

★ Roll Call Number  
18-0149

Agenda Item Number  
39 A

Date January 22, 2018

**APPROVING AND AUTHORIZING EXECUTION OF FIRST AMENDED AND RESTATED CHAPTER 28E AGREEMENT BY AND BETWEEN THE CITIES OF DES MOINES AND WEST DES MOINES, PROVIDING FOR THE MANAGEMENT, OPERATION, MAINTENANCE AND SECURITY OF THE RACCOON RIVER AND WALNUT CREEK FLOOD PROTECTION IMPROVEMENTS**

**WHEREAS**, Des Moines and West Des Moines entered into an Iowa Code Chapter 28E Agreement in November 2003 (hereinafter "Original Agreement"), for purposes of providing for the operation, maintenance, and security of the Raccoon River and Walnut Creek Flood Protection Improvements constructed by the U.S. Army Corps of Engineers; and

**WHEREAS**, Des Moines and West Des Moines now consider it desirable to amend and restate the Original Agreement by this First Amended and Restated Iowa Code Chapter 28E Agreement (hereinafter "Agreement") to add additional Flood Protection Improvements to be constructed by West Des Moines, including a storm water sewer and pump station; and

**WHEREAS**, the Flood Protection Improvements as designed and constructed provide flood protection to residents and businesses of both Des Moines and West Des Moines, and the coordinated and integrated management, operation, maintenance, and security of said Flood Protection Improvements by both Des Moines and West Des Moines is essential to the continued protection of both communities; and

**WHEREAS**, Des Moines and West Des Moines have negotiated the terms of this First Amended and Restated Chapter 28E Agreement, providing for the management, operation, maintenance, and provision of security for those portions of the Flood Protection Improvements within their respective boundaries, and to address the construction of the Walnut Creek Outfall Pump Station on Des Moines property, which Agreement is now on file in the office of the City Clerk.;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF Des Moines, Iowa:**

1. That the First Amended and Restated Chapter 28E Agreement Providing for the Management, Operation, Maintenance and Security of the Raccoon River and Walnut Creek Flood Protection Improvements Constructed by the U.S. Army Corps of Engineers, a copy of which is now on file in the office of the City Clerk, be and the same is hereby approved as to form and content.
2. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, said Chapter 28E Agreement for and on behalf of the City of Des Moines, Iowa.

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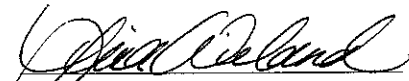
Date January 22, 2018

3. That the City Clerk be and is hereby authorized and directed to record said Chapter 28E Agreement with the Iowa Secretary of State's Office and with the Polk County Recorder's Office.

(Council Communication 18- 036 )

Moved by Mandelbaum adopt.

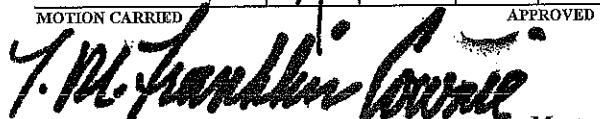
APPROVED AS TO FORM

  
Lisa A. Wieland  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

  
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.



City Clerk