

CHAPTER 28E AGREEMENT
Between and Among
The Des Moines Metropolitan Wastewater Reclamation Authority (WRA),
the City of Bondurant and the City of Altoona for the
Provision of Property Acquisition, Design and Construction Administration Services,
and for Financing of the Mud Creek Interceptor, Phase 23 Project,
as an Expedited Project to Construct a WRA Expansion Improvement.

THIS AGREEMENT entered into by and between the Des Moines Metropolitan Wastewater Reclamation Authority (hereafter "the WRA"), the City of Bondurant, Iowa (hereafter "Bondurant") and the City of Altoona (hereafter "Altoona").

WHEREAS, the WRA has adopted and undertaken a program of capital improvements to construct wastewater collection and conveyance system improvements ("WRA Improvements") on behalf of the Participating Communities comprising the WRA, which program of improvements is described, prioritized and scheduled in order of performance in Exhibit 31 to the WRA Agreement executed and entered into by the Participating Communities and effective on and as of July 1, 2004; and

WHEREAS, Article VII, Section 2 of the WRA Agreement, and Exhibits 14 through 27 thereto, identify and prioritize in order of performance the WRA Improvement Projects which the WRA expects to undertake on behalf of the WRA Communities, therein identifying "Core Improvements" to be undertaken on behalf of and financed by the "Core Communities" consisting of the Cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Johnston, Norwalk, Pleasant Hill and West Des Moines, Polk County, Warren County, Waukee, Greenfield Plaza/Hills of Coventry Sanitary District, Urbandale Sanitary Sewer District and Urbandale-Windsor Heights Sanitary District, and therein identifying "Expansion Improvements" to be undertaken on behalf of and financed by the "Expansion Communities" consisting of the Cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Norwalk and West Des Moines, Warren County, Waukee and Urbandale Sanitary Sewer District, as well as any other newly connecting communities that subsequently become Participating Communities of the WRA; and

WHEREAS, the Mud Creek Interceptor, Phase 23 Project is an Expansion Improvement Project to be undertaken by the WRA on behalf of the City of Bondurant and the City of Altoona, construction of which is scheduled to commence in 2012 as shown in Exhibit 31 to the WRA Agreement; and

WHEREAS, the City of Bondurant and the City of Altoona have expressed their desire to have the Mud Creek Interceptor, Phase 23 Project designed, and possibly constructed, prior to the times shown on the schedule in Exhibit 31; and

WHEREAS, the WRA, the City of Bondurant and the City of Altoona have determined and agreed that the WRA Operating Contractor is at this time fully engaged in the management and oversight of the design and construction of other currently scheduled Core and Expansion Improvement Projects and has insufficient staff and resources to simultaneously manage and oversee the Mud Creek Interceptor, Phase 23 Project; and

WHEREAS, pursuant to the WRA Agreement and Exhibit 31 thereto, the WRA is not expected to issue bonds for design and construction, and for acquisition of property for the Mud Creek Interceptor, Phase 23 Project until 2012; and

WHEREAS, the WRA, the City of Bondurant and the City of Altoona have negotiated the terms of this Agreement, pursuant to which the City of Bondurant and the City of Altoona (hereinafter referred to collectively as the "Expediting Communities") will proceed towards the immediate design and the acquisition of property for and construction of a least a portion of the Mud Creek Interceptor, Phase 23 Project (hereinafter referred to as "the Expedited Project" or "the Project"), under the procedures herein provided; and

WHEREAS, under this Agreement the City of Bondurant will provide funding for the Expedited Project, and the WRA will reimburse the City of Bondurant the costs which it so incurs at such time as the WRA sells its bonds for the Project, pursuant to the schedule set forth in the WRA Agreement and in Exhibit 31 thereto; and

NOW THEREFORE, the WRA, the City of Bondurant and the City of Altoona (hereafter referred to collectively as "the Parties" and sometimes individually as a "Party") do hereby agree as follows:

Part I - Joint Exercise of Powers Under Chapter 28E of the Code of Iowa.

