable Schedules” is defined in Section 2 of Article XX.
- (i) “Bonds” shall mean any and all bonds, notes, loans or lease agreements, interim obligations, or other obligations issued by CIWW as authorized under Chapter 28F of the Iowa Code or any other applicable provision of law, to acquire and construct the facilities and improvements to the CIWW Water System described in this Agreement.
- (j) “Capacity Expansion” and “Capacity Expansion Project” are defined in Section 5 of Article V.
- (k) “Capacity Leasing Charges” is defined in Section 5 of Article V and by Schedule VI-5.
- (l) “Capital Contributions” shall mean funds provided to capitalize CIWW by Member Agencies either by Initial Capital Contribution, Capital Call or otherwise
- (m) “Capital Call” is defined in Section 7 of Article XV.

- (n) “CIWW” shall mean the Central Iowa Water Works entity established and operating as described in this Agreement.
- (o) “CIWW Capital Plan” means any modified capital plan adopted after the Initial CIWW Capital Plan under Section 2 of Article XV.
- (p) “CIWW Long Range Plan” is defined in Section 1 of Article VII.
- (q) “CIWW Water System Facilities” means all facilities used to produce, store, or transport water.
- (r) “Debt Service” shall mean the aggregate annual principal (whether at maturity or pursuant to sinking fund redemption requirements), interest and other payments (including liquidity charges, letter of credit fees, auction agent and remarketing fees and broker-dealer fees) to be made by a Member Agency on outstanding Bonds or Refunding Bonds, or other debt obligations of CIWW for the period or periods in question; provided however, that payments on Bonds which have been advance refunded and defeased shall be excluded, as shall payments on Bonds which are to be made from capitalized interest or other funds escrowed or deposited with a third party. If CIWW shall issue variable rate Bonds, there shall be taken into account in determining Debt Service the amount of principal and interest payable in the current year, assuming that the interest rate for a whole year on such variable rate Bonds is the rate which was in effect on the last day of the immediately preceding fiscal year and applying such rate on a consistent basis. If such variable rate Bonds were issued subsequent to such last day, then for the balance of the year in which such variable rate Bonds were issued, the first interest rate in effect for such Bonds shall be used.
- (s) “Designated Water Supply Facilities” is defined in Section 6 of Article IV.
- (t) “Effective Date” shall have the meaning set forth in Section 11 of Article I.
- (u) “Emergency Member Agency Assessments” shall have the meaning set forth in Section 9 of Article XV.
- (v) “Event of Default” is defined in Section 1 of Article XXIII.
- (w) “Excess Consumption” is defined in Section 5 of Article I.
- (x) “Force Majeure” is defined in Section 13 of Article XXV.
- (y) “Indemnifying Party” is defined in Section 5 of Article XXI.
- (z) “Indemnities” is defined in Section 5 of Article XXI.

- (aa) “Initial Budget” is defined in Section 2 of Article XV.
- (bb) “Initial Capital Contribution” is defined in Section 9 of Article I.
- (cc) “Initial Capital Plan is defined in Section 2 of Article XV.
- (dd) “Interest Rate Agreement” means, to the extent permitted by applicable law, an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both (including options to enter into or cancel the agreement or to reverse or extend the agreement), currency exchange, cap, collar, forward, hedge or similar agreement entered into by the Board to moderate or manage the interest rate or exchange rate risk respecting any of the Bonds or Refunding Bonds.
- (ee) “Iowa Code” shall mean the Code of Iowa (2022), as the same may be amended and supplemented from time to time.
- (ff) “Legal Counsel” is defined in Section 5 of Article XIV.
- (gg) “Mandatory Exit Payment” is defined in Section 3 of Article XXII.
- (hh) “Member Agency / Member Agencies” is defined in Section 4 of Article I.
- (ii) “New Member Agency” is defined in Section 4 of Article I.
- (jj) “Operational Commencement Date” is defined in Section 12 of Article I.
- (kk) “Prospective Member Agency” is defined in Section 1 of Article XII.
- (ll) “Purchased Capacity Master Agreement” is defined in Section 10 of Article IV.
- (mm) “Refunding Bonds” shall mean any bonds, notes, loan agreements or other obligations issued by CIWW for the purposes of refunding any of the Bonds under the provisions of Article XVII, Section 2(b) hereof.
- (nn) “Revenue Requirements” is defined in Section 1 of Article VI.
- (oo) “Total Service Agreement” is defined in Section 9 of Article IV.
- (pp) “Water Distribution Activity” is defined in Section 2 of Article IV.
- (qq) “Water Distribution Facilities” is defined in Section 3 of Article IV.
- (rr) “Water Producing Member Agency” and “Water Producing Member Agencies” are defined in Section 6 of Article IV.

(ss) “Water Supply Activity” is defined in Section 2 of Article IV.

(tt) “Water Supply Facilities” is defined in Section 3 of Article IV.

Additional terms defined in the Schedules have the meaning assigned in the Schedules.

ARTICLE XXVII. EXECUTION OF AGREEMENT

Section 1. Passage of Resolution. A Founding Agency or other Member Agency shall become a party hereto by the passage of a resolution by its governing body approving this Agreement and authorizing execution of the same by its officers. This Agreement shall become effective upon such approval, and execution of a counterpart by all of the Founding Agencies and filing of the executed Agreement as required by law.

Section 2. Signature Pages. Each Founding Agency approving this Agreement shall execute the separate signature page provided for it. The parties authorize counsel to any Founding Agency to assemble the signature pages of all signatory parties and to append them to copies of this Agreement for filing with the Iowa Secretary of State.

[Signature Pages Follow]

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

By: _____
Graham R. Gillette, Board Chairperson

ATTEST:

Ted Corrigan, CEO and General Manager

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this _____ day of _____, 2022, before me, a Notary Public in and for the State of Iowa, personally appeared Graham R. Gillette and Ted Corrigan to me personally known, and, who being by me duly sworn, did say that they are the Board Chairperson and the CEO and General Manager of the BOARD OF DMWW TRUSTEES OF THE CITY OF DES MOINES, IOWA, that no seal has been procured by the entity; that the attached instrument was signed on behalf of the said entity by authority of its Board as contained in the resolution adopted by the Board on the ____ day of _____, 2022, and that Graham R. Gillette and Ted Corrigan acknowledged the execution of the instrument to be the voluntary act and deed of the BOARD OF DMWW TRUSTEES OF THE CITY OF DES MOINES, IOWA, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa

CITY OF _____, IOWA

(SEAL)

By: _____
Its: Mayor

ATTEST:

By: _____
Its: City Clerk

STATE OF IOWA)
) SS
COUNTY OF POLK)

On this ____ day of _____, 2022, before a Notary Public in and for the City, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of _____, Iowa, a Municipality, 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 Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

**SCHEDULE I-2
FOUNDING DATA
A. HISTORIC ANNUAL FINISHED WATER REQUIREMENTS**

DATA TO BE VALIDATED AND/OR COMPLETED BY MEMBER AGENCIES

		Annual Demand in Millions of Gallons					
Source Note		2017	2018	2019	2020	2021	Five-Year Average
2	Altoona-Total	805.845	778.525	838.692	863.718		821.695
1	Ankeny	2,110.316	2,053.270	1,980.672	2,446.297		2,147.639
1	Bondurant	175.687	184.798	200.021	200.796		190.326
1	Clive	698.372	669.093	630.973	698.917		674.339
3	DMWW-Total	9,338.292	9,144.320	9,128.723	9,159.621		9,192.739
1	Johnston	801.461	748.274	762.712	820.081		783.132
1	Grimes	538.824	648.114	536.634	542.878		566.613
1	Norwalk	296.849	299.976	320.817	418.642		334.071
2	Polk City-Total	155.525	175.515	192.813	230.136		188.498
1	UWU	1,662.061	1,536.328	1,541.656	1,691.490		1,607.884
1	Warren Water District	597.842	602.704	643.547	628.457		618.137
1	Waukee	600.983	596.345	614.201	728.623		635.038
2	WDMWW-Total	2,977.483	2,775.840	2,557.970	2,810.655		2,780.487
2	Xenia-Total	704.865	727.232	667.829	705.625		701.388
	Totals	21,464.405	20,940.336	20,617.261	21,945.935		21,241.984

Notes:

All figures are calendar year totals expressed in million gallon units.

