



Roll Call Number

22-0429

Agenda Item Number

40

Date March 21, 2022

APPROVAL OF AMENDMENT TO CHAPTER 28E AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES FOR THE CARE AND MAINTENANCE OF THE FLEUR DRIVE MEDIANS

WHEREAS, on December 19, 2016, by Roll Call No. 06-2191, the City Council approved a 28E Agreement Between the City of Des Moines and the Board of Water Works Trustees of the City of Des Moines for the Payment of Pilot Charges and Maintenance of Fleur Drive Medians and Availability of City Group Benefit Plans (“the 28E Agreement”); and

WHEREAS, an irrigation system is intended to be added to the Fleur Drive medians, with the exception of those medians south of McKinley Avenue, by the City during the phased reconstruction of Fleur Drive beginning in 2019-2020, with such irrigation system expected to be completely installed in the medians in future years as determined by the City’s Fleur Drive construction projects; and

WHEREAS, an irrigation system is also intended to be added to the Fleur Drive medians south of McKinley Avenue by the City as fundraising and grants become available to support completion of such work.

WHEREAS, Des Moines Water Works and the City desire to modify their respective responsibilities in the 28E Agreement relating to the new irrigation system, flood clean-up of Fleur Drive medians, and graffiti removal on City trails and the Fleur Drive medians; and

WHEREAS, Parks and Recreation Department staff have negotiated an amendment to the 28E Agreement with Des Moines Water Works staff, a copy of which is on file in the City Clerk’s Office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the above described Amendment to 28E Agreement Between the City of Des Moines and the Board of Water Works Trustees of the City of Des Moines for the Payment of Pilot Charges and Maintenance of Fleur Drive Medians and Availability of City Group Benefit Plans, a copy of which is available in the City Clerk’s Office, is hereby approved and the Mayor is authorized and directed to sign said Amendment on behalf of the City and the City Clerk is authorized and directed to attest to his signature and to record such fully executed Amendment with the Iowa Secretary of State.



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(Council Communication No. 22- 109)

Moved by Boesen to adopt.

Second by Gatto

APPROVED AS TO FORM:

Ann DiDonato

Ann DiDonato

Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
SHEUMAKER	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, P. Kay Cmelik, 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. Franklin Cownie Mayor

P. Kay Cmelik

City Clerk

**AMENDMENT
TO
28E AGREEMENT BETWEEN THE CITY OF DES MOINES, IOWA AND THE
BOARD OF WATER WORKS TRUSTEES OF
THE CITY OF DES MOINES, IOWA FOR THE PAYMENT OF PILOT CHARGES
AND MAINTENANCE OF FLEUR DRIVE MEDIANS AND AVAILABILITY OF CITY
GROUP BENEFIT PLANS**

THIS AMENDMENT, by and between the City of Des Moines (“City”) and the Board of Water Works Trustees of the City of Des Moines, Iowa (“Water Works”) to the 2016 28E Agreement Between The City of Des Moines, Iowa and the Board of Water Works Trustees of the City of Des Moines, Iowa for the Payment of Pilot Charges and Maintenance of Fleur Drive Medians and Availability of City Group benefit Plans, filed as M509697 with the Iowa Secretary of State (“the 28E Agreement”).

WHEREAS, an irrigation system is intended to be added to the Fleur Drive medians, with the exception of those medians south of McKinley Avenue, by the City during the phased reconstruction of Fleur Drive beginning in 2019-2020, with such irrigation system expected to be completely installed in the medians in future years as determined by the City’s Fleur Drive construction projects; and

WHEREAS, an irrigation system is also intended to be added to the Fleur Drive medians south of McKinley Avenue by the City as fundraising and grants become available to support completion of such work.

WHEREAS, Water Works and City desire to modify the City and Water Works Responsibilities in Part IV of the 28E Agreement as described below.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The following shall be added as additional Water Works Responsibilities in paragraph 10, Part IV of the Agreement:

To subsection 10. A:

- (1) Irrigation yearly start-up, back-flow inspection, shutdown, on-going maintenance, adjustment and replacement of drip irrigation parts, maintaining clock and weather station.
- (2) Repair and maintenance of all irrigation system components, which are not Major Irrigation System Components (described in the amended Part IV, section 11.C(1)), which include but are not limited to, lateral and vertical piping downstream of isolation valves and sprinkler heads.
- (3) Flood clean-up of Fleur Drive medians, City right-of-way along Fleur drive north of Bell Avenue, displays under and adjacent to the MLK Parkway/Fleur drive interchange. Gray’s Lake Park is not the obligation of Water Works to clean-up.

BOARD OF WATER WORKS TRUSTEES
OF THE CITY OF DES MOINES, IOWA



Graham Gillette, Board Chairperson

ATTEST:



Ted Corrigan, CEO and General Manager

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this 23rd day of February, 2022, before me, a Notary Public in and for the State of Iowa, personally appeared GRAHAM GILLETTE and TED CORRIGAN, to me personally known, and, who being by me duly sworn, did say that they are the Board Chairperson and the CEO & General Manager of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA, that no seal has been procured by the entity; that the attached instrument was signed on behalf of the said entity by authority of its Board as contained in the resolution adopted by the Board on the 22nd day of February, 2022, and that GRAHAM GILLETTE and TED CORRIGAN acknowledged the execution of the instrument to be the voluntary act and deed of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA, by it and by them voluntarily executed.



Notary Public in and for the State of Iowa