1. Pursuant to Chapter 28E of the 2007 Code of Iowa, the Parties do hereby agree that the purpose of this Agreement is to jointly exercise their respective powers to design, acquire property for, administer the construction of, and construct public improvements (a/k/a/ WRA improvements), and that pursuant to this Agreement the City of Bondurant is undertaking (a) to procure the services of a design professional and secure the design of the Mud Creek Interceptor, Phase 23 Project, all as more particularly described in Exhibit A hereto; (b) procure the services of an acquisition agent and an appraiser to assist in the acquisition of properties or property interests, as needed, for the Mud Creek Interceptor, Phase 23 Project as described in Exhibit A hereto (hereafter "the Project"); and (c) to procure by competitive bid a contract for construction of the improvements described in Exhibit A (hereinafter "the Project Improvements") or a portion thereof and to administer said contract and to oversee the construction of the Project, all as more particularly hereafter provided.

2. The Parties agree that this Agreement shall be effective upon its approval and execution by all Parties and its recording with the Secretary of State, Polk County Recorder's Office, and that the duration of this Agreement shall be for a period of ten (10) years or until such time as both Parties have discharged their respective obligations under this Agreement, whichever occurs later.

3. The Parties hereby agree that the City Administrator of the City of Bondurant and the WRA Director shall be designated as co-administrators for purposes of this Agreement as provided by Section 28E.6 of the Code of Iowa, that the Bondurant City Administrator on behalf of itself and City of Altoona shall administer (a) the provision of design services, property appraisal services and property acquisition services for the Project, and (b) the procurement and administration of Project construction services by the City of Bondurant and the City of Altoona, and that the WRA Director shall administer this Agreement on behalf of the WRA.

4. The Parties hereby agree that the WRA shall exercise oversight over the provision of design services for the Project, oversight over the provision of property appraisal and property acquisition services for the Project, and oversight over the procurement and administration of the construction contract for the Project Improvements by City of Bondurant, all as more particularly hereafter provided,

and the WRA agrees to reimburse City of Bondurant, as hereafter provided, all costs and expenses which it incurs in procuring and administering the provision of said services, in securing property for the Project, and in securing the design and construction of the Project Improvements.

Part II - Selection and Approval of Consultant for Provision of Design, Appraisal and Property Acquisition Services for the Project; Preparation of Preliminary Project Design and Preliminary Project Budget; Public Hearing on Proposed Project; Approval of Preliminary Design; Authorization to Undertake Final Design of the Project Improvements; Authorization to Acquire Properties for the Project; Authorization to Procure a Contract for the Construction of Project Improvements

5. Bondurant intends to contract for Engineering Services with Veenstra & Kimm, Inc. (hereinafter Bondurant's "Consultant"), the selection of which consultant was made by the WRA pursuant to WRA policy for the selection of consultants. Any contract with Veenstra & Kimm, Inc. or any other consultant on this Project must be approved by the WRA.

6. The City of Bondurant agrees that it will cause its Consultant to prepare a Preliminary Project Design and a Preliminary Project Budget for the Project. The Preliminary Project Design shall include a description of the Project Improvements, a description of the route of the Project and a listing of the properties and the property owners whose properties will have to be acquired to accommodate construction of the Project Improvements as shown in the Preliminary Project Design. The Preliminary Project Budget shall include:

- (a) an estimate of the design costs for the Project;
- (b) an estimate of the property acquisition costs for the Project, including an estimate of the consultant fee for property acquisition costs services, and estimate of fee for appraisal services and the estimated cost to acquire (purchase costs and condemnation award) all properties required for the Project; and
- (c) an estimate of the cost to construct the Project Improvements, including the consultant fee for construction administration, observation and inspection services. The estimate for construction shall be divided between that portion of the Project Improvements North of the south right-of-way line of Interstate 80 and that portion of the Project Improvements south of the south right-of-way line of Interstate 80.