1. Metered consumption at entity's master meter connecting to DMWW
2. Entity pumpage plus entity's master meter connecting to DMWW
3. DMWW total pumpage less aggregate metered consumption at wholesale meters less allocated water loss computed on the basis of Schedule VI-3

WATER LOSS PER SCHEDULE VI-3 NOT YET ACCOUNTED FOR IN THE ABOVE DATA

SCHEDULE I-2

B. HISTORIC MAXIMUM DAY UTILILIZATION OF CAPACITY

DATA TO BE VALIDATED AND/OR COMPLETED BY MEMBER AGENCIES

	Maximum Day Demand in Millions of Gallons					
	2017	2018	2019	2020	2021	Five-Year Average
Altoona	4.778	4.416	4.302	4.063		
Ankeny	8.272	8.736	8.034	9.141	8.508	8.538
Bondurant	0.763	0.782	0.882	0.923	0.933	0.857
Clive	4.124	4.098	3.563	3.877	4.158	3.964
DMWW	39.819	43.463	39.953	41.840	44.630	41.941
Johnston	5.124	5.375	4.975	4.877	5.027	5.075
Grimes	2.754	3.887	3.665	3.386		
Norwalk	1.664	1.831	1.779	2.216	2.722	2.043
Polk City	1.168	1.409	1.307	1.170		
UWU	10.140	10.038	8.967	10.269	10.122	9.907
Warren Water District	3.089	2.674	2.656	2.467	2.824	2.742
Waukee	3.636	3.632	3.594	3.770	4.281	3.783
WDMWW	15.493	16.522	13.609	15.006		
Xenia	2.998	2.881	2.667	2.803	3.065	2.883

Notes:

All figures are calendar year maximums expressed in million gallon per day units.

**SCHEDULE I-9
INITIAL CAPITAL CONTRIBUTIONS**

SUBJECT TO CHANGE BASED ON FINAL SCHEDULE I-2A

Initial Capital Contributions are start-up funds that are contributed by the Founding Agencies to provide the initial capitalization of CIWW that has been deemed required for commencement of CIWW operations.

	5-year Average of Annual Demand (MG)	% of Total	Initial Capital Contribution
Altoona-Total	821.695	3.868%	\$77,365.18
Ankeny	2,147.639	10.110%	\$202,207.01
Bondurant	190.326	0.896%	\$17,919.80
Clive	674.339	3.175%	\$63,491.15
DMWW-Total	9,192.739	43.276%	\$865,525.46
Johnston	783.132	3.687%	\$73,734.36
Grimes	566.613	2.667%	\$53,348.41
Norwalk	334.071	1.573%	\$31,453.84
Polk City-Total	188.498	0.887%	\$17,747.68
UWU	1,607.884	7.569%	\$151,387.37
Warren Water	618.137	2.910%	\$58,199.55
Waukee	635.038	2.990%	\$59,790.84
WDMWW-Total	2,780.487	13.090%	\$261,791.65
Xenia	701.388	3.302%	\$66,037.71
Totals	20,956.031		\$2,000,000.00

SCHEDULE IV-5 SERVICE OBLIGATION STANDARDS

CIWW shall have an obligation to make reasonable provision to meet all drinking water production requirements of the Member Agencies as needed, subject to mechanical failures, unforeseen events, or circumstances within the definition of Force Majeure.

The following standards shall further define such service obligation:

- CIWW shall plan for delivery of each Member Agency's Allocated Capacity and shall not be required to deliver any more than any Member Agency's Allocated Capacity.
- CIWW shall expand its capacity pursuant to its Long Range Plan contingent on available financing and funding.
- CIWW shall provide for sufficient water pressures and delivery points, both of which shall be determined in coordination with the Member Agencies.
- CIWW shall not deny service to any Member Agency that requests it so long as the requests are made reasonably in advance and consistent with adopted CIWW Long Range Plan and Capacity Expansions.
- CIWW's curtailments in service, if any, shall be made pursuant to the Water Shortage Plan.
- CIWW shall strive to meet all applicable state and federal water quality regulations; but in a situation where it fails to do so, it will provide timely notice to all affected Member Agencies;

The level of service provided by CIWW to Member Agencies shall be supported by rates, determined under Article VI and the principles set forth in Schedule VI-2, that are reasonably related to CIWW's actual costs, at levels determined by its Board to be sufficient to pay all CIWW expenses and obligations, to establish and maintain reasonable and adequate financial and operating reserves, and to provide for the current and future financing of CIWW's capital projects.

**SCHEDULE IV-6
DESIGNATED WATER SUPPLY FACILITIES**

Function*	Facility Name / Asset Description	Owner	Comments
INCLUDED ASSETS			
MTR	Wholesale Meters	DMWW	
SOS	Fleur Infiltration Gallery	DMWW	Easement**
SOS	Raccoon River Intake	DMWW	Easement**
SOS	Des Moines River Intake	DMWW	Easement**
SOS	Saylorville Lake Storage Contract ¹	DMWW	Assignment
SOS	Maffitt Raw Water - Collector Wells	DMWW	Easement**
SOS	Maffitt Reservoir	DMWW	Easement**
SOS	Chain of Lakes	DMWW	Easement**
SOS	Saylorville Raw Water - Collector Wells	DMWW	Easement**
SOS	AC Ward Jordan Aquifer Wells	WDMWW	Easement**
SOS	AC Ward Alluvial Aquifer Wells	WDMWW	Easement**
SOS	Altoona Jordan Aquifer Wells	Altoona	
OS	Polk City Alluvial Aquifer Wells	Polk City	
SOS	Urbandale Raw Water Quarries	UWU	Easement**
SOS	AC Ward Wells and Equipment	WDMWW	Easement**
STO	Army Post Road ASR Well	DMWW	Existing agreement
STO	LP Moon ASR Well	DMWW	
STO	McMullen ASR Well	DMWW	
STO	98th Street Tower	WDMWW	Existing agreement

¹ Saylorville Lake Storage Contract shall be assigned subject to approval by the state of Iowa and the Secretary of the Army, and assumption by CIWW of DMWW's financial obligations thereunder.

STO	Joint East Side Booster & Storage	DMWW	Existing agreement
STO	Tenny Standpipe	DMWW	
BPS	LP Moon Booster & Storage	DMWW	
BPS	Polk Co. Booster & Storage	DMWW	
BPS	Joint SW Booster Station	DMWW	
BPS	Polk City Booster Station	DMWW	
TMT	Fleur WTP	DMWW	Easement**
TMT	Fleur Laboratory	DMWW	Process Analysis Only
TMT	McMullen WTP	DMWW	Easement**
TMT	Saylorville WTP	DMWW	
TMT	AC Ward WTP	WDMWW	Easement**
TMT	Altoona WTP	Altoona	Easement**
TMT	Polk City WTP	Polk City	Easement**
TRN	Core Network Transmission Mains(706,450 LF)	DMWW	
EXCLUDED ASSETS			
STO	Ankeny ASR Wells	Ankeny	Excluded
STO	Waukee ASR Well	Waukee	Excluded
STO	Wilchinski Standpipe	DMWW	Excluded***
BPS	Nollen Booster & Standpipe	DMWW	Excluded***
BPS	Hazen Booster & Storage	DMWW	Excluded***
BPS	Urbandale Booster Station	UWU	Excluded
BPS	Waukee Booster Station	Waukee	Excluded
BPS	Norwalk Booster Station	Norwalk	Excluded
BPS	Airport Booster Station	DMWW	Excluded
	Des Moines Water Works Park	DMWW	Excluded

	Maffitt Park	DMWW	Excluded
	DMWW General Office Bldg	DMWW	Excluded

*MTR = Meters; BPS = Booster/Pumping Station; SOS = Sources of Supply; STO = Storage; TMT = Treatment Facilities; TRN= Transmission Network

**Facilities transferred for the use and benefit of CIWW but Real Estate to remain with the original owner in cases where facilities are on land that is either owned by a separate party altogether or dedicated to a non-utility purpose (e.g., parks, other city functions).

