

★ Roll Call Number

08-835

Agenda Item Number

52

Wetlands Mitigation – 28E Agreement

Date May 5, 2008

**APPROVING CHAPTER 28E INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN THE CITY OF DES MOINES, IOWA, AND THE POLK COUNTY
CONSERVATION BOARD FOR WETLANDS MITIGATION**

WHEREAS, on April 20, 1998, by Roll Call No. 98-1212, the City Council approved the Preliminary Terms of Agreement with Eastgate Plaza, LLC for redevelopment of Eastgate Shopping Center at the northeast corner of E. 14th Street and E. Euclid Avenue (“Redevelopment Project”); and

WHEREAS, on June 22, 1998, by Roll Call No. 98-2078, the City Council approved an agreement requiring the City to construct the Euclid Avenue Detention Basin on and adjacent to the redevelopment property, and requiring compliance with wetlands mitigation resulting from the construction project; and

~~**WHEREAS**, within the construction limits of the Euclid Avenue Detention Basin, and additional stormwater utility projects, are wetland areas which have been or will be drained and filled for construction of said improvements, and thereby effectively eliminated as a wetlands area; and~~

WHEREAS, on June 21, 1999, by Roll Call No. 99-1908, the City Council approved and accepted the offer to purchase 84.9 acres of land in the vicinity of U.S. Highway 65 and the Skunk River to replace existing wetlands for the Redevelopment Project and for additional stormwater utility projects; and

WHEREAS, the City has currently obtained Section 404 permits from the U.S. Army Corps of Engineers (“COE”), which also meet Section 401 State water quality certification requirements, for wetlands mitigation projects to mitigate for the loss of wetlands for construction of the Stormwater Improvements and the City will have to obtain additional Section 404 permits from the COE for additional wetlands mitigation projects; and

WHEREAS, the City and the Polk County Conservation Board have negotiated the terms of a Chapter 28E Intergovernmental Agreement for the Joint Exercise of Powers to Acquire, Develop, and Maintain Wetlands Areas as Part of a Wetlands Mitigation Project, which Agreement is attached hereto and made a part hereof, and pursuant to which the City is to develop the above-mentioned 84.9 acres of land as a wetlands area, and convey said land to the County for maintenance as wetlands areas at the close of the COE monitoring period, in consideration for which the County is to maintain said area as wetlands in compliance with the requirements of the COE 404 permit and other applicable State and Federal laws and regulations; and

WHEREAS, on April 9, 2008, the Polk County Conservation Board authorized and directed the Board Chair to execute said Chapter 28E Agreement for and on behalf of the Board.

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

1. The Chapter 28E Intergovernmental Agreement with Polk County Conservation Board for joint development of a wetlands project to mitigate the loss of wetlands eliminated by the Euclid Avenue Detention Basin and additional City projects, be and is hereby approved as to form and content.
2. The Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, said Chapter 28E Agreement for and on behalf of the City of Des Moines.
3. The City Clerk is further authorized and directed to deliver the executed Agreement to the Real Estate Division Manager, who is authorized and directed to file the Agreement with the Secretary of State and record the Agreement with the Polk County Recorder.

4. The Engineering Department is authorized and directed to proceed with Polk County Conservation Board and the COE on the design and development of the wetlands mitigation project subject to COE and Iowa Department of Natural Resources permitting requirements and review.

Moved by Kiernan to adopt.
(Council Communication No. 08-257)

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY				✓
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	6			1

T. M. Franklin 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.

Diane Rauh City Clerk