



Roll Call Number

17-1410

Agenda Item Number

61

Date August 14, 2017

**RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF
AND DELIVERY OF THE SUBSTITUTED AND RESTATED 28E AGREEMENT OF
THE DES MOINES REGIONAL TRANSIT AUTHORITY**

WHEREAS, the City of Des Moines, Iowa, the City of West Des Moines, Iowa, the City of Windsor Heights, Iowa, the City of Urbandale, Iowa, the City of Clive, Iowa, the City of Ankeny, Iowa, and the City of Altoona, Iowa, (the "Constituent Communities") are parties to the Intergovernmental Agreement Creating the Des Moines Metropolitan Transit Authority, filed of record in the Office of the Recorder of Polk County, Iowa, on June 1, 1973, in Book 4372, Pages 589 through 606; as amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa, on July 27, 1973, in Book 4389, Pages 52 through 61; as further amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa, on August 31, 1973, in Book 4397, Pages 85 and 86; as further amended by Agreement filed of record in the Office of the Recorder of Polk County, Iowa, on January 9, 1981, in Book 5066, Pages 968 through 972; as further amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa, on December 1, 1987, in Book 5797, Page 586; as further amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa on March 11, 2003, in Book 9684, Pages 17 through 26; as further amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa on December 9, 2003, in Book 10303, Pages 62 through 72; and as further amended by an Agreement filed of record in the Office of the Recorder of Polk County, Iowa on January 11, 2005, in Book 10897, Pages 830 through 840 (hereinafter called the "Intergovernmental Agreement");

WHEREAS, the parties to said Intergovernmental Agreement considered it desirable to amend and restate said Intergovernmental Agreement to provide for the organization and governance of the Des Moines Regional Transit Authority pursuant to the provisions of and with all powers provided in, Chapter 28M of the Iowa Code, and to provide for the admission of Polk County, Iowa as a member of the Des Moines Regional Transit Authority (hereinafter "DART"); and therefore, further entered into the Amended and Restated Agreement for the Des Moines Regional Transit Authority, which was filed on May 23, 2006; and subsequently amended by the First Supplement to the Amended and Restated Agreement, which was filed on July 1, 2008; and further amended by the First Amendment to the Amended and Restated Agreement, which was filed on May 20, 2010; and finally further amended by the Second Amendment to the Amended and Restated Agreement, which was filed on June 21, 2012 (hereinafter, collectively "Prior 28E Agreement");

WHEREAS, the Constituent Communities, Polk County, the City of Alleman, Iowa, the City of Bondurant, Iowa, the City of Carlisle, Iowa, the City of Elkhart, Iowa, the City of Granger, Iowa, the City of Grimes, Iowa, the City of Johnston, Iowa, the City of Mitchellville, Iowa, the City of Pleasant Hill, Iowa, the City of Polk City, Iowa, and the City of Runnells, Iowa (hereinafter referred to as the "Participating Communities"), hereby deem it desirable to replace the Prior 28E Agreement and any counterparts thereto to provide for a new governance structure including changes to the organization and composition of the DART Commission, the officers and committees of DART and the procedures for budget and cost allocations to DART;

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WHEREAS, the DART Commission approved the proposed Substituted and Restated 28E Agreement for the Des Moines Regional Transit Authority ("Agreement"), at its meeting on June 6, 2017 which Agreement is on file in the Office of the City Clerk; and

WHEREAS, before becoming effective, the Agreement must now be approved by each of the Participating Communities.

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


Section 1. Approval of Agreement. The form and content of the Agreement is in all respects authorized, confirmed and approved, and the Mayor is hereby authorized and directed to execute the Agreement for and on behalf of the City of Des Moines and the City Clerk is directed to attest to his signature and deliver a copy of the Agreement to DART for filing and the Mayor is hereby authorized and directed to take all actions on behalf of the City consistent with and contemplated by the provisions of the Agreement as may be necessary to carry out and comply with the provisions of the Agreement.

Section 2. Certification. The City Clerk is directed to deliver a certified copy of this resolution and the executed signature page to the Agreement to DART.

(Council Communication No. 17-581)

Moved by Hensley to adopt, refer to the City Manager and Legal Department to work with DART and DART's counsel to address linguistic concerns with the 28E Agreement at the earlier of the next time the 28E Agreement is opened for amendment or December 31, 2018.

APPROVED AS TO FORM:


Lawrence R. McDowell
Deputy City Attorney

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CERTIFICATE

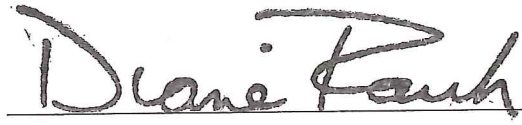
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN		✓		
GATTO		✓		
GRAY	✓			
HENSLEY	✓			
MOORE		✓		
WESTERGAARD	✓			
TOTAL	4	3		
MOTION CARRIED				

APPROVED


T. M. Franklin
Mayor


Diane Rau
City Clerk