CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: June 1, 2020

ITEM:

Resolution - Approval of Amendment to 28E Agreement with Madison County
Joint Maintenance of Corporate Line Roads and Rights-of-Way

FINANCIAL IMPACT:

City will assume responsibility for a joint portion of former Madison County roads in newly annexed areas. Most of these areas were factored into current budget.

BACKGROUND:

This is an update of our current 28E Agreement with Madison County reflecting roadways which are now under jurisdiction of both the County and the City.

RECOMMENDATION:

City Council Adopt:

- Resolution approving amendment to 28E Agreement with Madison County and authorizing Mayor to execute Agreement.

Lead Staff Member: Kevin L. Hensley, Public Services Superintendent

STAFF REVIEWS

Department Director	Bret Hodne, Public Services Director BH
Appropriations/Finance	TS
Legal	Richard Scieszinski
Agenda Acceptance	AD

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	**Yes**	**No**	**Split**

RESOLUTION

WHEREAS, there is an existing Agreement between Madison County and the City of West Des Moines in accordance with provisions of Chapter 28E, Code of Iowa, providing for the joint maintenance and servicing of several corporate line roads, all within Madison County, Iowa and;

WHEREAS, Madison County and the City of West Des Moines desire to amend the existing Agreement under the provisions of Chapter 28E of the 2020 Code of Iowa, to provide for roadway and rights-of-way maintenance and services of existing and new corporate boundary roadways within and adjoining the City and within Madison County;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WEST DES MOINES, MADISON COUNTY, IOWA, that the 28E Agreement, a copy of which is hereto attached, be duly approved and is authorized to be filed in the office of the Iowa Secretary of State and the Recorder of Madison County, Iowa, and all things necessary to place said 28E Agreement in full force and effect in accordance with Chapter 28E, Code of Iowa, 2020 is herewith authorized.

BE IT FURTHER RESOLVED, the Mayor and City Clerk are hereby authorized and directed to prepare and execute all documents necessary for this 28E Road Maintenance Agreement, and the City Manager and City Clerk are directed to file the same with the State of Iowa as provided by Chapter 28E.

IN WITNESS WHEREOF, the parties here to have set their hands, for the purpose herein expressed.

PASSED AND APPROVED this 1st day of **June, 2020.**

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

28E AGREEMENT BETWEEN THE CITY OF WEST DES MOINES, IOWA AND MADISON COUNTY, IOWA

THIS AGREEMENT, made and entered into by and between Madison County, Iowa, (which hereinafter may be referred to as Madison County or County) and the City of West Des Moines, Iowa (which hereinafter may be referred to as West Des Moines or City), in accordance with provisions of Chapter 28E, Code of Iowa, 2019. The purpose of this Agreement shall be to provide joint exercise of the respective powers of the County and City hereto in connection with the joint maintenance of identified roads and rights-of-way which are under the jurisdiction of both the County and the City. This Agreement shall become binding upon each party after approval by the City Council of West Des Moines and the Board of Supervisors of Madison County. This document shall supersede any and all other documents pertaining to mutual agreement between the City and the County for joint maintenance of identified roads and rights-of-way.

WITNESSETH:

WHEREAS, there are existing corporate line roadways and rights-of-way and new roadways and rights-of-way within areas surrounded by and included in the corporate boundaries of the City and are presently being maintained by the County; and

WHEREAS, under Chapter 28E of the Code of Iowa, 2019, the County Board of Supervisors for Madison County, as a public agency, may enter into an agreement with the City of West Des Moines, another public agency, to provide services to the mutual advantage of both agencies; and

WHEREAS, due to the changing character of certain roads by development of adjacent properties, the County and City desire to execute an Agreement under the provisions of Chapter 28E, Code of Iowa, 2019, to provide for roadway and rights-of-way maintenance and services of existing and new corporate boundary roadways within and adjoining the City and within Madison County.

NOW, THEREFORE, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

1. Termination of Existing Agreement. The existing agreement between Madison County, Iowa, and the City of West Des Moines, Iowa, established in accordance with provisions of Chapter 28E, Code of Iowa filed with the Iowa Secretary of State on January 17, 2018, M510656, and providing for the joint maintenance by the County and the City of West Des Moines of certain common roadways all within Madison County, Iowa, is terminated and shall no longer be in effect upon the approval and acceptance of this Agreement as provided herein.

2. SW Timberbrook Avenue/Timberbrook Avenue (Between Dallas County Line and 105th Street). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance and noxious weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that

portion of SW Timberbrook Avenue/Timberbrook Avenue between the Dallas County Line and 105th Street.

3. 105th Street (Between Timberbrook Avenue/SW Timberbrook Avenue and SW Grand Prairie Parkway/Vintage Avenue). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids and determination of speed limits and their boundaries, for that portion of 105th Street with shared jurisdiction between Timberbrook Avenue/SW Timberbrook Avenue and SW Grand Prairie Parkway/Vintage Avenue.

4. SW Timber Ridge Lane/Timber Ridge Lane (From 105th Street to the terminus of existing roadway). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of SW Timber Ridge Lane/Timber Ridge Lane between 105th Street north to the terminus of the roadway.

