

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	July 27, 2009
	<b>Agenda Item No.</b> 7 <b>Roll Call No.</b> <u>09-</u> <b>Communication No.</b> <u>09-524</u> <b>Submitted by:</b> William G. Stowe, Assistant City Manager-Public Works Director, and Jeb E. Brewer, P.E. City Engineer	

**AGENDA HEADING:**

Approving Letter of Agreement with the US Environmental Protection Agency Region 7 and the Iowa State Historic Preservation Office, to complete certain requirements in the Congressional Appropriations Act Grant for Sewer Improvements regarding compliance with the National Historic Preservation Act.

**SYNOPSIS:**

Recommend approval of the Letter of Agreement with the US Environmental Protection Agency Region 7 and the Iowa State Historic Preservation Office, to complete certain requirements in the Congressional Appropriations Act Grant for Sewer Improvements regarding compliance with the National Historic Preservation Act.

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

The Environmental Protection Agency (EPA) Grant funding provided by the Assistance Agreement (XP-98728601) has been used for lining of sanitary sewers from 2004 to 2008. The EPA Region 7 reviewed environmental impacts of the undertaking pursuant to the National Environmental Policy Act (NEPA), which included appropriate National Historic Preservation Act (NHPA) consultations for each of the sanitary sewer lining projects. The EPA Region 7 determined before original contract award, that the undertaking qualified for the referenced Categorical Exclusions and that NHPA compliance would be coordinated with NEPA pursuant to the regulations at 36 CFR Section 800.8. Based upon the approval by the EPA, the City of Des Moines proceeded with the lining project. However, on or about November 19, 2008, the EPA Region 7 consulted with and received advice from the Iowa State Historic Preservation Office (SHPO) about certain brick sewers within the project area that may be historic cultural resources. The EPA Region 7 believes that the question of whether or not brick sewers in the City of Des Moines represent an historic cultural resource is properly addressed as a post-review discovery, that NHPA regulations at 36 CFR Section 800.13(b) (3) govern the proposed action described in the Letter of Agreement, and that this proposed action will constitute an assessment of National Registry eligibility of the City’s sewers to resolve adverse effects, if any, due to lining of the sanitary sewers.

EPA Region 7, by this Letter of Agreement, indicates its decision that an assessment and development of historic contexts, detailing the historical development of the sewer system in the City of Des Moines, and formulating criteria for the National Register evaluation of the various sections of the historic sewer system, satisfies the requirements under the referenced Grant; and, in agreement with the Iowa SHPO, this work constitutes a “proposed action to resolve adverse effects,” if any, in accordance with the NHPA regulations at 36 CFR Section 800.13(b)(3).

Pursuant to the prepared Letter of Agreement, if the City agrees to perform the assessment, the grant will be closed by EPA once the City submits the final grant closeout documentation.

### **PREVIOUS COUNCIL ACTION(S):**

Date: July 26, 2004

Roll Call Number: 04-1528

Action: Approving execution and submission of revised application to obtain release of previously approved grant funds from Environmental Protection Agency (EPA) for lining of sanitary sewers. (Council Communication No. 04-367) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: September 22, 2003

Roll Call Number: 03-2172

Action: Approving execution of grant agreement to obtain release of previously approved grant funds for construction of outlet storm sewers in conjunction with the I-235 Project. (Council Communication No. 03-471). Moved by Brooks to adopt. Motion Carried 5-2.

Date: May 19, 2003

Roll Call Number: 03-1129

Action: Approving submission of application to obtain release of previously approved grant funds for construction of outlet storm sewers in conjunction with the I-235 Project. (Council Communication No. 03-239). Moved by Hensley to adopt. Motion Carried 5-1-1. Nays: Brooks. Absent: McPherson

### **BOARD/COMMISSION ACTION(S): NONE**

### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Request Council approval on consultant services agreement with Tallgrass Historians L.C., to provide historical context development and formulate criteria for evaluation of the sewer system.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).