*** Storage and pumping facilities that primarily serve Des Moines retail or DMWW total service customers would remain DMWW assets but a percentage of the O&M costs for these storage facilities equal to an agreed upon percentage of use by CIWW, would be billed by DMWW to CIWW on an annual basis.

SCHEDULE IV-8
CURRENTLY PLANNED DESIGNATED WATER SUPPLY FACILITY PROJECTS

TO BE DETERMINED BY ONGOING DISCUSSIONS

The currently planned facility projects listed below shall be constructed without further Board approval by the Founding Agencies and the costs thereof shall be paid by CIWW.

**SCHEDULE IV-9
EXISTING TOTAL SERVICE AGREEMENTS**

Member Agency	Total Service Agreement
DMWW	Berwick Water Association, Iowa
	City of Alleman, Iowa
	City of Cumming, Iowa
	City of Pleasant Hill, Iowa
	City of Runnells, Iowa
	City of Windsor Heights, Iowa
	Greenfield Plaza Benefited Water District, Iowa

**SCHEDULE IV-11
EXISTING WHOLESALE RELATIONSHIPS TO BE CONTINUED**

TO BE COMPLETED ONCE FOUNDING AGENCIES ARE IDENTIFIED

SCHEDULE V-2
COSTS PAYABLE TO WATER PRODUCING MEMBER AGENCIES

Each Water Producing Member Agency shall be paid for its full actual operational costs of providing water supplied to CIWW. Actual operational costs shall be based on the cost principles stated in this Schedule.

Full actual operational costs are defined to be the prudent and necessary costs actually incurred to operate the Designated Water Supply Facilities as defined in this Agreement, including repair, replacement, and other investment required to maintain existing production capacity, as well as related general and administrative expenses. Excluded from the definition of operational costs are: (a) all debt service; (b) costs incurred by a Water Producing Member Agency for CIWW budgeted CIP capital projects that are otherwise reimbursed to the Water Producing Member Agency by CIWW; (c) all costs related to the Water Producing Member's water distribution network; (d) purchases of inventory (however, the use of inventory may be included as materials & supplies per the below definitions); (e) non-cash charges such as depreciation and amortization expense; and (f) payments or transfers from the Water Producing Member's water utility enterprise to any parent organization or general fund, unless benefit to Water Supply Activity or Designated Water Supply Facilities exists. Water Producing Member Agencies shall categorize their costs as follows:

Personnel Costs. The cost of wages and salaries; local, state, and federal employment taxes; and insurance and benefit costs. Water Producing Member Agencies are required to maintain separate accounts to differentiate between those Personnel Costs incurred in the operations of the Designated Water Supply Facilities from those used in the operation of the Water Producing Member Agency's distribution network.

Materials and Supplies. These costs are tangible items that are used or consumed in the direct operations and maintenance of the Designated Water Supply Facilities. Water Producing Members are required to maintain separate accounts to differentiate between those materials and supplies used in the operations of the Water Supply Facilities from those used in operation of the Member Agency's distribution network.

Contract Services. Any services provided under contract to the Water Producing Member Agency directly related to the operations of the Designated Water Supply Facilities. To the extent contract services may include services for both the Designated Water Supply Facilities and the Water Producing Member Agency's distribution network, the Water Producing Member shall be required to split the contract costs based on a distribution of labor and materials consistent with the contract's scope of work.

Utilities. The cost of electric, water, wastewater, stormwater, telephone, internet, gas or other utility services necessary for the direct operations of the Designated Water Supply Facilities. Water Producing Member Agencies shall be required to maintain separate accounts to differentiate the utility costs used in the operations of the Designated Water

Supply Facilities from those costs incurred to operate the Water Producing Member Agency's distribution network.

General & Administrative. Water Producing Member Agencies shall be allowed to include reasonable general and administrative costs, so long as the Board approves in advance that the methodology of the calculation is appropriate, reasonable, and consistent with other Water Producing Member Agencies, and the Water Producing Member Agency submits supporting accounting documentation of actual costs to justify the G&A expense.

2% Margin. Water Producing Members shall collect a 2% margin on their reimbursable operating costs, including personnel costs, materials and supplies, contract services, utilities, and general and administrative costs.

Renewal & Replacement. The costs of unforeseen, emergency renewal and replacement of capital assets that have not been considered in CIWW Capital Plan, such as the replacement of a pump due to failure and other costs of a similar nature. The Water Producing Member initially incurring the cost of capital replacement shall provide supporting documentation and justification for the capital expense.

During CIWW's budget process for each fiscal year, each Water Producing Member Agency shall submit to CIWW Board a projection of its full actual operational costs for the budget year, along with documentation to demonstrate the distribution of costs between the Water Producing Member Agency's production and distribution facilities. CIWW shall pay the operational costs in seasonally-adjusted monthly installments based on the budgets submitted by the Water Producing Members and approved by CIWW Board. Such payments to Water Producing Member Agencies shall be paid in advance for budgeted expenses to be incurred for the following month on the first business day of each month for that month. Throughout the fiscal year, Water Producing Member Agencies shall report actual operational costs on a quarterly basis to CIWW and identify and explain material fluctuations from projections.

True-Up Requirement

Within 60 days after the close of the fiscal year, full actual operational costs shall be summarized and a true-up amount calculated for each Water Producing Member Agency equal to the total amount previously paid for the year minus the actual amount calculated to be due. Any overpayment shall be refunded by the Water Producing Member Agency to CIWW and any underpayment shall be paid by CIWW to the Water Producing Member Agency. Such amounts shall be paid within twenty-five (25) days of the determination of the amount due.

**SCHEDULE V-3
CAPACITY ALLOCATIONS**

SUBJECT TO CHANGE BASED ON FINAL SCHEDULES I-2B AND XIII

	Maximum Day Demand in Millions of Gallons		
	5 Yr Avg MDD (Schedule I-2B)	Addl Allocation of Reserve Capacity (Schedule XIII-1)	Capacity Allocation
Des Moines Water Works	42.42	2.87	45.29
Bondurant	0.79	1.31	2.10
Clive	3.93	0.38	4.31
Johnston	4.84	1.50	6.34
Norwalk	1.75	1.63	3.38
Warren Water District	2.64	0.38	3.02
Xenia Rural Water District	3.32	2.58	5.90
Altoona	4.40	2.55	6.95
Ankeny	8.41	5.74	14.15
Grimes	3.18	3.38	6.56
Polk City	1.18	0.41	1.59
UWU	9.83	3.32	13.15
Waukee	3.59	2.87	6.46
West Des Moines Water Works	14.35	2.97	17.32
Total	104.62	31.88	136.50

SCHEDULE V-4
CHARGES FOR FUTURE CAPACITY ALLOCATIONS

This Schedule describes the methodology for determining payments for Allocated Capacity by New Member Agencies under Section 4 of Article V.

Step 1: Determine the Total Capacity Requirements as described in Article V, Section 3.

Step 2: Multiply the Total Capacity Requirement by the Incremental Unit Cost of Capacity, which shall be determined as follows:

$$\textit{Incremental Unit Cost} = \textit{Expansion Cost} / \textit{Expanded Capacity}$$

Where:

Expansion Cost is the total cost of capital projects in the CIWW Long Range Plan identified as expansion-related only. Expansion Costs will exclude the cost of any project to meet non-expansion needs including but not limited to: renewal and replacements, upgrades, maintenance, acquisition or construction of assets with useful lives less than 10 years, regulatory projects, and acquisition or construction of administrative facilities. Expansion costs will be expressed in current-year dollars.