5. SW 370th Ct./Madison Avenue (From Union Lane east to the terminus of existing roadway). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of Madison Avenue east of Union Lane to the terminus of Madison Avenue.

6. Valley View Lane (Between 105th Street and SW 370th Ct./Madison Avenue). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of Valley View Lane north of 105th Street to SW 370th Ct./Madison Avenue.

7. SW 370th Court/Madison Avenue (From Valley View Lane east to the terminus of existing roadway). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the County shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform

Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of SW 370th Court/Madison Avenue east of Valley View Lane to the terminus of Madison Avenue.

8. Warren Avenue (From 105th Street to Cumming Road). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the City shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of Warren Avenue south of 105th Street to Cumming Road.

9. SW Kerry Street/110th Lane (From Woodland Avenue to Warren Avenue). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the City shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of SW Kerry Street/110th Lane between Woodland Avenue and Warren Avenue.

10. Veterans Parkway (From Warren Ave to SW Grand Prairie Parkway). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the City shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of Veterans Parkway between Warren Ave and SW Grand Prairie Parkway.

11. SW Grand Prairie Parkway (From SW 370th Court/ Madison Ave. to Veterans Parkway). Except as limited by the provisions of Paragraphs 13 and 14 hereof, the City shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of SW Grand Prairie Parkway between SW 370th Court/Madison Ave. to Veterans Parkway.

12. SW 60th St. (From SW Kerry Street/ 110th Lane to Veterans Parkway) Except as limited by the provisions of Paragraphs 13 and 14 hereof, the City shall perform all maintenance of this section of roadway, including all minor and major roadway surface and shoulder repair, shoulder mowing, trimming of trees and brush protruding into the travel portion of the roadway, control of nuisance weeds, snow and ice removal, and all traffic control related functions in accordance with the Manual on Uniform Traffic Control Devices, including

signing, traffic markings, necessary street lighting, traffic aids, and determination of speed limits and their boundaries, for that portion of SW 60th St. between SW Kerry Street/110th Lane and Veterans Parkway.

13. Any major construction or reconstruction within the public right-of-way of any road enumerated in this Agreement, including major construction or reconstruction of roadway paving and parking, shall be accomplished by a separate mutual agreement between the City and County. Major construction or reconstruction shall include aggregate placement of more than five hundred (500) tons per mile of roadway per year.

14. Any major construction or reconstruction within the public right-of-way of any drainage structure associated with a road enumerated in this Agreement which has shared jurisdiction, shall be accomplished by a separate mutual agreement between the City and County.

15. This Agreement shall remain in effect for ten (10) years from the date it is electronically filed with the Iowa Secretary of State, however, this Agreement may be terminated at any time by a resolution of the Madison County Board of Supervisors or the West Des Moines City Council by giving ninety (90) days written notice to the other party of such intention to terminate. Notice of such termination shall be served by registered mail to the principal meeting place of the other agency. Termination of this Agreement shall not relieve either party of any obligation or liability arising during the term of the Agreement.

16. Each agency shall be solely liable for any claim for damages filed that pertains to the services performed by that agency as outlined above. Each party agrees to defend, indemnify and to hold the other party, its elected officers, agents, employees, successors, and assigns, harmless from and against all claims, demands, actions and/or causes of actions, judgments, settlements, or other costs, including reasonable attorney's fees, which the party, its successors and assigns, may incur or sustain a) by reason of the indemnifying party's breach of this Agreement or failure to legally or timely meet the responsibilities imposed herein, or b) by reason of the torts of the indemnifying party.

17. The costs for performing the duties outlined above shall be borne by the agency performing the service. Each party shall finance its costs in such a manner as permitted by law and as shall be determined by its respective City Council and County Board of Supervisors. Both parties agree to cooperate to the extent necessary to fully comply with all laws applicable to the financing of and contracting for any work or activity contemplated by this Agreement.

18. The parties shall approve this Agreement by resolution of both the Madison County Board of Supervisors and the City Council of West Des Moines, which shall authorize the execution of this Agreement. It will then be electronically filed in the office of the Iowa Secretary of State in accordance with Chapter 28E, Code of Iowa, 2019.

19. This is the entire Agreement between the parties and it may be amended only in writing, signed by authorized representatives of both parties.

20. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Iowa.

21. For the purposes of this Agreement, the Director of Public Services for the City of West

Des Moines shall be the Administrator of this project. By entering this Agreement, the City and County do not intend to create a separate legal entity. The parties do not intend to jointly acquire or hold real or personal property under this Agreement.

22. If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall continue in full force and effect.

23. Each party agrees to execute and deliver such additional instruments and documents and to take all such other action as the other party may reasonably request from time to time in order to effect the provisions and purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands, for the purpose herein expressed.

MADISON COUNTY, IOWA
Board of Supervisors

Passed and approved the
19 day of May, 2020.

