

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> August 12, 2013
	<b>Agenda Item No.</b> 36 <b>Roll Call No.</b> <u>13-1291</u> <b>Communication No.</b> <u>13-420</u> <b>Submitted by:</b> Benjamin R. Page, <b>Park and Recreation  Director</b>

**AGENDA HEADING:**

Resolution approving a Chapter 28E Agreement by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) and the City of Des Moines, Iowa for the design and construction of the Easter Lake Spine Trail as part of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project.

**SYNOPSIS:**

Recommend approving the 28 Agreement between the City of Des Moines and the WRA for joint design and construction of the Easter Lake Spine Trail and the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project in the Easter Lake Area Neighborhood between East Payton and East Pine Avenues.

**FISCAL IMPACT:**

Amount: \$41,000 estimated for engineering design of the trail and construction phase services and \$350,000 estimated for construction.

Funding Source: 2013-14 CIP, Page Park Improvements–11, Multi-Use Trails, PKS145, \$391,000

**ADDITIONAL INFORMATION:**

On January 8, 2001, by Roll Call No. 01-0131, Des Moines City Council adopted the Easter Lake New Town Plan as a component of the Des Moines’ 2020 Community Character Plan. On October 25, 2004, by Roll Call No. 04-2280, the City Council approved adding the Easter Lake New Town trail system to the City’s Bicycle and Pedestrian Trail Facilities Plan Map. On June 13, 2011, by Roll Call No. 11-1046, Des Moines City Council adopted the Bicycle and Trail Master Plan as a component of the Des Moines' 2020 Community Character Plan; this plan also includes the Easter Lake New Town Trail System. This trail system identifies a future one (1) mile trail segment, known as a portion of the Easter Lake Spine Trail, along the east side of the retention basins in the Three Lakes Estates development between East Payton and East Pine Avenues.

The following map identifies the Easter Lake Spine Trail along with a future trail connection to the Mark C. Ackleson Trail around Easter Lake Park, including the trail spur between Easter Lake Drive and East Payton Avenue, which is planned to be completed in partnership with Polk County Conservation in 2016. The Easter Lake Spine Trail also links to future trail connections to Blank Park Zoo and Golf Course and Fort Des Moines Park as well as the City of Carlisle.

## Easter Lake Spine Trail - Future Trail Connections



The WRA is in process of designing the Southern Tier Interceptor, Phase 10, Segment 15-16 Project. The proposed alignment of the trail falls within the easement area for the proposed sewer between East Payton and East Pine Avenues.

The WRA and Des Moines have negotiated the terms of a Chapter 28E Agreement, providing for the joint design and construction of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project and of Des Moines' Easter Lake Spine Trail within the location stated above. Two (2) primary benefits to constructing the trail and sewer simultaneously include reduced disruption to residents due to construction activities and cost savings due to combined engineering design, construction administration, and contractor mobilization.

At a public meeting held on June 27, 2013, the WRA and the City jointly presented the sewer and trail project to interested residents. The trail is planned to be 10 feet wide, asphalt, and generally placed in the eastern portion of the easement while the sewer will be generally placed in the western portion of the easement "to the extent practical" in order to minimize conflict in use and maintenance of each facility. The WRA will also be able to use the trail as a paved path to access their sewer facility.

The negotiated 28E Agreement provides standard terms as follows:

- (1) Des Moines shall reimburse the WRA for actual costs for design, construction, construction administration, and change orders associated with the Easter Lake Spine Trail;

- (2) Des Moines shall reimburse the WRA for an agreed-upon lump sum amount of the City's share of the Project grading cost based upon the WRA project consultant's estimate;
- (3) The WRA shall incur the design, construction, construction administration, and change order costs for the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project; and
- (4) Each party shall assume ownership of its respective project improvements upon final acceptance of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project by the WRA Board.

The negotiated agreement further provides that Des Moines may reject the bid selected by the WRA as the lowest responsive and responsible bid for the Project construction contract, in which event the WRA may proceed to construct the WRA Project without constructing the trail, except for the grading for the trail, which would be Des Moines' cost. In addition, the agreement requires Des Moines to indemnify and defend the WRA in relation to private encroachments within the City-owned construction areas needed for the City and WRA projects and removal of said encroachments.

On June 15, 2013, Des Moines City Council reviewed this agreement. At that meeting, a resident presented a petition with 26 signatures from residents along Sweetwater Drive, where private property backs onto the City-owned land where the sewer and trail are planned to be constructed, in opposition to the trail portion of the project. In response, per Roll Call No. 13-1161, the City Council delayed the vote on the agreement to allow time for an additional public meeting.

The WRA Board approved the proposed Chapter 28E Agreement on July 16, 2013, subject to approval by the City Council.

At the public information meeting held on August 5, 2013, area residents brought forward concerns related to the planning process, design and construction of the trail, maintenance, and impacts to their personal property and use of the public green space. An attachment to the roll call includes a more specific list of these issues along with City staff response.

Additionally, residents spoke in favor of the trail as well. A petition in favor of the trail project has been received by City staff with 156 signatures.