Expanded Capacity is the difference between the projected total capacity of the CIWW Water Supply Facilities upon completion of the expansion projects identified in the CIWW Long Range Plan and the current production capacity. If the CIWW Long Range Plan does not include expansion related costs for production capacity, costs for the most recently constructed production facilities, adjusted by an industry accepted construction cost index, shall be used.

SCHEDULE VI-2 MANDATORY RATE PRINCIPLES

CIWW will conduct an annual Cost of Service Study and allocate operation and maintenance (O&M) and capital costs to Member Agencies based on widely accepted industry cost allocation and rate making principles as set forth in the American Water Works Association's (AWWA) M-1 Manual "*Principles of Water: Rates, Fees, and Charges.*" CIWW costs include and are defined as:

1. ***Operations & Maintenance ("O&M")*** - Prudent and necessary costs to operate and maintain source of supply, treatment, pumping, and transmission facilities, as well as applicable efforts related to customer service and general and administrative expenses. O&M costs also include adjustments to operating reserves necessary to maintain appropriate levels of working capital consistent with CIWW financial policies as approved by the Board of Directors.
2. ***"Joint Capital"*** – Capital costs of existing assets considered transferred to CIWW, plus the capital cost of asset replacements and renewals not attributed to meeting growth needs.
3. ***"Shared Growth"*** – Capital cost of assets and expansions constructed to meet regional growth in water demands common to all Member Agencies. Nine percent (9%) of projected expansion costs are allocated as Shared Growth costs
4. ***"Allocated Growth"*** – Capital cost of assets constructed to meet Member Agency-specific growth projections and water demands. Ninety-one percent (91%) of projected expansion costs are allocated as Allocated Growth costs.

COST ALLOCATION REQUIREMENTS

Cost allocation shall be based on the "Base Extra-Capacity" method as described in the AWWA M1 Manual, which recognizes four primary cost components: base costs, extra-capacity costs, customer costs, and fire protection costs. CIWW costs shall be assigned to the four cost components as follows:

- Base Costs (\$/Million Gallons) shall include all O&M, Joint Capital and Shared Growth costs incurred in producing the volumes of water delivered to Member Agencies up to average-daily demand levels. Base costs shall be uniform for all Member Agencies and expressed as a cost per unit of volume delivered by CIWW with reasonable allowances for water losses determined per Schedule VI-3.
- Extra-Capacity Costs (\$/MGD) shall include all O&M, Joint Capital and Shared Growth costs incurred in producing and delivering volumes of water in excess of average-daily demand levels. Extra-capacity costs shall be uniform for all Member Agencies and expressed as a cost per unit of demand.
- Customer Costs include costs directly related to serving customers, including meter reading, billing, and related services. Based on the immateriality of these costs to CIWW as a wholesale provider of water, such costs shall be included in Base Costs.

- Fire protection costs are not relevant to the operations of CIWW. Fire protection is instead a design requirement for local distribution systems and therefore the responsibility of individual Member Agencies.
- Member Agency Specific Expansion Costs (fixed \$/period) shall include all costs related to Allocated Growth. Member Agency specific expansion costs shall be unique to individual Member Agencies and allocated to them based on their respective Growth Allocations and billed to Member Agencies as a fixed amount per period (e.g., month or year).

WATER RATE REQUIREMENTS

Water rates charged to Member Agencies shall include a volume rate that recovers the Base Costs, a fixed monthly charge to recover the Extra-Capacity Costs, and a separate monthly fixed charge to recover the Member Agency Specific Expansion Costs. The following table illustrates the calculation of unit costs, which are then multiplied by the Member Agency’s units of service to determine the billable charges.

Cost / Expenditure Description	Base Costs (Average Day)	Extra-Capacity Costs (Maximum Day)	Member Agency Specific Expansion Costs (Growth)
Variable Costs of Operating Leases	X		
Fixed Costs of Operating Leases	X	X	
CIWW Organizational Costs	X	X	
Joint Capital Debt Service	X	X	
Joint Capital Cash Funding	X	X	
Shared Growth Debt Service (9%)		X	
Shared Growth Cash Funding (9%)		X	
Allocated Growth Debt Service (91%)			X
Allocated Growth Cash Funding (91%)			X
Totals	\$XX	\$XX	\$XX
Units	Total CIWW Volume Projected to be Produced for the year in MG	Total of Member Agencies’ 5-year average MDD in MGD	Member Agency Specific
Unit Cost	\$/ MG	\$/ MGD	\$/ Month
Charge Type	Variable	Fixed	Fixed
	Uniform cost per unit applicable to all Member Agencies		Specific to each Member Agency

Extra-Capacity costs must be allocated between Base (average-daily demand) and Extra-Capacity (demands above average-day). The split between the two is determined mathematically as follows:

- Average Day Demand (Base) = total water deliveries to all Member Agencies together with allowances for water losses pursuant to Schedule VI-3, divided by 365 days (leap years will be ignored for this calculation).
- Maximum Day Demand (MDD) = 5- year average of noncoincident maximum daily water

delivery to all Member Agencies.

- Extra-Capacity Demand (Extra-Capacity) = Maximum Day Demand minus Average Day Demand.

For illustration purposes only. Assume the average-day demand is 100 MGD and the Maximum Day Demand is 250 MGD. The allocation of costs between Base and Extra-Capacity components would be calculated as follows:

	Base	Extra Capacity	Total
System Demand	100 MGD	150 MGD	250 MGD
% Allocation	40% (100 / 250)	60% (150 / 250)	100% (250 / 250)

Charges for individual Member Agencies will be calculated as follows and billed monthly:

- Volume Charges: The Base Cost per unit x the Member Agency's volume as determined pursuant to Article VI, Section 3.
- Extra-Capacity Charges: The cost per MGD x the Member Agency's MDD, divided by 12 months.
- Member Specific Expansion Charges: The monthly cost of expansion specific to the Member divided by number of periods

**SCHEDULE VI-3
ASSUMPTIONS USED TO ESTIMATE VOLUME OF UNMETERED WATER USED
MEMBER AGENCIES**

UNDER DEVELOPMENT

This schedule establishes an allocation methodology for unaccounted water in the regional system.

SCHEDULE VI-5 CHARGES FOR EXCESS CONSUMPTION

All Member Agencies of CIWW will at all times have a defined Allocated Capacity attributed to them. Each Member Agency's Allocated Capacity is the maximum amount of water CIWW is obligated to deliver during a single day. Any water delivered to a Member Agency in excess of its Allocated Capacity shall be subject to additional charges referred to as Capacity Leasing Charges determined using the below procedures. For the purposes of this Schedule, a day is the 24-hour period commencing at 12:00 am.

1. Determine the Amount of Excess Consumption for the Month. This is calculated as the total maximum volume of water delivered during any day during the given month, less the Member Agency's then-current Allocated Capacity.

Example: Member X's Allocated Capacity is 5 MGD and received 5,500,000 gallons during a day of consumption during the month. The Excess Consumption is 500,000 gallons, or 0.5 MGD for that month.

2. Determine the Lease Charge. Member Agencies receiving CIWW deliveries of Excess Consumption are subject to a lease of the surplus capacity made available by CIWW from the Allocated Capacity of other Member Agencies. The lease payment is the sum of two components:

- (a) Return on Invested Capital. The return on capital shall be calculated as the then-current net book value (the original cost less accumulated depreciation) of CIWW Water Supply Facilities multiplied by a rate of return of 8%, divided by the total Allocated Capacity of all CIWW Member Agencies, divided by 12 months, times the Excess Consumption determined in Step 1.

Example: The total book value of Water Supply Facilities is \$144 million and the total of all Member Agencies' Allocated Capacities is 136.5 MGD; the charge for return on invested capital is: $\$144M \times 8\% / 136.5 \text{ MGD} / 12 \text{ months} \times 0.5 \text{ MGD} = \$3,517$.

