

June 5, 2006

Date

RESOLUTION APPROVING AGREEMENT UNDER CHAPTER 28E
BETWEEN POLK COUNTY AND THE CITY OF DES MOINES
REGARDING HEALTH FUNCTION AND ENFORCEMENT

WHEREAS, Iowa Code Chapter 28E, permits local governments in Iowa to make efficient use of their powers by enabling them to provide joint services and facilities with other agencies and to cooperate in other ways of mutual advantage. Iowa Code Section 28E.4 provides that a public agency may enter into an agreement with another public agency pursuant to Chapter 28E, and that appropriate action by ordinance or resolution of the governing bodies involved and recording as required by Iowa Code Section 28E.8 shall be necessary before any such agreement is effective; and

WHEREAS, a 28E Agreement between the City of Des Moines, Iowa ("City") and Polk County, Iowa ("County"), dated February 20, 1995, was recorded by the Polk County Recorder at Book 7163, Page 284. That Agreement had a term of ten (10) years and has lapsed; and

WHEREAS, where a City maintains a Board of Health, Iowa Code Chapter 137 excludes from the jurisdiction of the County Board of Health the area within the municipal limits of the City. Accordingly, a City must agree to grant authority to the County to exercise within the City limits those health powers and health-related enforcement actions that the City does not wish to exercise and retain; and

WHEREAS, the City and County propose to enter into the Agreement attached hereto, which will: (1) pursuant to Iowa Code Chapter 137, confer authority upon Polk County to have its local board of health act within the City of Des Moines as to all those health functions and programs not specifically included in paragraph 3 of the Agreement; and (2) retain to the City Board of Health the authority to act as such as to those health functions and programs operated by the City and enumerated in paragraph 3 of the Agreement.

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

Date June 5, 2006

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1. In light of the mutual undertakings agreed to by the City of Des Moines and Polk County, the City Council of the City of Des Moines, Iowa hereby grants its approval of the 28E Agreement between the City of Des Moines and Polk County as described herein.

2. The Mayor is authorized to execute three counterparts of the Agreement Between Polk County and the City of Des Moines Regarding Health Functions and Enforcement attached hereto as Exhibit A, and the City Clerk is directed to attest to the Mayor's signature.

3. Upon execution of the Agreement, the City Clerk is authorized and directed to deliver the Agreement and counterparts to the Board of Supervisors for Polk County for its approval. Pursuant to the Agreement and Iowa law, the executed counterparts of the Agreement will be recorded in the Official Records of Polk County and filed with the Iowa Secretary of State. Copies of all documents shall be returned to the City of Des Moines Community Development Department, 602 Robert D. Ray Drive, Des Moines, Iowa 50309.

APPROVED AS TO FORM:

(Council Communication No. DC-318)



Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

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

.....Mayor

.....City Clerk