

.....  
**Date** May 10, 2010  
 .....

RESOLUTION APPROVING THE  
 FIFTH AMENDED AND SUBSTITUTED 28E AGREEMENT FOR THE  
 DES MOINES AREA METROPOLITAN PLANNING ORGANIZATION (MPO)

WHEREAS, the City of Des Moines is a member of the Des Moines Area Metropolitan Planning Organization (“MPO”), an organization of county and city governments established to carry out transportation planning activities for the metropolitan area;


WHEREAS, a proposed Fifth Amended and Substituted 28E Agreement for the MPO has been prepared which document provides membership in the MPO for the Des Moines Area Regional Transit Authority (“DART”); and

WHEREAS, it is in the best interests of the City of Des Moines to approve the Fifth Amended and Substituted 28E Agreement for the MPO.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the Fifth Amended and Substituted 28E Agreement for the MPO, a copy of which is now on file in the Office of the City Clerk, is hereby approved.
2. That the Mayor is hereby authorized and directed to execute the Fifth Amended and Substituted 28E Agreement on behalf of the City of Des Moines and the City Clerk is directed to attest to his signature and forward all necessary documents to the MPO to enable filing of the Fifth Amended and Substituted 28E Agreement.

APPROVED AS TO FORM: Moved by \_\_\_\_\_ to adopt.

  
 \_\_\_\_\_  
 Lawrence R. McDowell  
 Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

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

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

MOTION CARRIED APPROVED  
 \_\_\_\_\_ Mayor

\_\_\_\_\_ City Clerk

**MPO 28E Agreement  
Fifth Amended and Substituted**

**Summary of Changes  
April 15, 2010**

Changes in general:

- Additions, deletions, and comments are shown with explanatory comments and underscoring.
- Where the “Amended and Substituted Agreement” was referenced, the word “Fifth” was inserted at the beginning of this phrase to indicate that this is the fifth revision to the original 28E agreement.

Specific changes:

- Article III, paragraph 1
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “Membership – Except as restricted by section 4 of this Article, to become a member of the MPO, a governmental entity must: (a.) be located wholly or partially within the Metropolitan Planning Area; (b.) adopt this Fourth Amended and Substituted Agreement perpetuating the MPO by resolution of its governing body; and (c.) have a population of at least 1500 as shown by the most recent federal census or official intercensal estimate. To retain membership in the MPO, each member government must comply with all requirements of this Fourth Amended and Substituted Agreement.”
- Article III, paragraph 2(a)
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “The representative or representatives of each member government who shall serve on the MPO shall be a member or members of its governing body or other person or persons appointed in the manner approved by such governing body. Alternate representatives may be similarly appointed on a temporary or permanent basis, as a member government shall determine. In case a member government has more than one representative, alternate representatives for that member government shall be entitled to vote in the absence of any representative of that member government.”
- Article III, paragraph 2(b)
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:

- “Each member government shall be entitled to one representative on the MPO, plus one or more additional representatives based on the member government's population within the Metropolitan Planning Area as follows: One additional representative for each 25,000 population or fraction thereof over the first 10,000, as shown by the most recent census or official intercensal estimate.”
- Article III, paragraph 3(c)
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “The Unified Planning Work Program (UPWP) and the annual UPWP budget must be submitted on an annual basis to the member governments and must be approved by resolution of the governing bodies of at least a majority of the member governments. The UPWP to be submitted for approval shall be based upon federal funding allocations issued by the Iowa Department of Transportation.”
- Article III, paragraph 3(d)
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “At any time, on any question before the MPO, other than those matters set out in subsection c. hereof, or review and comment on federal transportation grants (i.e. "A-95 reviews") or the Project Priority Selection Process for including projects in the Transportation Improvement Program, a minimum of any two member governments represented at a meeting may request a weighted vote. Under the weighted vote method, issues will be decided by assigning to each member government for which a representative is present and voting a number equal to the population within the Metropolitan Planning Area, by the most recent federal census or official intercensal estimate, for that member government. Under the weighted vote method, an issue must receive three-fourths of the total votes cast in order to be adopted”
- Article IV, paragraph 1
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “The MPO shall approve an annual budget and assessment schedule. The assessment for each member government shall be based on the ratio of each member government's population within the Metropolitan Planning Area, as shown by the most recent federal census or official intercensal estimate. For this purpose, a county member's population shall be the population of its unincorporated area within the Metropolitan Planning Area and the population of incorporated areas within the Metropolitan Planning Area that are not otherwise represented on the MPO.”

- Article VI, paragraph 2
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “In the event of termination, all assets of the MPO shall be distributed to and all liabilities of the MPO shall be assumed by those governments which are members at the time of such termination, based upon the ratio of each member government's population within the Metropolitan Planning Area to the total population of the Metropolitan Planning Area, as shown by the most recent federal census or official intercensal estimate, with the population of each county member based upon the portion of the population of its unincorporated area within the Metropolitan Planning Area and the population of incorporated areas within the Metropolitan Planning Area that are not otherwise represented on the MPO.”
  
- Article VII, paragraph 1
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “The terms and provisions of this Fourth Amended and Substituted Agreement may be amended by a majority vote of the representatives on the MPO at any regular or special meeting called for such purpose, and approved by resolution of the governing bodies of three-fourths (3/4) of the member governments.”
  
- Article IX, paragraph 1
  - Addition to or change of wording. For your reference, the same paragraph from the **Fourth** Amended and Substituted 28E Agreement, dated July 2005, read as follows:
    - “This Fourth Amended and Substituted Agreement shall not be effective until such time as it shall have been approved by at least three-fourths (3/4) of the following governmental entities: Dallas County, Polk County, Warren County, the City of Altoona, the City of Ankeny, the City of Bondurant, the City of Carlisle, the City of Clive, the City of Des Moines, the City of Grimes, the City of Johnston, the City of Norwalk, the City of Pleasant Hill, the City of Polk City, the City of Urbandale, the City of Waukee, the City of West Des Moines, and the City of Windsor Heights; and shall have been thereafter filed and recorded as provided by law.”