- (b) Depreciation. The annual depreciation expense of the CIWW Water Supply Facilities divided by the total Allocated Capacity of all CIWW Member Agencies, divided by 12 months.

Example: The annual depreciation expense on Water Supply Facilities is \$10 million with total Allocated Capacity of 136.5 MGD; the charge for depreciation is: $\$10M / 136.5 \text{ MGD} / 12 \text{ months} \times 0.5 \text{ MGD} = \$3,053$.

3. The above charges shall apply for each month in which there is Excess Consumption. Amounts will be determined retroactively based on meter readings as they are made available to CIWW.

All charges computed under this Schedule shall be billed to the Member Agencies separately from all other charges for service and shall be due and payable within 25 business days of receipt.

4. Receipts from the Lease Charge shall be allocated to the Member Agencies who had no Excess Consumption for the same month in proportion to their surplus as follows:

- (a) Determine Member Agency Surplus. This is calculated as the difference between the Member Agency's max-day demand during the month and its Allocated Capacity.

Example: The Member Agency has an Allocated Capacity of 6 MGD and the maximum day demand for the month was 4 MGD; the surplus is 2 MGD.

- (b) Sum the Surplus for All Applicable Member Agencies. Calculate the surplus capacity for all Member Agencies for the month and sum the total. Ignore all negative values.

Example: The total of all surpluses after repeating Step 4a for all Member Agencies is 10 MGD.

- (c) Distribute the total Lease Charges for the Month Proportionately. Divide each Member Agency's surplus by the total surplus for the month, and multiply by the total lease payment received.

Example: The Member Agency had a surplus of 2MG out of 10MGD total, or 20%. The lease payment was \$6,570 (\$3,517 + \$3,053); the Member Agency receives 20% of the payment, or \$1,314.

**SCHEDULE VI-6
INITIAL RATES TO BE CHARGED AND APPLIED EFFECTIVE AS OF THE
OPERATIONAL COMMENCEMENT DATE**

TO BE DETERMINED AFTER FOUNDING AGENCIES ARE KNOWN

**SCHEDULE XIII-1
ASSET TRANSFER TERMS**

THIS CALCULATION WILL BE UPDATED TO REFLECT: (1) FOUNDING AGENCIES ONLY, (2) FIVE-YEAR AVERAGE MAXIMUM DAY DEMANDS AS OF THE LAST FULL CALENDAR YEAR PRIOR TO THE EFFECTIVE DATE PER SCHEDULE I-2B, AND (3) UPDATED BOOK VALUES OF WATER SUPPLY FACILITIES AND PURCHASED CAPACITY UP TO THE DATE OF CLOSING. THEREFORE, AMOUNTS SHOWN ARE NOT FINAL.

Consideration for Transfer

The consideration to be paid to and from Founding Agencies for assets transferred to CIWW shall be computed as of the Effective Date based on a financial model and calculation as outlined below in Steps 1-6:

Step 1: Determine Financial Investment by Founding Agency in Designated Water Supply Facilities (Transferred Assets)

- (a) Each Founding Agency with purchased capacity in DMWW’s Core Network is credited with the book value of its purchased capacity investment, after applying straight line amortization.
- (b) Each Water Producing Member Agency is credited with the book value of its Designated Water Supply Facilities, after applying straight line depreciation, transferring to CIWW as defined in Schedule IV-6.
- (c) The combination of a) and b) is each Founding Agency’s financial investment in the Designated Water Supply Facilities.

Founding Agency	Amortized Net Book Value in DMWW Assets	Net Book Value of Other Owned Capacity	Financial Investment in Designated Water Supply Facilities
DMWW	\$111,803,570		\$111,803,570
Bondurant	\$948,750		\$948,750
Clive	\$7,400,250		\$7,400,250
Johnston	\$0		\$0
Norwalk	\$1,149,281		\$1,149,281
Warren Water District	\$1,866,680		\$1,866,680
Xenia Rural Water District	\$1,826,810		\$1,826,810
Altoona	\$1,092,500	\$6,000,969	\$7,093,469
Ankeny	\$8,521,500		\$8,521,500
Grimes	\$0	\$8,194,000	\$8,194,000
Polk City	\$526,125	\$0	\$526,125
UWU	\$12,793,750		\$12,793,750
Waukee	\$3,358,748		\$3,358,748
WDMWW	\$6,381,350	\$14,964,242	\$21,345,592
TOTAL	\$157,669,313	\$29,159,211	\$186,828,524

Step 2: Determine Total Owned Capacity by Founding Agency

- a) Each Founding Agency with purchased capacity in DMWW’s Core Network is credited with the capacity purchased in MGD.
- b) Each Water Producing Member Agency is credited with the capacity of its Designated Water Supply Facilities transferring to CIWW as defined in Schedule IV-6.
- c) The combination of a) and b) is each Founding Agency’s Total Owned Capacity (MGD) in the Designated Water Supply Facilities.
- d) The aggregate Total Capacity of the Designated Water Supply Facilities is 136.5 MGD.

Founding Agency	MGD Capacity in DMWW	Other Owned Capacity	Total Owned Capacity (MGD)
DMWW	64.81		64.81
Bondurant	1.20		1.20
Clive	6.98		6.98
Johnston	0.00		0.00
Norwalk	1.97		1.97
Warren Water District	3.25		3.25
Xenia Rural Water District	2.95		2.95
Altoona	1.00	4.0	5.00
Ankeny	8.28		8.28
Grimes	0.00	3.2	3.20
Polk City	0.60	0.3	0.90
UWU	15.30		15.30
Waukee	3.69		3.69
WDMWW	8.97	10.0	18.97
TOTAL	119.00	17.5	136.50

Step 3: Determine Cost of Capacity Used by Founding Agency

- a) Identify each Founding Agency’s Historic Maximum Day Utilization of Capacity, or its five-year average Maximum Day Demand (MDD), as defined in Schedule I-2B.
- b) Calculate the weighted average cost of used capacity per MGD by Founding Agency
 - i. Determine the Book Value per MGD for each Water Producing Member. Wholesale customers of DMWW who purchase 100% of their water supply from DMWW are assigned DMWW’s Book Value per MGD. Book value per MGD is summarized below:

Detail of Book Values

	NBV	Capacity Levels and Costs	
		MGD	\$/MGD
DMWW/Others	\$157,669,313	119.00	1,324,952
Altoona	\$6,000,969	4.00	1,500,242
Grimes	\$8,194,000	3.20	2,560,625
Polk City	\$0	0.30	-
WDMWW	\$14,964,242	10.00	1,496,424

- ii. Determine the percentage of capacity by source for each Water Producing Member and Founding Agency.

Percentage of Capacity by Source

	DMWW/Others	Altoona	Grimes	Polk City	WDMWW	Total
DMWW/Others	100%	0%	0%	0%	0%	100%
Altoona	20%	80%	0%	0%	0%	100%
Grimes	0%	0%	100%	0%	0%	100%
Polk City	67%	0%	0%	33%	0%	100%
WDMWW	47%	0%	0%	0%	53%	100%

- iii. Multiply the Book Value per MGD in step i. by the percentage of capacity source in step ii. Weighted Average Cost of Capacity is summarized below:

Weighted Average Cost of Capacity

	DMWW/Others	Altoona	Grimes	Polk City	WDMWW	Weighted Cost
DMWW/Others	1,324,952	-	-	-	-	1,324,952.21
Altoona	264,990	1,200,194	-	-	-	1,465,184.24
Grimes	-	-	2,560,625	-	-	2,560,625.00
Polk City	883,301	-	-	-	-	883,301.47
WDMWW	626,506	-	-	-	788,837	1,415,343.35

- c) Multiply the Five-Year Average Maximum Day Demand in step a) by the weighted average cost of capacity to determine the Total Cost of Used Capacity.

