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**Date** October 22, 2012

APPROVING AN AMENDMENT TO A  
CHAPTER 28E AGREEMENT WITH BOONE COUNTY FOR THE  
PROVISION OF HAZARDOUS MATERIALS RESPONSE SERVICES

WHEREAS, the City of Des Moines has since August of 1988 provided hazardous materials response services to Polk County, and has since 1995 provided hazardous materials response services to the counties of Boone, Dallas, Madison, Marshall, Story, and Warren, and to the Marshall County Emergency Management Commission and Story County Emergency Management Commission, all pursuant to Chapter 28E Agreements executed with said governmental bodies; and

WHEREAS, pursuant to said Chapter 28E Agreements, said governmental entities have agreed to reimburse the City of Des Moines for all costs which the City incurs in the provision of hazardous materials response services and have agreed to defend and hold harmless the City of Des Moines in the provision of said services with those jurisdictions; and

WHEREAS, said 28E Agreements also required the City of Des Moines to purchase insurance or other available coverage for the purpose of providing the financial resources for the participating governmental bodies to assume such risk and liability and specified that such governmental bodies would pay for the premium or costs of the purchased coverages on an equally proportional basis and that the City would purchase \$450,000 per incident of insurance to cover the cost of occupational injury, which was equal to the City of Des Moines self-insured retention amount in 1995; and

WHEREAS, the City's current self-insured retention has increased to \$1,000,000 per incident and it is recommended by the Fire Chief and the Risk Manager that said 28E Agreements be amended to delete the \$450,000 fixed amount for occupational injury coverage and replace it with terms which provide for occupational injury coverage equal to a self-insured amount based on reasonably available coverage and a new cost allocation formula for the cost of any loss that is not insured, as described in the attached Council Communication; and

WHEREAS, city staff has negotiated an Amendment to said 28E Agreements with said governmental entities; and

WHEREAS, Boone County has executed the Amendment to Agreement for the Provision of Hazardous Materials Response Services Between the City of Des Moines and Boone County Under Chapter 28E, a copy of which is on file in the City Clerk's Office; and

WHEREAS, this City Council has been advised and does believe that it would be in the best interests of the City of Des Moines to approve and enter into said Amendment Agreement with Boone County.

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**Date** October 22, 2012

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

1. That the Amendment to Agreement for the Provision of Hazardous Materials Response Services Between the City of Des Moines and Boone County Under Chapter 28E, a copy of which is on file in the City Clerk's Office, be and it is hereby approved as to form and content.
2. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, said Amendment for and on behalf of the City of Des Moines, Iowa.

Moved by \_\_\_\_\_ to adopt.

(Council Communication No. 12-554)

APPROVED AS TO FORM:

Ann DiDonato  
 Ann DiDonato  
 Assistant City Attorney

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

MOTION CARRIED

APPROVED

\_\_\_\_\_  
 Mayor

**CERTIFICATE**

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

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

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