Any and all costs associated with a temporary connection to the Altoona sewer shall not be included in the Preliminary Project Budget.

7. Bondurant shall follow the provisions of House File 2351 and Chapters 6A and 6B of the Iowa Code as amended by HF 2351 in acquiring all property interests for the Project. In the event that agricultural land, as defined in Section 6A.21 of the Iowa Code, will have to be acquired to accommodate construction of the Project Improvements as shown in the Preliminary Project Design, Bondurant agrees that it will cause a notice of public hearing to be published and served upon all property owners whose properties will be affected by, or will have to be acquired to accommodate construction of, the Project Improvements, and that it will coordinate the holding of such hearing before the WRA Board, all as required by Chapter 6B of the Iowa Code and as further provided by the WRA Policy Regarding the Acquisition of Property for WRA Improvements and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of

the WRA Board. Bondurant and Altoona acknowledge that absent notice to property owners and the holding of a public hearing as provided and required by Section 6B.2A of the Iowa Code, the WRA may not have authority to acquire by condemnation properties needed for the Project. At the conclusion of the hearing on the proposed project, the WRA Board shall consider approval of the Preliminary Project Design and Preliminary Project Budget as presented and recommended by the Expediting Communities and Bondurant’s Consultant. Bondurant agrees that it will cause a notice of public hearing to be published and served upon all property owners whose properties is proposed to be acquired by eminent domain, to an any contract purchaser of record of the property, and to any tenant known to be occupying the property at least fourteen days prior to the date of the meeting at which such proposed authorization will be considered for adoption by the WRA pursuant to 6B.2D of the Iowa Code. The notice shall include the date, time and place of the meeting and statement that the persons receiving the notice have a right to attend the meeting and to voice objection to the proposed acquisition of the property. The notice shall include a copy of the proposed resolution, motion, or other document authorizing acquisition by eminent domain. The notice shall also include the same statement of individual rights that is required by section 6B.2A. Bondurant and Altoona shall coordinate the holding of such hearing before the WRA Board. Bondurant and Altoona acknowledge that absent notice to property owners and the holding of a public hearing as provided and required by Section 6B.2D of the Iowa Code, the WRA may not have authority to acquire by condemnation properties needed for the Project. A resolution authorizing use of eminent domain will presented for action before the WRA Board at the conclusion of the hearing.

8. After the necessary hearings set forth above, upon Board approval of the Preliminary Project Design and Preliminary Project Budget as presented and recommended by the Expediting Communities and by Bondurant’s Consultant, (a) Bondurant shall be authorized to cause its Consultant to prepare final plans and specifications for the Project; and (b) Bondurant and WRA Operating Contractor shall be authorized to acquire property for the Project in the name of Bondurant, Altoona and the WRA, as appropriate and more particularly hereinafter provided and pursuant to the WRA Policy Regarding the Acquisition of Property for WRA Improvement Projects and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of the WRA Board.

9. Upon Board approval of the Preliminary Project Budget, Bondurant shall be deemed authorized to expend not to exceed the amounts set forth in said Budget to secure the design of Project Improvements, and the acquisition of properties for the Project, and the construction of that portion of the Project Improvements North of the South right-of-way line of Interstate 80, all as more particularly hereinafter provided.

Part III - Preparation and Approval of Final Project Design (Plans and Specifications).

10. Upon the WRA Board's approval of the Preliminary Project Design and Preliminary Project Budget as provided in Part III hereof, Bondurant shall cause its Consultant to prepare the plans and specifications for the Project Improvements as required by Chapter 26 of the Iowa Code and House File 2713. Bondurant shall prepare plans and specifications for the entire Project Improvements and such plans and specifications must be sufficient to allow it to be bid as a minimum of two separate contracts, that south of the south right-of-way line of Interstate 80 and that north of the south right-of-way line of Interstate 80. Bondurant shall prepare specifications for separating the project into

additional contracts if approved by the WRA. Upon completion of the plans and specifications, Bondurant shall cause same to be submitted to the WRA Director for review and approval.

