



**Date** August 5, 2024

**APPROVING AND AUTHORIZING THE EXECUTION OF A  
28E AGREEMENT WITH THE CITY OF WEST DES MOINES FOR  
MAJOR CONSTRUCTION WITHIN THE PUBLIC RIGHT-OF-WAY OF  
SW 63<sup>rd</sup> STREET/SE 1<sup>st</sup> STREET FOR THE  
63<sup>rd</sup> STREET TRAIL FROM SW MCKINLEY AVENUE TO THE RACCOON RIVER**

**WHEREAS**, on April 25, 2005, by Roll Call No. 05-997, the City Council approved and authorized execution of a 28E Agreement between the City of West Des Moines and the City of Des Moines for joint maintenance of joint boundary streets (“Boundary Streets Joint Maintenance Agreement”), which Agreement provided for the joint exercise of the Cities’ respective powers by specifically dividing responsibility between the Cities for the joint maintenance and servicing of corporate line roadways and rights of ways in the respective Cities, specifically Southwest 63<sup>rd</sup>/Southeast 1st St; and

**WHEREAS**, said Boundary Streets Joint Maintenance Agreement provides that any major construction or reconstruction within the public right-of-way of any road covered by said Agreement, including major construction or reconstruction of roadway paving and parking, is to be accomplished by mutual agreement between the Cities, including projects involving replacement and reconstruction of greater than 50 square yards of contiguous or proximate paving or aggregate placement of more than 200 ton per year; and

**WHEREAS**, the Engineering Department, in conjunction with the West Des Moines Public Works Department, has determined that construction of the 63<sup>rd</sup> Street Trail from SW McKinley Avenue to the Raccoon River, consisting of clearing and grubbing, removals, earthwork, grading, subbase, storm sewer, placement of a 6-inch thick Portland Cement Concrete (PCC) trail, PCC sidewalk, traffic control, traffic signalization, pavement markings, erosion control, restoration, seeding, and miscellaneous associated work to complete the project, is required at an awarded construction contract cost of \$1,353,557.76; and

**WHEREAS**, the Engineering Department has negotiated a supplementary 28E Agreement between the City of Des Moines and the City of West Des Moines for major construction within the Public Right-of-Way of SW 63<sup>rd</sup>/SE 1<sup>st</sup> Street from SW McKinley Avenue to the Raccoon River, which Agreement is on file in the office of the City Clerk and was approved by resolution of the West Des Moines City Council on June 17, 2024; and

**WHEREAS**, the Major Construction Agreement provides that the City of Des Moines will undertake construction of the project with an anticipated completion date of May 10, 2025; that all actual construction costs of the project will be paid by Des Moines; and that following project completion, the project area will be maintained and operated in accordance with the Boundary Streets Joint Maintenance Agreement which will remain in effect and binding on both Cities.

**Roll Call Number**

**Agenda Item Number**

8

Date August 5, 2024

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

1. The 28E Agreement between the City of West Des Moines, Iowa and the City of Des Moines, Iowa for Major Construction within the Public Right-of-Way of SW 63<sup>rd</sup>/SE 1<sup>st</sup> Street from SW McKinley Avenue to the Raccoon River, in form on file in the office of the City Clerk, be and is hereby approved.
2. The Mayor is hereby authorized to execute said Agreement on behalf of the City of Des Moines and the City Clerk to attest to said signature.
3. The City Clerk is directed to file said Agreement with the office of the Iowa Secretary of State.
4. The City Engineer or designee is authorized and directed to administer said Agreement.

(City Council Letter Number 24-313 attached)  
Activity ID 04-2022-015

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

FORM APPROVED: /s/ Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

**SLN**<sub>pub</sub>

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COLEMAN				
GATTO				
MANDELBAUM				
SIMONSON				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, Laura Baumgartner, 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