Founding	Capacity Used (5 Yr Avg MDD)	Weighted	
		Avg Cost per MGD	Cost of Capacity Used
DMWW	(42.42)	\$ 1,324,952	(56,199,967.91)
Bondurant	(0.79)	\$ 1,324,952	(1,041,412.44)
Clive	(3.93)	\$ 1,324,952	(5,209,712.09)
Johnston	(4.84)	\$ 1,324,952	(6,410,118.79)
Norwalk	(1.75)	\$ 1,324,952	(2,313,366.56)
Warren Water District	(2.64)	\$ 1,324,952	(3,492,574.03)
Xenia Rural Water District	(3.32)	\$ 1,324,952	(4,401,491.24)
Altoona	(4.40)	\$ 1,465,184	(6,440,949.93)
Ankeny	(8.41)	\$ 1,324,952	(11,145,497.99)
Grimes	(3.18)	\$ 2,560,625	(8,153,030.00)
Polk City	(1.18)	\$ 883,301	(1,045,828.94)
UWU	(9.83)	\$ 1,324,952	(13,026,930.13)
Waukee	(3.59)	\$ 1,324,952	(4,751,278.63)
WDMWW	(14.35)	\$ 1,415,343	(20,304,515.68)
TOTAL	(104.62)		(143,936,674.36)

Step 4: Determine the Book Value of Reserve Capacity by Founding Agency

- a) Net the Financial Investment in Designated Water Supply Facilities in Step 1 with the Cost of Capacity Used in Step 3(c) to calculate the Book Value of Reserve Capacity.

Founding Agency	Financial Investment in Water Supply Facilities (Step 1)	Cost of Capacity Used (Step 3c)	Book Value of Reserve Capacity
DMWW	\$ 111,803,570	(\$56,199,968)	\$55,603,602
Bondurant	\$ 948,750	(\$1,041,412)	(\$92,662)
Clive	\$ 7,400,250	(\$5,209,712)	\$2,190,538
Johnston	\$ -	(\$6,410,119)	(\$6,410,119)
Norwalk	\$ 1,149,281	(\$2,313,367)	(\$1,164,086)
Warren Water District	\$ 1,866,680	(\$3,492,574)	(\$1,625,894)
Xenia Rural Water District	\$ 1,826,810	(\$4,401,491)	(\$2,574,681)
Altoona	\$ 7,093,469	(\$6,440,950)	\$652,519
Ankeny	\$ 8,521,500	(\$11,145,498)	(\$2,623,998)
Grimes	\$ 8,194,000	(\$8,153,030)	\$40,970
Polk City	\$ 526,125	(\$1,045,829)	(\$519,704)
UWU	\$ 12,793,750	(\$13,026,930)	(\$233,180)
Waukee	\$ 3,358,748	(\$4,751,279)	(\$1,392,531)
WDMWW	\$ 21,345,592	(\$20,304,516)	\$1,041,076
TOTAL	\$ 186,828,525	(\$143,936,674)	\$42,891,850

Step 5. Assign Remaining Reserve Capacity

- a) After capacities have been assigned to Founding Agencies, there remains 31.88 MGD in system capacity that needs to be assigned to the Founding Agencies (136.5 MGD less 104.62 MGD assigned to Founding Agencies in Step 3).
- b) Proportionately allocate the remaining Reserve Capacity of 31.88 MGD to the Founding Agencies based on each Founding Agency’s pro rata share of projected regional growth through the year 2034.
- c) Calculate the cost per MGD of reserve capacity (\$42,891,850 in Step 4 divided by 31.88 MGD = \$1,345,272 per MGD) and multiply this by each Founding Agency’s MGD allocation of Reserve Capacity to determine each Founding Agency’s Value of Additional Reserve Capacity.

Founding Agency	Est. % of Regional Growth (MDD)	Allocation of Reserve Capacity (MGD)	Avg Cost per MGD	Value of Addl Allocated Reserve Capacity
DMWW	9.0%	(2.87)	\$1,345,272	(\$3,860,266)
Bondurant	4.1%	(1.31)	\$1,345,272	(\$1,758,566)
Clive	1.2%	(0.38)	\$1,345,272	(\$514,702)
Johnston	4.7%	(1.50)	\$1,345,272	(\$2,015,917)
Norwalk	5.1%	(1.63)	\$1,345,272	(\$2,187,484)
Warren Water District	1.2%	(0.38)	\$1,345,272	(\$514,702)
Xenia Rural Water District	8.1%	(2.58)	\$1,345,272	(\$3,474,240)
Altoona	8.0%	(2.55)	\$1,345,272	(\$3,431,348)
Ankeny	18.0%	(5.74)	\$1,345,272	(\$7,720,533)
Grimes	10.6%	(3.38)	\$1,345,272	(\$4,546,536)
Polk City	1.3%	(0.41)	\$1,345,272	(\$557,594)
UWU	10.4%	(3.32)	\$1,345,272	(\$4,460,752)
Waukee	9.0%	(2.87)	\$1,345,272	(\$3,860,266)
WDMWW	9.3%	(2.97)	\$1,345,272	(\$3,988,942)
TOTAL	100.0%	(31.88)		(\$42,891,850)

Step 6: Determine Net Position by Founding Agency

Add the Book Value of Reserve Capacity in Step 4 with the dollar value of additional allocated reserve capacity in Step 5 to determine the Net Position by Founding Agency. The Net Position is the amount each Founding Agency pays or receives for the transfer of assets. A positive Net Position reflects amounts owed to the Founding Agencies and a negative Net Position reflects amounts owed from the Founding Agency.

Founding Agency	Book Value of Reserve Capacity (Step 4)	Value of Addl Allocated Reserve Capacity (Step 5)	Net Position
DMWW	\$55,603,602	(\$3,860,266)	\$51,743,336
Bondurant	(\$92,662)	(\$1,758,566)	(\$1,851,228)
Clive	\$2,190,538	(\$514,702)	\$1,675,836
Johnston	(\$6,410,119)	(\$2,015,917)	(\$8,426,036)
Norwalk	(\$1,164,086)	(\$2,187,484)	(\$3,351,570)
Warren Water District	(\$1,625,894)	(\$514,702)	(\$2,140,596)
Xenia Rural Water District	(\$2,574,681)	(\$3,474,240)	(\$6,048,921)
Altoona	\$652,519	(\$3,431,348)	(\$2,778,829)
Ankeny	(\$2,623,998)	(\$7,720,533)	(\$10,344,531)
Grimes	\$40,970	(\$4,546,536)	(\$4,505,566)
Polk City	(\$519,704)	(\$557,594)	(\$1,077,298)
UWU	(\$233,180)	(\$4,460,752)	(\$4,693,932)
Waukee	(\$1,392,531)	(\$3,860,266)	(\$5,252,797)
WDMWW	\$1,041,076	(\$3,988,942)	(\$2,947,866)
TOTAL	\$42,891,850	(\$42,891,850)	\$0

Sources of Funding

Each Founding Agency in a net deficit position shall be responsible to pay the amount owed to CIWW using its own cash or financing. CIWW shall act as the disbursing agent for payments to the Founding Agencies in net positive positions.

Timing of Funding

The net deficit position from any Founding Agency may be paid in a lump sum by the Operational Commencement Date, or a Founding Agency may elect to pay according to a payment plan with terms mutually acceptable to the Founding Agencies who are owed amounts.

Construction in Progress

To the extent a Water Producing Member has paid for Construction In Progress, the asset shall be considered in the asset transfer true-up calculation above. To the extent a Water Producing Member has not paid for Construction In Progress, CIWW shall assume any outstanding debt (e.g., State Revolving Fund loans) on the Construction In Progress.

Transfer Terms

Assets shall be transferred “as is” and in place without representation or warranty, except a warranty of good title and authority to transfer.

Title to Be Transferred

The assets to be transferred and any related interest in each asset shall be as set forth in Schedule IV-6. Except as otherwise noted fee title in real estate shall be retained by each transferring party subject to the easement, lease or other title interest granted.

Other Terms

The transfer shall occur on a Closing Date selected by CIWW within five years of the Effective Date by exchange of funds and deeds, leases, assignment, easements or other transfer documents in form and substance acceptable to counsel for CIWW and each of the transferring parties. No title insurance or title guaranty shall be required.

