



**Roll Call Number**

22-1779

**Agenda Item Number**

9

**Date** November 21, 2022

**APPROVING 28E AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE CITY OF WEST DES MOINES FOR MAJOR RECONSTRUCTION OF SW 63<sup>RD</sup> STREET/SE 1<sup>ST</sup> STREET FROM WILLOW CREEK AVENUE/SE WILLOW CREEK DRIVE (FORMERLY ARMY POST ROAD) TO THE DEAD END NORTH OF WILLOW CREEK AVENUE/SE WILLOW CREEK DRIVE (FORMERLY) ARMY POST ROAD**

**WHEREAS**, on April 25, 2005, by Roll Call No. 05-997, the City Council approved and authorized execution of a 28E Agreement between the City of West Des Moines and the City of Des Moines for joint maintenance of joint boundary streets (“Boundary Streets Joint Maintenance Agreement”), which Agreement provided for the joint exercise of the Cities’ respective powers by specifically dividing responsibility between the Cities for the joint maintenance and servicing of corporate line roadways and rights of ways in the respective Cities, specifically Southwest 63<sup>rd</sup>/Southeast 1st St; and

**WHEREAS**, said Boundary Streets Joint Maintenance Agreement provides that any major construction or reconstruction within the public right-of-way of any road covered by said Agreement, including major construction or reconstruction of roadway paving and parking, is to be accomplished by mutual agreement between the Cities, including projects involving replacement and reconstruction of greater than 50 square yards of contiguous or proximate paving or aggregate placement of more than 200 ton per year; and

**WHEREAS**, the Public Works Department, in conjunction with the West Des Moines Public Works Department, has determined that the surface of Southwest 63rd Street/SE 1st Street from Willow Creek Avenue/SE Willow Creek Drive (formerly Army Post Road) to the Dead End North of Willow Creek Avenue/SE Willow Creek Drive (formerly Army Post Road) requires a construction project to mill and overlay the right-of-way surface, which project is approximately 5000 feet long and 21 feet wide, including latex paint lines and regrading the shoulders of the street after the new surface is placed, with Engineer’s estimate for the project at \$256,700.00 and with actual construction costs to be split evenly (50% each) between the Cities and Des Moines solely incurring costs for design, inspection and administration; and

**WHEREAS**, the Public Works Department has negotiated a supplementary 28E Agreement between the City of Des Moines and the City of West Des Moines for major reconstruction of boundary streets including Southwest 63rd Street/SE 1st Street from Willow Creek Avenue/SE Willow Creek Drive (formerly Army Post Road) to Dead End North of Willow Creek Avenue/SE Willow Creek Drive (formerly Army Post Road) (“Major Reconstruction Agreement”), which Agreement is on file in the office of the City Clerk and was approved by resolution of the West Des Moines City Council on November 7, 2022; and

**WHEREAS**, the Major Reconstruction Agreement provides that the City of Des Moines will undertake bidding and construction of the project with an anticipated completion date of December 31, 2023; that all actual construction costs of the project will be shared equally, with reimbursement due from West Des Moines following billing on a one-time lump sum basis; and that following project completion, the project area will be maintained and operated in accordance with the Boundary Streets Joint Maintenance Agreement which will remain in effect and binding on both Cities.



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

1. The 28E Agreement between the City of West Des Moines, Iowa and the City of Des Moines, Iowa for Major Reconstruction of Boundary Streets (SW 63<sup>rd</sup>/SE 1<sup>st</sup> Street from Willow Creek Avenue/SE Willow Creek Drive to Dead End North), in form on file in the office of the City Clerk, be and is hereby approved.
2. The Mayor is hereby authorized to execute said Agreement on behalf of the City of Des Moines and the City Clerk to attest to said signature.
3. The City Clerk is directed to file said Agreement with the office of the Iowa Secretary of State.
4. The Public Works Director or designee is authorized and directed to administer said Agreement.

(Council Communication No. 22-533)

MOVED BY Gatto TO ADOPT.

SECOND BY Voss.

APPROVED AS TO FORM:

/s/ Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED

APPROVED

J. M. Franklin Cownie Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner Acting City Clerk