

Date May 19, 2014

**RESOLUTION APPROVING CHAPTER 28E AGREEMENT BY AND BETWEEN POLK COUNTY, IOWA AND THE CITY OF DES MOINES, IOWA FOR PROPERTY ACQUISITION, RELOCATION AND DEMOLITION SERVICES FOR THE POLK COUNTY CLEAN WATER STATE REVOLVING FUND WATER RESOURCES RESTORATION SPONSORED PROJECT FOR THE FOURMILE CREEK WATERSHED**

**WHEREAS**, Polk County, Iowa (“County”) plans to acquire and demolish residential properties in the Fourmile Creek Watershed area, between Easton Boulevard and Hubbell Avenue in Des Moines (“Sponsored Project”), in order to improve the water quality within Fourmile Creek and assist in reduction of flow into the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) sewer system, pursuant to State of Iowa Clean Water State Revolving Fund (SRF) Water Resources Restoration Sponsored Projects program (“SRF Program”); and

**WHEREAS**, the County has entered into a Chapter 28E Agreement with the WRA (“WRA-County Agreement”) by which the WRA applied for the Sponsored Project funding from the SRF Program, and which agreement requires the County to undertake all administration and activities associated with the Sponsored Project and to pay all costs associated therewith that are not covered by the SRF Program funding; and

**WHEREAS**, the County has requested that the City, by and through its Engineering Department and Real Estate Division, act as agent and consultant for the County for property acquisition, relocation, and demolition purposes associated with the Sponsored Project; and

**WHEREAS**, County and City staff have negotiated a Chapter 28E Agreement pursuant to which City staff will undertake all aspects of acquisition, in the County’s name, of all necessary real property for the Sponsored Project, and relocation of displaced persons, and will bid, contract for and administer demolition services as part of the Sponsored Project, all on behalf of and as agent and consultant for the County and pursuant to SRF Program requirements; and

**WHEREAS**, in accordance with the 28E Agreement, and in exchange for the City’s agent and consultant services, the County will pay all actual costs incurred by the City for property acquisition, relocation, and demolition services, as well as a lump-sum amount per property acquired for City staff and administrative costs, and will deposit a total amount of \$300,000.00 with the City for upfront payment of such costs until reimbursement is provided by the SRF Program, which deposit is to be returned to the County minus City staff and administrative costs at the conclusion of the Project; and

**WHEREAS**, approval and final form of the 28E Agreement are subject to review and concurrence by the SRF Program through Iowa Department of Natural Resources (IDNR) and Iowa Finance Authority (IFA), to approval by the WRA Board of an amendment to the WRA-County Agreement, and to approval and closing by the WRA and the SRF Program of amendments to the WRA loan agreements to fund the Project.

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

1. That the Chapter 28E Agreement by and between Polk County, Iowa and City of Des Moines, Iowa for Property Acquisition, Relocation and Demolition Services for the Polk County Clean Water State Revolving Fund Water Resources Restoration Sponsored Project for the Fourmile Creek Watershed, in substantially the form on file in the office of the City Clerk, is hereby approved, subject to the following conditions: (1) review and concurrence as to form of Agreement by the SRF Program (IDNR and IFA), and approval as to form by the City's Legal Department; (2) approval by the WRA Board of an amendment to the WRA-County Agreement; and (3) approval and closing by the WRA and the SRF Program of amendments to the WRA loan agreements to fund the Project.
  
2. Following occurrence of said conditions, the Mayor is authorized and directed to sign said 28E Agreement on behalf of the City, and the City Clerk is directed to attest to the Mayor's signature.
  
3. Following occurrence of said conditions and payment by the County of the deposit required as set forth above and in the Agreement, the City's Engineering Department is authorized and directed to administer the 28E Agreement and to act as agent and consultant for the County in accordance with the terms set forth therein.

(Council Communication No. 14-232)

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

APPROVED AS TO FORM:

  
Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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