SCHEDULE XIV-2
INITIAL ADMINISTRATIVE SUPPORT SERVICES AND COMPENSATION

In lieu of hiring full- or part-time staff to provide administrative functions to CIWW, the CIWW Board may at any time, in its sole discretion, contract with an independent third party contractor or one or more Member Agencies to provide administrative support services including but not limited to: meter reading and meter reading administration; preparing monthly wholesale billing statements for Member Agencies; facilitating meetings and providing administrative support, including scheduling meetings, preparing and compiling agendas, minutes, and other materials for the CIWW Board and other meetings; creating presentations; processing payroll and administering employee benefits for CIWW employees; performing accounts payable functions, including maintaining vendor files, processing vendor invoices, interacting with vendors as necessary, and other related functions; purchasing functions, including sourcing vendors and negotiating competitive quotes and sealed bids for materials and services, and providing inventory and warehousing functions; maintaining accounting records and preparing monthly financial statements and management reports as requested by the Board; other administrative services as requested and agreed upon by the parties.

If a Member Agency provides such services, the compensation for services shall be based on actual labor rates loaded with a reasonable factor for employee benefits and overhead costs to capture reasonable and appropriate ancillary costs such as occupancy, depreciation, corporate insurance, and other similar costs that would be incurred by an independent third party contractor and included in pricing of services; plus any out-of-pocket expenses including, materials and supplies, travel, mileage and other similar costs. A service contract shall be executed to document the agreement between the parties.

**SCHEDULE XIV-3
OPERATING CONTRACT**

**WATER SUPPLY AND FACILITY OPERATING CONTRACT FORM TO BE
ATTACHED AT EXECUTION**

An initial draft of the contract will be created as the 28E is being reviewed by Member Agencies for review and inclusion in the final document.

SCHEDULE XIV-4
THIRD PARTY FINANCIAL ADVISOR SCOPE

CIWW intends to hire one or more qualified professionals as third party financial advisor(s) to provide strategic financial planning and advisory services including but not limited to: facilitate CIWW long-range financing strategy, particularly with respect to its capital improvement program; facilitate an annual budget; complete an annual Cost of Service study and make rate recommendations to the CIWW board; evaluate bond markets, make recommendations, and oversee all aspects of debt management policy and bond issuances or alternative financing, including analyses of financing alternatives, evaluations of underwriter and bond counsel proposals, and oversee financing structure including pricing, maturity schedules, bond covenants, ratings and rating agency presentations; oversee investments of bond reserve and operating reserve funds; oversee a corporate insurance program; maintain accounting records and prepare monthly financial statements and management reports as requested by the Board; facilitate the annual audit; work with Member Agency subject matter experts to prepare demand and population projections as needed for capital projections; confer, consult, and coordinate with financial staff of Water Producing Member Agencies and other contractors of CIWW to obtain and compile necessary financial information to conduct business for CIWW or communicate information to Member Agencies and other stakeholders; make presentations to and attend CIWW or Member Agency Board meetings as needed; provide other financial services as requested.

SCHEDULE XIX WATER SHORTAGE PLAN

The Water Shortage Plan below is adopted by CIWW effective as of the Operational Commencement Date. Such Water Shortage Plan may be amended by Board action at any time

A. INTRODUCTION

This plan will apply to all CIWW Member Agencies and shall be implemented by each Member Agency with its customers.

The intent of the CIWW Water Shortage Plan is to manage system demand so customers do not experience pressure, quality, or availability issues during periods of extreme water demand or during other times when water availability may be limited due to other events, such as raw water shortage, water quality events, or mechanical failures.

The goal at each stage in the plan is to reduce CIWW system demands to 85% or less of the “Current Capacity” of CIWW to produce safe drinking water, as defined in this plan.

The premise of Stage I is that reducing outdoor irrigation is the most effective way to reduce demand without undue hardship during periods when outdoor irrigation is a significant source of demand. Stage I may be skipped if a water shortage occurs during a time of year when irrigation demand is not significant.

The premise of Stage II is that particularly high demand may occur when heavy irrigation events occur. Stage II may be skipped if a water shortage occurs during a time of year when outdoor water use is not significant.

The premise of Stage III is that turf irrigation comprises the most readily curtailed use during heavy irrigation events. Stage III may be skipped if a water shortage occurs during a time of year when irrigation demand is not significant.

Limiting consumption to a representative average of off peak months, plus or minus a small allowance, will result in a significant demand reduction compared to peak consumption. This is the premise of Stage IV.

The stages of this plan are not necessarily consecutive. When a water shortage occurs the stage deemed most appropriate for the conditions will be implemented.

B. CURRENT CAPACITY TO PRODUCT SAFE DRINKING WATER AND EXPECTED PEAK DEMAND

1. Current Capacity. The current capacity to produce safe drinking water on any day is referred to “Current Capacity” or C_{Total} . Current Capacity is defined as the amount of water CIWW can and deliver on any day taking into consideration raw water availability and quality, seasonal treatment efficacy, and any mechanical or operational issues on that

given day. The number will vary seasonally and may vary day to day depending on specific water quality and operational conditions. Current Capacity is computed as the sum of the daily capacities of the individual CIWW source treatment plants and may be expressed in the following formula:

$$C_{\text{Total}} = C_{\text{Fleur}} + C_{\text{McMullen}} + C_{\text{Saylorville}} + C_{\text{WDMWW}} + C_{\text{PolkCity}} + C_{\text{Altoona}}$$

Current Capacity will be evaluated on a daily basis when there is potential for a water shortage. Staff responsible for CIWW water production will perform the daily evaluation and report the Current Capacity in Million Gallons per Day.

2. Expected Peak Demand. “Expected Peak Demand” is defined as the peak daily demand that is expected by CIWW without implementation of water shortage measures under this plan.

C. PLAN STAGE I: VOLUNTARY 25% REDUCTION IN TURF IRRIGATION

1. Trigger. During a period of substantial irrigation demand, when Expected Peak Demand reaches 90% of Current Capacity or system demand is generating a high number of areas with low pressure, or there are other indications that without wise usage of water, a shortage could occur.
2. Anticipated Impact. It is anticipated that Stage I will most likely be triggered during peak irrigation season. In a typical year irrigation can account for as much as ___ MGD of demand on a peak day. If this is the case, a 25% reduction in irrigation will result in a ___ MGD reduction in total demand. At peak demand ___ MGD would be more than a ___% reduction.
3. Goal. A 10% reduction in CIWW system demands as compared to Expected Peak Demand.
4. Actions.
 - (a) Request a **metro wide** 25% reduction in lawn irrigation.
 - (b) Encourage customers to optimize their irrigation systems so water is not directed onto impervious surfaces and turf is not overwatered.
 - (c) Recommend customers irrigate on alternate days and excluding Mondays (historically a peak demand day), by a system under which even numbered addresses water only on even days of the month, and odd-numbered addresses water only on odd-numbered days of the month.
 - (d) Suspend Des Moines Water Works’ hydrant flushing program except for water quality purposes.
 - (e) Request that City officials minimize high water use activities such as street

- sweeping and watering golf course fairways.
- (f) Coordinate with wholesale customers to ensure they are relaying the same message.

