



Roll Call Number

19-1523

Agenda Item Number

48 ✓

Date September 23, 2019

APPROVING AMENDMENT TO CHAPTER 28E AGREEMENT AND NEW 28E BETWEEN THE CITY OF DES MOINES, IOWA AND THE BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES

WHEREAS, the City of Des Moines ("City") and the Board of Water Works Trustees of the City of Des Moines ("Water Works") have been in discussions concerning the Des Moines Blank Park Zoo ("Zoo") and related issues for some time and have come to an agreement to resolve such discussions by adoption of an Amendment to the 28E AGREEMENT approved by the City Council on August 10, 2009, entered into by and between the City and Water Works on August 10, 2009 and filed with the Secretary of State of the State of Iowa as 28E Agreement M502672 on August 12, 2009 and recorded with the Polk County Recorder on September 10, 2009 at Book 13200 at Pages 213-238 (the "28E AGREEMENT"); and

WHEREAS, the Amendment to the 28E Agreement makes numerous additions and changes to the 28E Agreement, including for payment by the Zoo for water charges on a sliding scale, capped at 20% of such charges, elimination of water charges assessed to the Zoo prior to July 1, 2019, the elimination or reimbursement of sewer charges for certain Water Works' offices not producing byproducts, dedication of real property for Water Works exclusive use and enjoyment, elimination of Water Works tap on fees for City projects.

NOW, THEREFORE, BE IT RESOLVED by the Des Moines City Council that it hereby approves:

- 1. The Amendment to the Chapter 28E Agreement Between the City of Des Moines, Iowa and the Board of Water Works Trustees of the City of Des Moines, Iowa above referenced, and authorizes the City Manager to make minor, non-substantive changes to the agreement, subject to approval as to form by the Legal Department, and authorizes and directs the Mayor to execute the Amendment to the 28E Agreement and the City Clerk to attest to his signature upon presentation by the City Manager.
2. The City Clerk is authorized to file the Amendment and Agreement with the Secretary of State and the Polk County Recorder. (Council Communication No. 19-412)

APPROVED AS TO FORM: [Signature] Moved by Gatto to adopt.
Jeffrey D. Lester, City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and 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
J.M. Frankhu Cownie Mayor

Diane Rauh City Clerk