The Easter Lake New Town Plan proposed a substantial network of trails in addition to the Easter Lake Spine Trail. Many of these planned trails do not meet the 10-foot-wide definition of a multi-use trail. Instead, some of these trails are six (6) to eight (8) foot wide sidewalks within street right-of-way. The Easter Lake New Town Plan describes this network in Section IV. Park and Open Space System:

A linear park system that includes ponds and an extensive trail system that forms a series of loops that connect neighborhoods to major parks, schools and to the Village Civic Center at Army Post Road and Indianola Avenue. Sections of the trail system also include widened sidewalks as part of designated streets.

Some wide sidewalks have been constructed, such as that along Three Lakes Parkway, while others would be constructed in the future as the remainder of the Easter Lake New Town plan is developed.

The Park and Open Space section of the Easter Lake New Town Plan also states, "It is critical that the park and open space system for the Easter Lake New Town is tied to the public realm ensuring it is easily accessible to all residents." The construction of the planned trail is the primary method to make the public green space along the retention basins accessible to all residences as intended by the Plan.

The Easter Lake Spine Trail provides an axis for this greenway corridor system. Other trails and sidewalk connections spur from this primary axis. The Easter Lake New Town Plan also describes the significance of the greenway corridor system in Section III.B Land Use Framework:

The area's open space framework, developed as a multi-use greenway corridor system as part of future development, is intended to conserve important natural resources, accommodate wildlife, cyclists, pedestrians and provide a physical connection to village/neighborhood centers, the parks, shopping, schools and civic/institutional uses.

The planned trail route along the east side of the retention basins is the only route between East Payton and East Pine Avenues that is entirely owned by the City. The other planned trail route through green space to the east would require property acquisition. Due to the additional costs associated with property acquisition and an independent design and construction contract (rather than shared with the WRA's sewer project), the funding identified for development of this segment of the Easter Lake Spine Trail would be insufficient for development of an alternative route through the green space to the east.

Another alternative would be use of the existing street and wide sidewalk system. While this could provide connections for bicyclists and pedestrians, it would not provide access to the public green space, which is a primary benefit of the trail route along the retention basins. Further, the street and sidewalk system does not separate bicyclists and pedestrians from vehicles to the extent that the planned trail provides this separation. The sidewalks cross several driveways which each create a potential conflict point between pedestrians and motorists.

The next step, pending approval of this agreement, will be to identify the preferred routes to connect to the City of Carlisle and the Fort Des Moines SuperBlock (Blank Park Zoo, Fort Des Moines Park, Southridge Mall). These trail connections will require varied funding sources and cooperation with private property owners and other stakeholders to move forward.

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

Date: July 15, 2013

Roll Call Number: [13-1161](#)

Action: [Resolution](#) approving a Chapter 28E Agreement by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) and the City of Des Moines, Iowa for the design and construction of the Easter Lake Spine Trail as part of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project. ([Council Communication No. 13-379](#)) Moved by Meyer to defer for two weeks. Motion Carried 7-0.

Date: June 13, 2011

Roll Call Number: [11-1046](#)

Action: [Adoption](#) of Bicycle and Trail Master Plan as an element of the 2020 Community Character Plan and authorize City Manager to appoint an advisory committee to coordinate fundraising and implementation strategy. ([Council Communication No. 11-360](#)) Moved by Moore to adopt; City

Manager to provide Council with a pool of candidates for appointment to the Advisory Committee.  
Motion Carried 7-0.

Date: October 25, 2004

Roll Call Number: 04-2280

Action: Approving the Easter Lake Trail System, a part of the Easter Lake New Town Plan, to be added to the Bicycle and Pedestrian Trail Facilities Plan Map and authorizing and directing the Mayor to forward said addition to the local Metropolitan Planning Organization to add to the existing Trails Plan. ([Council Communication No. 04-541](#)) Moved by Hensley to approve. Motion Carried 7-0.

Date: January 8, 2001

Roll Call Number: 01-0131

Action: Adopting the Easter Lake New Town Plan as an amendment to the 2020 Community Character Land Use Plan (continued from December 18, 2000). ([Council Communication No. 01-011](#)) Moved by Brooks to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Board: Park and Recreation Board

Date: April 26, 2011

Resolution Number: 11-050

Action: Receive and file the Bicycle and Trail Master Plan.

Board: Park and Recreation Board

Date: March 23, 2004

Resolution Number: 04-019

Action: Add the “Easter Lake Trails” System to the Bicycle and Pedestrian Trail Facilities Plan Map.

Board: Plan and Zoning Commission

Date: June 2, 2011

Action: Approval of the Bicycle and Trail Master Plan as a comprehensive plan amendment to Des Moines’ 2020 Community Character Plan. Motion carried 11-0.

Board: Traffic Safety Committee

Date: May 10, 2011

Action: Approval of the Bicycle and Trail Master Plan as an element of the 2020 Community Character Plan.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Review substantial amendments, if any.  
Accept the trail improvements upon completion.

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