11. The WRA Director shall have the authority to approve said plans and specifications and revisions to the plans and specifications proposed by the Expediting Communities and by Bondurant's Consultant, and shall have authority to propose revisions to the plans and specifications. If the WRA Director and the Expediting Communities cannot agree with respect to proposed revisions to the plans and specifications, any of the Parties may cause them to be submitted to the WRA Technical Committee for further review and recommendation. If at the conclusion of such review by the Technical Committee, the WRA Director and the Expediting Communities are still in disagreement with respect to proposed revisions to the plans and specifications, any of the Parties may cause such plans and specifications to be submitted to the WRA Board for its consideration. The determination of the WRA Board with respect to the approval of the plans and specifications, or with respect to revisions thereto, shall be final.

Part IV - Establishment of Fair Market Value for Project Properties; Acquisition of Properties for the Project; Approval of Settlements in Excess of Approved Fair Market Value; Condemnation of Properties Not Acquired by Negotiation; Appeal of Condemnation Awards; Abandonment of Condemnation.

12. Bondurant shall cause its Consultant to employ the services of a professional appraiser to appraise the value of all properties to be acquired in whole or in part for the Project. Bondurant shall obtain the approval of all fair market value estimates for project properties by either the WRA Board or by the WRA Director, all as provided and required by Chapter 6B of the Iowa Code and by the WRA Policy Regarding the Acquisition of Property for WRA Improvement Projects and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of the WRA Board.

13. Bondurant shall further cause its Consultant to present purchase offers to the owners, contract purchasers and interest holders of properties required for the Project, as appropriate, which purchase offers shall be in the amount of the approved fair market values of such properties, all as provided and required by Chapter 6B of the Iowa Code and by the WRA Policy Regarding the Acquisition of Property for WRA Improvement Projects and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of the WRA Board. Permanent easements for sanitary sewer facilities and conveyance documents for other property interests which are obtained for the Project shall be in the form approved by the WRA. A negotiated purchase of a property or of a permanent easement for the Project shall not be concluded unless and until Bondurant has obtained an opinion or certification from its legal counsel that the grantor of the property or easement is lawfully possessed of the property and authorized to make such conveyance, and that such conveyance is made free and clear of all encumbrances.

14. Administrative Settlements for the acquisition of properties required for the Project shall be subject to approval by the WRA Board or by the WRA Director, all as provided and required by Chapter 6B of the Iowa Code and by the WRA Policy Regarding the Acquisition of Property for WRA Improvement Projects and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of the WRA Board. Absent Board approval of property acquisition settlements in excess of the approved Fair Market Value, or Board approval of an amendment to the Project Budget, Bondurant shall be responsible for all costs which it incurs which are in excess of the Project Budget, and such excess costs shall not be included in the purchase price of the Project (a/k/a Final Project Cost) to be paid by the WRA under Part VI hereof.

15. If Bondurant is unable to acquire a property required for the Project by negotiation, the WRA shall cause its Operating Contractor to initiate condemnation proceedings against the property owner, contract purchaser and/or interest holders, as appropriate, all as provided and required by Chapter 6B of the Iowa Code and by the WRA Policy Regarding the Acquisition of Property for WRA Improvement Projects and Regarding the Acceptance or Grant of Property Interests, as said Policy presently exists or as it is hereafter amended by action of the WRA Board. Except in the event the WRA or Bondurant exercises its right to decline payment of the condemnation award and abandon the condemnation, Bondurant shall pay the condemnation award made by the Sheriff's compensation commission, as compensation and damages for acquisition of the property and all related interests, together with the Sheriff's fees in connection therewith. Regardless whether Bondurant pays the condemnation award or exercises its right to abandon the condemnation, Bondurant shall pay the Operating Contractor's fees and costs in connection with the condemnation proceedings, including but not limited to attorney fees, witness fees, and service and publication fees. The compensation commission's award and the Sheriff's fees and costs above identified shall be paid by Bondurant within 21 days after entry of the award by the commission. The Operating Contractor's fees and costs in connection with the condemnation proceedings shall be paid by Bondurant within 30 days after it receives a billing statement from the WRA for said fees and costs. If the Operating Contractor's fees and costs in connection with the condemnation proceeding before the compensation commission are not paid by Bondurant within 60 days after such costs are billed to Bondurant, such fees and costs shall be reimbursed to the Operating Contractor by the WRA. The WRA may institute legal proceedings to collect such fees and costs from Bondurant.

