

.....
Date April 8, 2013.....

RESOLUTION APPROVING AMENDED AND SUBSTITUTED 28E AGREEMENT WITH THE BOARD OF WATER WORKS TRUSTEES REGARDING AN ONGOING COOPERATIVE UNDERTAKING TO ACQUIRE, PREPARE AND CONVEY LAND FOR REDEVELOPMENT IN THE DES MOINES AGRIBUSINESS PARK

WHEREAS, on December 6, 1999, by Roll Call No. 99-3719, the City Council approved a 28E Agreement with the Board of Water Works Trustees of the City of Des Moines, Iowa (hereinafter referred to as "Water Works") whereby Water Works agreed to provide one-third of the purchase price of approximately \$1.8 million, for the City to purchase 166 acres of land from the Archer Daniels Midland Company at SE 43rd and Vandalia Road in the SE Agribusiness Urban Renewal Area; and,

WHEREAS, the City and Water Works further agreed that any sale of such land would be subject to approval by the Des Moines Water Works; that the land would be used to accommodate the development of the Des Moines AgriBusiness Park for creating and sustaining value-added agricultural enterprises such as manufacturing and research and development facilities, related support services and other agribusiness functions; and that the City would actively pursue the marketing and development of the Property to achieve these goals, and to promote the sale of the land to large water and sewer customers, tax base generators and other users that satisfy the City's and Water Works' mutual interests; and,

WHEREAS, on February 25, 2013, by Roll Call No. 13-0344, the City Council conditionally approved the sale of 30 acres of such land to Helena Industries, Inc., subject to approval of such sale by Water Works; and,

WHEREAS, the proposed sale to Helena Industries, Inc., has provided an opportunity for the City and Water Works to reexamine the 28E Agreement and to adjust the Agreement to reflect the events and changes that have occurred since the Agreement was executed more than 13 years ago; and,

WHEREAS, the City Manager has negotiated an Amended and Substituted 28E Agreement between the City and Water Works to adapt the Agreement to the current circumstances, all as more specifically described in the accompanying Council Communication.

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

1. The Amended and Substituted 28E Agreement between the City and the Board of Water Works Trustees of the City of Des Moines, Iowa, is hereby approved, subject to such minor changes as may be approved by the City Manager and the City Legal Department.

26-I

Date April 8, 2013

-2-

- Upon receipt of the final Amended and Substitutes 28E Agreement and approval of the same by the City Manager and Legal Department, the Mayor is hereby authorized and directed to sign the Agreement on behalf of the City, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such document.

(Council Communication No. 13- 186)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Assistant City Attorney

G:\USERS\RKBrown\Rog Docs\Eco Dev\DMWWRC 13-04-08 Approve 28E.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ 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