



**Date** ..... November 23, 2020

**WAIVER AND CONSENT TO CONFLICT OF INTEREST IN JOINT REPRESENTATION BY AHLERS & COONEY, P.C. OF THE CITIES OF DES MOINES AND URBANDALE FOR DRAFTING A 28E AGREEMENT FOR THE ESTABLISHMENT OF A JOINT IOWA CODE CHAPTER 15J REINVESTMENT DISTRICT**

WHEREAS, Ahlers & Cooney, P.C. represents the cities of Des Moines and Urbandale in various matters, including economic development matters, real estate matters, and as bond counsel; and

WHEREAS, Des Moines and Urbandale desire to establish an Iowa Code Chapter 15J reinvestment district in furtherance of new development in the vicinity of Merle Hay Mall and amendments to Chapter 15J allow for the establishment of a reinvestment district within combined city boundaries by a joint board or other legal entity established by contiguous cities pursuant to an Iowa Code Chapter 28E Agreement; and

WHEREAS, Des Moines and Urbandale would like to use Ahlers & Cooney, P.C. to serve as scrivener and as general adviser on general matters related to the 28E Agreement, which requires a consent and waiver as to the conflict from each city; and

WHEREAS, the Legal Department will provide legal representation on behalf of the City and the Urbandale City Attorney will provide legal representation on behalf of Urbandale.

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

1. That the Mayor is hereby authorized and directed to execute the waiver and consent to any actual, potential or perceived conflict of interest associated with Ahlers & Cooney, P.C.'s representation of the City of Des Moines and the City of Urbandale with respect to the drafting of the above-referenced 28E Agreement.

2. That the City Attorney is authorized to withdraw and terminate such waiver and consent for any reason, in his sole discretion, should he determine that termination of the waiver and consent is appropriate.

3. That the cost of such representation incurred by the City is an approved advance to the Merle Hay Commercial Area Urban Renewal Project Area ("Project Area") and, subject to appropriate amendment to Urban Renewal Plan, the advance shall be treated as an internal loan (the "Loan") from the City general fund and the City general fund shall be reimbursed from the Project Area Tax Increment Fund.



**Roll Call Number**

**Agenda Item Number**

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4. That certification for reimbursement of the advance under Iowa Code Section 403.19 shall be made on or before December 1, 2021. As funds are received into the Tax Increment Fund pursuant to Iowa Code Section 403.19 they shall be used to reimburse the advance made from the City general fund.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

\_\_\_\_\_  
Jeffrey D. Lester, City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

I, P. Kay Cmelik, 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