Phil Clifton, Supervisor Chair

ATTEST:

Shelley D. Kaster, County Auditor

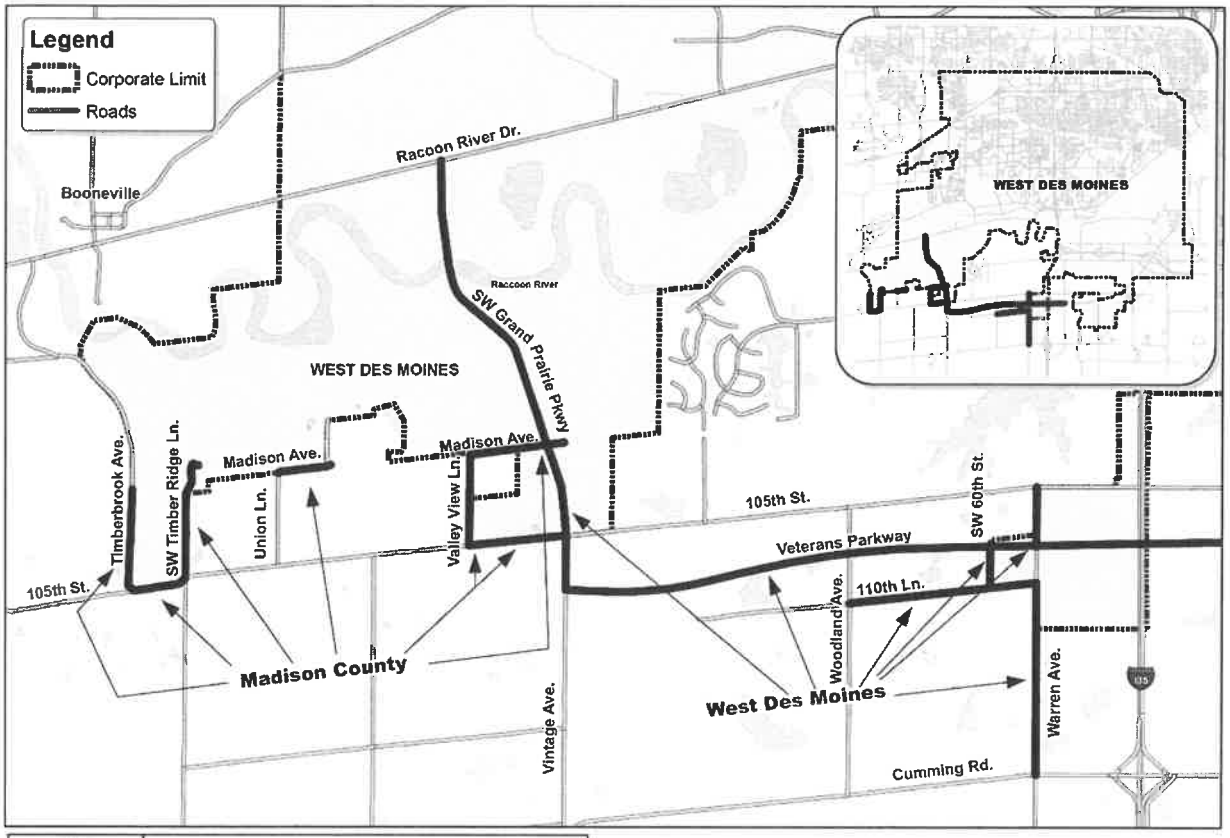
CITY OF WEST DES MOINES, IOWA

Passed and approved the
_____ day of _____, 2020.

Steven K. Gaer, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk



THE CITY OF WEST DES MOINES	PROJECT: Madison County 28E Maintenance Agreement		
	LOCATION		
	AUTHOR JDR	DATE: 3/31/2020	SHEET SHEET 1 of 1

0 3,250 6,500 Feet

1 in = 3,167 ft

RESOLUTION SR-5-19-2020-A

WHEREAS, Iowa Code §28E provides for state and 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; and

WHEREAS, Madison County, Iowa, and the City of West Des Moines, Iowa, desires to enter into this 28E Agreement, the purpose of which is to jointly exercise their respective powers and duties to maintain public streets and roads as to those streets and roads which are on the boundaries between Madison County and the City of West Des Moines, or which extend into the boundary of the other party, and to establish a framework for reaching agreement on major maintenance and construction projects for streets and roads which are on the boundaries between Madison County and the City of West Des Moines, or which extend into the boundaries of the other party; and

NOW THEREFORE BE IT RESOLVED that the Madison County Board of Supervisors approve the *28E Agreement between Madison County, Iowa, And the City of West Des Moines, Iowa*; and

BE IT FURTHER RESOLVED, that the Chairperson is hereby directed to execute said 28E Agreement on behalf of Madison County.

MADISON COUNTY BOARD OF SUPERVISORS

AYE	NAY
Phillip Clifton, Supervisor	Phillip Clifton, Supervisor
Aaron Price, Supervisor	Aaron Price, Supervisor
Diane Fitch, Supervisor	Diane Fitch, Supervisor

ATTEST: Shelley D. Kaster, Madison County Auditor Date: 5/19/2020