5. Enforcement. There will be no enforcement at this stage.

D. STAGE II: VOLUNTARY 50% REDUCTION IN OUTDOOR WATER USE
(INCLUDING TURF IRRIGATION)

1. Trigger. During a period of substantial irrigation demand, after Stage I has been implemented and failed to achieve an adequate reduction in consumption, when Expected Peak Demand exceeds 90% of Current Capacity, or system demand continues to generate areas of low pressure, or there are other indications that without further reductions in demand, a shortage could occur.
2. Anticipated Impact. It is anticipated that Stage II will most likely be triggered during the peak outdoor water use season. In a typical year outdoor water use can account for as much as ___ MGD of demand on a peak day. If this is the case, a 50% reduction in outdoor water use will result in a ___ MGD reduction in total demand. At peak demand - ___ MGD would be more than a ___% reduction.
3. Goal. A 25% reduction in system demands as compared to Expected Peak Demand.
4. Actions. Request customers further reduce water consumption by taking the following measures in addition to those implemented in Stage I:
 - (a) Request a **metro wide** 50% reduction in outdoor water use.
 - (b) Remind customers to optimize their irrigation systems so water is not directed onto impervious surfaces and turf is not overwatered.
 - (c) Reinforce the recommendation for customers to irrigate on alternate days and excluding Mondays.
 - (d) Encourage wise use of water during outdoor activities including washing cars, playing in the sprinkler, playing with water toys, and filling swimming pools.
 - (e) Encourage wise use of water indoors including identifying and repairing leaking fixtures, washing only full loads in dishwashers and washing machines, shorter showers, etc.
 - (f) Coordinate with wholesale customers to ensure they are relaying the same message.
 - (g) Request that public agencies (City, County, or State) set an example by: Closing recreational facilities with known water inefficiencies and suspend the operation of decorative fountains.
5. Enforcement. There will be no enforcement at this stage.

E. STAGE III: TURF IRRIGATION PROHIBITED AND NO USE OF AUTOMATIC

IRRIGATION SYSTEMS

1. Trigger. During a period of substantial irrigation demand, after Stage I and Stage II have been implemented and failed to achieve an adequate reduction in consumption, when Expected Peak Demand exceeds 90% of Current Capacity, or system demand continues to generate areas of low pressure, or there are other indications that without further reductions in demand, a shortage could occur.
2. Anticipated Impact. It is anticipated that Stage III will most likely be triggered during peak irrigation season. In a typical year irrigation, primarily turf irrigation, can account for as much as ___ MGD of demand on a peak day. If this is the case, prohibiting irrigation will result in a ___ MGD reduction in total demand. At peak demand ___ MGD would be almost a 40% reduction.
3. Goal. A 40% reduction in system demands as compared to Expected Peak Demand.
4. Actions. Require customers to further reduce water consumption by suspending **all** turf irrigation and the use of **all** automatic irrigation systems. This reduction is in addition to all steps implemented in Stage I and Stage II.
5. Enforcement. Customers observed by CIWW or Member Agencies irrigating in violation of this policy will be notified by a tag left at the property. If irrigation is not suspended within 48 hours, water service will be terminated and the published termination fee will apply. Water service will be restored only upon receipt of an undertaking by the customer that the customer understands and will comply with the mandatory conservation measures. Any subsequent violation will result in further termination of service. In addition the use of water for irrigation in violation of this plan shall be deemed an unauthorized use of water and Charges for the Unauthorized Use of Water/Metering Tampering shall apply and must be paid before water service will be restored.

F. STAGE IV: WATER RATIONING

1. Trigger. During periods of substantial irrigation demand, after Stage I, Stage II, and Stage III have been implemented and failed to achieve an adequate reduction in consumption, when Expected Peak Demand exceeds 90% of Current Capacity, or system demand is generating a high number of areas with low pressure, or there are other indications that without wise usage of water, a shortage could occur. Stage IV may also be invoked, without resort to Stages I through III, if Expected Peak Demand exceeds 90% of Current Capacity for any reason that cannot be addressed by the measures contemplated by Stages I through III.
2. Anticipated Impact. It is anticipated that Stage IV will only be triggered in the event of a significant and severe water shortage, or other event, which severely reduces capacity relative to demand. In this case a reduction in demand to the lowest level which will meet public health and safety standards will be sought.

3. Goal. A reduction in system demands as compared to Expected Peak Demand sufficient to allow the Des Moines Water Works to meet public health and safety standards.
4. Actions. Water rationing measures will be implemented and enforced by application of an Emergency Water Shortage Rate. In order to implement such rate Member Agencies in consultation with the CIWW Technical Committee shall set a target level for demand consistent with its Current Capacity and shall use such target to establish a “Rationing Factor” as defined in this Plan. All customers will be asked to reduce their consumption to a level at or below a “Stage IV Monthly Water Ration”, and consumption above such level will be charged at the Emergency Water Shortage Rate intended to strongly discourage consumption above such level.
5. Enforcement. “Stage IV Monthly Water Ration” means for each customer the Typical Off-Peak Consumption of such customer multiplied by an announced Rationing Factor. “Typical Off-Peak Consumption” shall be computed as of the date that Stage IV is invoked as the mean monthly consumption of the customer for the immediately preceding months of March, April, and May. The Rationing Factor shall be a percentage, which may be above or below 100%, as announced by CIWW and designed to effectively reduce consumption to the level as required by the prevailing circumstances. While Stage IV is in effect all water used beyond the Stage IV Monthly Water Ration for each customer will be billed at the “Emergency Water Shortage Rate”. The Emergency Water Shortage Rate shall be four times the rate otherwise applicable to such customer. In the event stepped rates apply, the Emergency Water Shortage Rate shall be four times the Step 1 rate. The Customers may appeal the Typical Off-Peak Consumption level determined for the customer as the basis for the customer’s bill as inaccurate or inequitable under the circumstances applicable to the customer. Appeals must be submitted in writing and will be considered on a case-by-case basis.

SCHEDULE XXII-3

MANDATORY EXIT PAYMENTS FOR VOLUNTARY TERMINATION OF AGREEMENT

Termination of membership pursuant to Article XXII introduces a situation where CIWW costs previously paid by the departing Member Agency must then be absorbed by all remaining members. All else being equal, the termination causes the average cost per unit of service to increase for all remaining members, resulting in higher rates. While some CIWW costs may be avoidable – such as variable operating costs – many other costs are either unavoidable in the short term – such as many fixed operating costs – or totally unavoidable as in the case of the capital costs of assets placed into service to meet, in part, the demand requirements of the departing Member Agency. The unavoidable costs left behind by departing Member Agencies are commonly referred to as “stranded costs.”

Member Agencies shall pay the Mandatory Exit Payment as means of reducing but not eliminating the burden of stranded costs on the remaining Member Agencies. The Mandatory Exit Payment includes three components to be determined by the Board based on the following procedures, and is due and payable within 30 days of termination:

Step 1: Determine Stranded Base Costs

Departing Member Agencies will pay for five (5) years’ worth of their estimated fixed Base Costs. The eligible costs shall be the Base Costs calculated pursuant to Schedule VI-2 less the variable operating and maintenance costs for the fiscal year preceding the termination date.

Divide the resulting eligible Base Costs by the total water deliveries made by CIWW in the fiscal year preceding the termination to determine the cost per unit of volume. Multiply the unit cost by the departing Member Agency’s annual water delivery for the same fiscal year and multiply the result by five (5) to arrive at the Stranded Base Costs.

Step 2: Determine the Member Agency’s Stranded Extra-Capacity Costs

Departing Member Agencies will pay ten years’ worth of their estimated Extra-Capacity Costs.

Total eligible Extra-Capacity Costs shall be calculated pursuant to Schedule VI-2 for the fiscal year preceding the termination date. Divide the eligible Extra-Capacity Costs by the Max Day Demand for the CIWW system for the same fiscal year, multiply the result by the Max Day Demand of the departing Member Agency, and then multiply by ten (10) to arrive at the Stranded Extra-Capacity Cost.

Step 3: Determine the Member Agency’s Stranded Member Agency Specific Expansion Costs.

Departing Member Agencies will pay 100% of the remaining debt together with any cash-funding obligations related to their Member Agency Specific Expansion Costs as determined pursuant to

Schedule VI-2.

The CIWW Board will determine the remaining debt obligation for the departing Member Agency based on that Member Agency's total allocation of Growth Capital as of the end of the fiscal year prior to the termination. To the extent the Member Agency was also required to make periodic cash contributions to fund the Growth Capital, then the sum of those remaining commitments will be added to the remaining debt obligation.