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Date August 12, 2013

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

WHEREAS, the WRA and the City of Des Moines (herein “Des Moines”) agree that it is of mutual benefit to each entity to provide for the joint design of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project and the Des Moines Easter Lake Spine Trail recreational trail located between E. Payton Avenue and Pine Avenue in Des Moines, which design will be undertaken by Veenstra & Kimm, Inc. pursuant to an amendment to the Agreement for Professional Services for the WRA Southern Tier Interceptor Phase 10, Segments 15-17, and to provide for the payment of the costs for said projects; and

WHEREAS, Des Moines planned to undertake the construction of the Easter Lake Spine Trail recreational trail located between E. Payton Avenue and Pine Avenue in Des Moines, and has proposed that the WRA jointly construct the City Trail concurrent with construction of the WRA Interceptor Sewer as part of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project; and

WHEREAS, 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; and

WHEREAS, the negotiated agreement provides that Des Moines shall reimburse the WRA for actual costs for design, construction, construction administration, and change orders associated with the Easter Lake Spine Trail, and that 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, and 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 that 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; and

WHEREAS, 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 City Trail, except for grading thereof at Des Moines’ cost; and

WHEREAS, the negotiated agreement further provides that Des Moines will indemnify and defend the WRA in relation to encroachments within the City-owned easement areas related to the City and WRA projects and removal of said encroachments; and

WHEREAS, on July 16, 2013, by Resolution No. 13-78, the WRA Board approved the negotiated agreement subject to approval by Des Moines City Council resolution; and

WHEREAS, on July 15, 2013, by Roll Call No. 13-1161, the City Council acted to defer consideration of approval of the negotiated agreement until an additional public informational meeting was held, which meeting occurred on August 5, 2013.

Date August 12, 2013

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

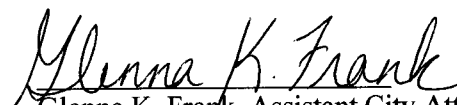
1. That the Chapter 28E Agreement by and between the Des Moines Metropolitan Wastewater Reclamation Authority and the City of Des Moines, Iowa, for the Design and Construction of the Easter Lake Spine Trail as Part of the WRA Southern Tier Interceptor, Phase 10, Segment 15-16 Project, is approved; the Mayor is authorized to execute the Agreement; the City Clerk is directed to attest to the Mayor's signature and to record the Agreement with the Secretary of State; and the Finance Department is authorized to make any and all payments as required by the Agreement and amendments thereto.

2. That the Parks and Recreation Department Director and City Engineer and/or their respective designees are directed and authorized to administer the terms of the Agreement and any amendments thereto; that the Mayor is authorized and directed to execute the Addendum to the Agreement relating to Grading Cost Allocation, in substantially the form of Attachment 4 to the Agreement, upon approval as to form by the Legal Department, and the City Clerk is directed to attest to the Mayor's signature; and that the City Manager is authorized and directed to approve and execute other minor and unsubstantial amendments to the Agreement following approval as to form by the Legal Department, and to return substantial amendments to the City Council for consideration.

(Council Communication No. 13-420)

Moved by _____ to adopt.

FORM APPROVED:


 Glenna K. Frank, 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

**Easter Lake Spine Trail Public Information Meeting
August 5, 2013
Summary and Response of Concerns and Comments
(also including emailed comments)**

Planning and Process Issues

1. Lack of prior knowledge of the Easter Lake New Town Plan and the Bicycle and Trail Master Plan. Why won't the city consider spending this money on a park in our neighborhood or a street to connect Army Post (Sweetwater or Brockway Drive, both are dead ends)?

Response: All master planning processes in the City include considerable opportunity for public input. The plans are posted on the City's website for inspection by the public at any time. The City has collaborated with Des Moines Public Schools on planning efforts for the Southeast School and Park site. The timeframe for implementation of this project is unknown.

2. Is there any city ordinance for how close a public trail can be next to a private single family detached residence? Should the city have one and what should that measurement be?

Response: No, there is no such ordinance. Considering that trails often require property acquisition to complete connections, such an ordinance would be extremely detrimental to the development of trails by making them virtually impossible to implement.

3. The city still has not provided any credible and concrete examples where trails are in this close of proximity to private single family detached structures.

Response: The City provided several examples from Clive, West Des Moines and Urbandale where trails are on easements on private property or in close proximity to single family detached structures. These examples were provided directly from the Parks and Recreation Department Directors of those cities. There are also examples in the City of Des Moines where the City has acquired private property to construct a trail.

4. Why do we need trails through our neighborhoods that parallel sidewalks?

Response: 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 and intersections which each create a potential conflict point between pedestrians and motorists. There are numerous studies on the topic of bicycling on the sidewalk. One such study showed that a bicyclist riding on a sidewalk or sidepath in the opposite direction of traffic is 4 times more likely to collide with a vehicle at an intersection than one riding with traffic in the street.

<http://www.wright.edu/~jeffrey.hiles/essays/listening/ch7.html>

5. Why not build the trail all the way around the retention basin so residents have a circular path in which to exercise, enjoy the outdoors and interact with each other?

Response: The City does not own sufficient land on the west side of the detention basin to build a trail. The distance between the property line and the water line on the west side of the basin varies between approximately 12 feet to approximately 32 feet, much of this area is also quite steep. A trail could not be built on the west side without acquiring property or easements from homeowners. On the east side of the basin, the distance

between the property line and the water's edge varies from approximately 50 feet to over 100 feet, providing much more flexibility in design and flatter areas within public property, already owned by the City.

6. What are the alternative routes?

Response: 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 would require property acquisition. Another alternative would be use of the existing street and wide sidewalk system; however, refer to question #4 for why this is not an equivalent option.

