

Date..... December 17, 2012.....

TERMINATION OF CHAPTER 28E AGREEMENT BETWEEN CITY OF DES MOINES AND DES MOINES WATER WORKS FOR OPERATION AND MANAGEMENT OF BOTANICAL CENTER

WHEREAS, the City owns the Des Moines Botanical Center and adjacent grounds; and

WHEREAS, on December 12, 2003, by Roll Call No. 03-2834, the City Council approved an agreement with the Board of Water Works Trustees of the City of Des Moines, Iowa, for the operation and management of the Botanical Center and adjacent grounds and parkland ("28E Agreement"); and

WHEREAS, the initial term of the 28E Agreement was until December 31, 2009, with the first renewal period expiring on December 31, 2012; and

WHEREAS, the City and Water Works desire not to renew the 28E Agreement and to terminate it effective on December 31, 2012; and

WHEREAS, on May 9, 2011, by Roll Call No. 11-0822, the City Council approved a Lease, Operation, Management and Maintenance Agreement with the Greater Des Moines Botanical Garden corporation for an initial term of 25 years, to begin on January 1, 2013 ("the Lease Agreement"); and

WHEREAS, City staff and Water Works have negotiated a Termination Agreement of the 28E Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the Termination of 28E Agreement by and between the City of Des Moines, Iowa and the Board of Water Works Trustees of the City of Des Moines, Iowa, which is on file with the City Clerk's Office, is hereby approved and the Mayor is authorized and directed to sign said Termination of 28E Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to his signature.

(Council Communication No. 12-) Moved by _____ to adopt.

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	

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.

Mayor

City Clerk