

December 21, 2009

Date

APPROVAL OF AN AGREEMENT BETWEEN DES MOINES AND THE WRA PROVIDING FOR THE ACQUISITION OF DESIGN FLOW CAPACITY AND PROPORTIONATE REVERSIONARY INTEREST IN THE FOUR MILE INTERCEPTOR PHASE 23, SEGMENTS 1 - 4

WHEREAS, the Des Moines Metropolitan Wastewater Reclamation Authority (the "WRA"), is an entity organized and existing under Chapters 28E and 28F of the Code of Iowa, as amended, and the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority effective as of July 1, 2004 (the "WRA Agreement").

WHEREAS, the Cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Johnston, Norwalk, Pleasant Hill, Polk City, West Des Moines, Waukee and Polk County, Warren County, the Urbandale Sanitary Sewer District, the Urbandale-Windsor Heights Sanitary District and the Greenfield Plaza/Hills of Coventry Sanitary District are parties to the WRA Agreement and are Participating Communities as defined therein; and

WHEREAS, the Polk City, Iowa will become a Participating Community effective July 1, 2010; and

WHEREAS, pursuant to the WRA Agreement, the WRA Board has the power to jointly acquire and construct improvements to expand, extend and upgrade the WRA System on behalf of the Participating Communities, to operate and maintain the same for the benefit of all Participating Communities, including the power to define parameters and benchmarks for all services; and

WHEREAS, Article VII, Section 4(c) of the WRA Agreement provides, "Any Participating Community classified as a Core Community for purposes of this Agreement may acquire design flow capacity and a proportionate reversionary interest in any Expansion Improvement undertaken in accordance with this Agreement. In such event, the requesting Core Community shall notify the Board in writing of its intention to participate in an Expansion Improvement, which notice must be received prior to Board approval of the plans and specifications for the Expansion Improvement. The requesting Core Community shall be responsible for a proportionate share of the costs of acquiring and constructing such Expansion Improvement, based on the proportion of its design flow allocation to the total design flow of each project segment of the Expansion Improvement in which the Core Community desires to participate, or such other fixed cost share as the applicable Expansion Communities may determined and be approved by the Board. The requesting Core Community shall pay all such costs at such times and in such amounts as shall be determined by the Board, it being the intention of the Participating Communities not to utilize Bond Financing authorized in Article XIII for such purposes"; and

WHEREAS, Des Moines requested design flow capacity in the Four Mile Interceptor, Phase 23, Segments 1 through 4 prior to the Four Mile Interceptor Phase 23, Segments 1 through 4 construction, in accordance with Article VII, Section 4(c) of the WRA Agreement; and

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WHEREAS, the WRA and Des Moines have negotiated the terms of this Agreement to provide for the acquisition by Des Moines of design flow capacity and proportionate reversionary interest in the Four Mile Interceptor; and

WHEREAS, the Agreement provides for Des Moines to pay 7.30% of total project costs for the Four Mile Interceptor Phase 23, Segment 1 Project, 7.30% of total project costs for the Four Mile Interceptor Phase 23, Segment 2 Project, 10.50% of total project costs for the Four Mile Interceptor Phase 23, Segment 3 Project and 9.72% of the total project costs for the Four Mile Interceptor Phase 23, Segment 4 Project; and

WHEREAS, the Agreement provides Des Moines will receive a 7.30% reversionary interest in the Four Mile Interceptor Phase 23, Segment 1 Project, a 7.30% reversionary interest in the Four Mile Interceptor Phase 23, Segment 2 Project, a 10.50% reversionary interest in the Four Mile Interceptor Phase 23, Segment 3 Project and a 9.72% reversionary interest in the Four Mile Interceptor Phase 23, Segment 4 Project.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That the Agreement for Acquisition of Design Flow Capacity and Proportionate Reversionary Interest in the Four Mile Interceptor, Phase 23, Segments 1 - 4 is hereby approved and the Mayor is authorized and directed to execute the Agreement and the City Clerk to attest to his signature.
2. That the Finance Director is authorized and directed to pay the City of Des Moines' percentage of the total project cost for the Four Mile Interceptor Phase 23, segments 1 through 4 as set forth in the Agreement.

APPROVED AS TO FORM:

Moved by Vlassis to adopt.

Kathleen Vanderpool
 Kathleen Vanderpool, Deputy City Attorney

(Council Communication No. 09-878)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLISSIS	✓			
TOTAL	7			

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.

MOTION CARRIED APPROVED
T. M. Franklin
 Mayor

Diane Rauh City Clerk