16. If Bondurant fails or declines to pay the award of the compensation commission, as required by Chapter 6B of the Iowa Code, together with the Sheriff's fees and costs and the Operating Contractor's fees and costs in connection therewith and in connection with its administration of this Agreement, the WRA may decline to proceed with the Project, may refuse to allow the Project Improvements to be connected to the WRA System, may refuse to purchase said improvements, may refuse to operate and maintain said improvements, and/or may declare the Project and any condemnation proceedings in connection therewith to be abandoned. In the event the WRA declares the Project and/or any condemnation proceeding in connection therewith abandoned, Bondurant shall be obligated to pay all damages payable to the property owner or interest holders in connection with the abandonment of said condemnation proceeding, together with the Sheriff's fees and costs and the Operating Contractor's fees and costs in connection with the condemnation proceeding before the compensation commission and in connection with its administration of this Agreement. Should Bondurant fail to pay damages to the property owner or interest holders on account of abandonment of condemnation, together with the sheriff's and the Operating Contractor's fees and costs in connection with the condemnation proceeding and in connection with its administration of this Agreement, Bondurant shall be considered in breach of

this Agreement and the WRA shall be entitled to judgment against Bondurant in the amount of the award of the compensation commission, together with accrued unpaid costs and fees, plus interest.

17. If the WRA and Bondurant determine that the award of the compensation commission is excessive, they may direct that the Operating Contractor appeal such award to District Court in the county in which the condemned property is situated, or they may direct that such appeal be made by Bondurant's legal counsel. If the property owner or an interest holder in the property appeals the award of the compensation commission to district court, the WRA and Bondurant may direct the Operating Contractor to defend such appeal, or they may direct that such appeal to be defended by Bondurant's legal counsel. As a condition of the Operating Contractor's prosecution or defense of such appeal, Bondurant shall be required to deposit the award of the compensation commission with the sheriff, and shall be required to pay all of the sheriff's fees and costs as well as the Operating Contractor's fees and costs in connection with the condemnation proceeding before the compensation commission and in connection with its administration of this Agreement. Bondurant shall pay the condemnation award entered by the district court pursuant to such appeal, together with the Operating Contractor's fees and costs in connection therewith, including but not limited to attorney fees, witness fees, court costs and service and publication fees, and its costs in connection with its administration of this Agreement. If the Operating Contractor's fees and costs in connection with the appeal of the condemnation award to district court are not paid by Bondurant within 60 days after such costs are billed to Bondurant, such fees costs shall be reimbursed to the Operating Contractor by the WRA. The WRA may institute legal proceedings to collect such fees and costs from Bondurant.

18. If Bondurant fails or declines to pay the condemnation award entered upon appeal to district court, as required by Chapter 6B of the Iowa Code, together with the Operating Contractor's fees and costs in connection with the appeal and in connection with its administration of this Agreement, and if the Project Improvements are not then completed and connected to the WRA System, the WRA may decline to proceed with the Project, may refuse to allow the Project Improvements to be connected to the WRA System, may refuse to purchase said improvements, may refuse to operate and maintain said improvements, and/or may declare the Project and any condemnation proceedings in connection therewith to be abandoned. In the event the WRA declares the Project and/or any condemnation proceeding in connection therewith abandoned, Bondurant shall be obligated to pay all damages payable to the property owner or interest holders in connection with the abandonment of said condemnation proceeding, together with the Operating Contractor's fees and costs in connection with the appeal and in connection with its administration of this Agreement. If Bondurant fails to pay damages to the property owner or interest holders on account of abandonment of condemnation, together with the Operating Contractor's fees and costs in connection with the appeal and in connection with its administration of this Agreement, Bondurant shall be considered in breach of this Agreement and the WRA shall be entitled to judgment against Bondurant in the amount of such unpaid damages together with accrued unpaid costs and fees, plus interest.

