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**Date** March 8, 2021

APPROVAL OF 28E AGREEMENT BETWEEN THE CITY OF DES MOINES AND CITY OF CARLISLE FOR VOLUNTARY PROPERTY ACQUISITION, CONSTRUCTION, OWNERSHIP AND MAINTENANCE OF THE CARLISLE CONNECTION MULTI-USE RECREATIONAL TRAIL WITHIN THE CITY OF CARLISLE

WHEREAS, the City plans to construct a multi-use recreational trail approximately three miles in length, of which approximately two miles are within the City of Des Moines corporate limits and the remainder within unincorporated Warren County and the City of Carlisle corporate limits; and

WHEREAS, the project will begin at the City trail at the intersection of Army Post Road and the existing Easter Lake Spine Trail and connect to the existing Carlisle Nature Trail; and

WHEREAS, approximately three-quarter mile of the Trail lies within the City of Carlisle corporate limits (“Carlisle Trail Segment” or “Trail Segment”); and

WHEREAS, on September 14, 2020, by Roll Call No. 20-1458, the City Council of the City of Des Moines, Iowa authorized and endorsed this trail project, and further authorized City staff to submit a cooperative grant application on behalf of the City, City of Carlisle, and Warren County Conservation Board to the Iowa Department of Transportation for Federal Recreational Trail (FRT) funding in the amount of \$400,000; and

WHEREAS, the City’s funding for this trail project is also expected to include a cooperative Iowa Department of Transportation State Recreation Trails (SRT) grant to be awarded in September 2021 in the amount of up to \$400,000; and

WHEREAS, such FRT and SRT grants require maintenance of the Trail for a period of at least 20 years, including the Carlisle Trail Segment; and

WHEREAS, Parks and Recreation Department staff have worked with City of Carlisle staff to develop a 28E Agreement for construction of the Carlisle Tail Segment; and

WHEREAS, such 28E Agreement provides that the City will be responsible for construction and funding of the Trail Segment, including acquisition of necessary land rights or appropriate real property interests, that the City of Carlisle will accept ownership of the Trail Segment upon completion, and that the City of Carlisle will be responsible for maintenance of the Trail Segment; and

WHEREAS, under the 28E Agreement, the City is authorized to act as the City of Carlisle’s agent for the purpose of acquiring real property rights needed to construct, use, and maintain the Trail Segment.

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

1. That the above described Chapter 28E Agreement Between the City of Des Moines and City of Carlisle, a copy of which is on file in the City Clerk's Office, is hereby approved and 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 his signature.
2. That upon execution by all parties, the Des Moines City Clerk shall record said 28E Agreement in the Office of the Secretary of State and distribute copies of said filed 28E Agreement to the parties.
3. That the City of Des Moines Real Estate Division be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by voluntary acquisition the necessary property interests for construction of the Carlisle Connection Multi-Use Trail Project, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201 (c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as applicable.
4. That the property will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised.
5. That the City Manager is authorized to approve all Fair Market Values for the property interests needed for the Project. If the property owners agree to convey the property to the City in an amount based on the established fair market value, including an approved administrative settlement, the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out these transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to complete these transactions in accordance with standard real estate practices and state law requirements.
6. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.
7. That the City Clerk is hereby authorized and directed to endorse upon the real estate documents for this Project the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

★ Roll Call Number

Agenda Item Number

12B

Date March 8, 2021

(Council Communication No. 21-117 )

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

APPROVED AS TO FORM:

Ann DiDonato  
Ann DiDonato, Assistant City Attorney

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

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.

\_\_\_\_\_  
Mayor

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