7. Slow timeline for connection across Pine Avenue or into the City of Carlisle

Response: The nature of trail development is that it is done in segments as funding is available. The one-mile segment between Payton and Pine Avenues is a substantial and reasonable distance to implement as a single project. The City will continue to seek funding for the connection to Carlisle and to Blank Park Zoo and Fort Des Moines Park.

Personal Impact Issues to Homes on Sweetwater Drive

8. Loss of privacy due to proximity to lot, and specifically the proximity to homes.

Response: City staff and the consulting engineer are willing to work with property owners to maximize the distance between the property line and the trail to the extent possible.

9. Loss of green space for kids/families to enjoy.

Response: The trail is available for use by everyone and makes this public green space accessible to the entire neighborhood. Adjacent neighbors will have the same access they did prior to development of the trail.

10. Increased crime and vandalism.

Response: Experience and research indicate that additional positive use in an area (e.g. bicyclists, walkers, joggers, etc.) deters negative activity.

11. Reduced property values.

Response: Experience and research indicate that properties improve in marketability when in proximity to a trail and green space.

American Trails and the Trust for Public Lands are two excellent sources of information on the impact of trails on property value and crime. Here are links to research addressing questions 10 and 11.

<http://www.americantrails.org/resources/adjacent/>

<http://www.americantrails.org/resources/adjacent/sumadjacent.html>

<http://www.americantrails.org/resources/adjacent/OmahaStudy.html>

<http://www.americantrails.org/resources/adjacent/INtrailstudy01.html>

<http://www.americantrails.org/resources/economics/littlemiamipropvalue.html>

<http://cloud.tpl.org/pubs/ccpe-charleston-railtrail-park.pdf>

<http://cloud.tpl.org/pubs/benefits-pa-keystone-roi-report.pdf> (see page 27)

<http://cloud.tpl.org/pubs/ccpe-charleston-railtrail-park.pdf> (see page 8)

Design and Construction Issues

12. Shifting of land due to excavation and cutting and filling activity necessary to develop the trail which may negatively impact the foundation of homes.

Response: Engineering design will ensure that development does not negatively impact the adjoining properties.

- 13. Construction activity may increase siltation into the detention basin

Response: The contractor will be required to install silt fencing to reduce siltation into the basin.

- 14. Construction activity may be dangerous for children to play in the backyard

Response: Staff will review the need for construction fencing in the segment of the project along Sweetwater Drive.

- 15. Potentially hazardous crossing of Army Post Road

Response: The trail design engineers and traffic control engineers will work together to ensure a safe crossing of Army Post Road. This will be determined during design of the trail.

Maintenance and Management Issues

- 16. Potential for increased car traffic/parking on streets for people who may drive to use trail.

Response: Experience with trails indicates that trail users typically park at identified trailheads. Trails marketing materials identify parking only in parks and trailheads, not on neighboring residential streets. If parking on neighborhood streets becomes an issue, the City can install signage indicating that parking is not allowed for trail access.

- 17. Who will mow along the trail?

Response: There are different ways mowing could be handled. If a homeowner wants to mow up to the trail to ensure maintenance to his/her satisfaction, he/she is welcome to do so. Otherwise, the City would mow along the edges of the trail. The City would not allow the adjoining property owner to mow down to the water's edge.

- 18. Will the City plow the snow from the trail? When the City plows the existing trail segment over the dam, they go off the trail and create ruts along the shoulders.

Response: Yes, the City would plow the trail in the winter, consistent with the snow removal on all of the other City trails. One option to help guide the plows is to install temporary flexible markers that identify the edge of the trail by extending above the snow.

- 19. Geese will leave droppings along the trail. Who will clear this off?

Response: Geese present a problem in many areas around the City. The best deterrent for geese is tall grasses. Geese like to have a clear view down to the water so they can see if any predators are nearby. If there are tall grasses, there could be predators hiding, so the geese are not inclined to land in those areas. The City is proposing that native grasses be planted on the retention basin side of the trail. If the adjoining homeowner welcomes native grasses on the east side of the trail as well, the City would include that area in the native plantings.

- 20. Why is the City building a trail around a retention basin that is full of silt and moss and algae? The city needs to have an environmental impact study done to the area to see what paving 25% (55' from R.O.W minus the 10' asphalt trail plus the 4'-6' buffer) of the existing natural buffer zone will do to the environmental impact of this area. Use the money saved by not installing this controversial portion of the trail to fund these mandatory Iowa maintenance requirements that have been neglected for too long.

Response: There are steps that can be taken to improve the water quality and therefore improve the beauty of the area. One of these steps is to install native plantings around

the perimeter of the basin. Native plantings reduce the amount of silt entering the retention basins, remove lawn chemicals and nutrients that homeowners apply to the lawn, thereby improving water quality which will reduce algae. Part of the function of the detention basins is to collect sediment that is carried in storm water runoff. Easter Lake Water Quality Plan identifies removal of the sediment from the detention basins as a work item in phase 2 in order to improve the water quality of the detention basins as well as that of Easter Lake. Funding is anticipated to be available to begin implementing phase 1 of the Easter Lake Water Quality Plan later this year with phase 2 to follow as funding becomes available.

21. Who will maintain the wildflowers that are proposed to be installed between the trail and the detention basin?

Response: The stormwater utility would be responsible for maintenance of the native landscaped area. Maintenance recommendations will be provided by the design professionals who specify the seeding plan and will be implemented by City staff. Typical maintenance of these types of areas includes mowing a few times per year to a minimum height of 6 inches and reseeding as necessary.