19. If Bondurant fails or declines to pay the condemnation award entered upon appeal to district court, as required by Chapter 6B of the Iowa Code, together with the Operating Contractor's fees and costs in connection with the appeal and in connection with its administration of this Agreement, and if the Project Improvements have been completed and connected to the WRA System and accepted by the WRA, Bondurant shall be considered in breach of this Agreement and the WRA shall be entitled to judgment against Bondurant in the amount of such unpaid condemnation award and accrued unpaid costs and fees, plus interest.

**Part V - Procurement of Contract to Construct Project
Improvements; Approval of Plans and Specifications; Approval of Cost Estimate
for Construction and Final Project Budget; Approval and Execution of Contract to
Construct Project Improvements; Administration of Contract to Construct Project
Improvements; Approval of Progress Payments and Change Orders;
Final Approval and Acceptance of Project Improvements.**

20. Upon approval of the plans and specifications for the Project Improvements as provided in Part III, Bondurant shall be authorized to procure bids for construction of the Project Improvements for that portion of the Project north of the south right-of-way line of Interstate 80, pursuant to the competitive bidding process in Chapter 26 of the Iowa Code and House File 2713 and pursuant to the WRA Policy Regarding the Provision or Procurement of Design and Construction Services for WRA Improvement Projects, as said Policy presently exists or as it is hereafter amended by action of the WRA Board. Bondurant shall publish the notice to bidders and shall publish notice for and hold the public hearing on the plans and specifications, form of contract and cost estimate for construction of the Project Improvements.

21. After receipt and tabulation of bids for construction of the Project Improvements, Bondurant shall present such bids and bid tabulation, together with the Final Project Budget and the recommendation of the Expediting Communities and Bondurant's Consultant with respect to the award of contract to the lowest responsive, responsible bidder, to the WRA Board for its review and approval. Upon the Board's approval of said recommendation as to award of contract, and its approval of the Final Project Budget, and upon conclusion of Bondurant's public hearing on the plans and specifications, form of contract and cost estimate for construction of the Project Improvements, Bondurant shall be authorized to enter into a contract for construction of the Project Improvements with the lowest responsive, responsible bidder recommended by the Expediting Communities and Bondurant's Consultant. For purposes of the Final Project Budget for this Agreement, the WRA Board shall only consider and approve that portion of the Project Improvement to be constructed North of the South right of way line of Interstate 80.

22. Bondurant shall provide construction administration services in conjunction with the construction of the Project Improvements. Construction administration services shall include the following:

- (a) Require the contractor to obtain, and to maintain in continuous effect, the insurance coverages and the performance, maintenance and payment bond as specified in the contract documents;
- (b) Provide qualified personnel to observe the progress of construction at appropriate stages to determine if the work is proceeding on schedule and being performed in accordance with the design documents and related contract documents;
- (c) Perform compaction tests and test materials provided or emplaced by contractor to determine compliance with the design documents and related contract documents;
- (d) Review contractor requests for progress payments to determine the appropriateness thereof;
- (e) Process contractor requests for progress payments, obtain approval of appropriate progress payments by Bondurant's governing body, and make progress

payments to contractors, withholding therefrom the required 5% retainage pursuant to Chapter 573 and 26 of the Iowa Code;

(f) Review contractor requests for change orders and time extensions to determine the appropriateness thereof;

(g) Process contractor requests for change orders and time extensions, obtain approval thereof by Bondurant's governing body, and make change order payments to contractors, withholding therefrom the required 5% retainage pursuant to Chapters 573 and 26 of the Iowa Code;

(h) Process claims made by subcontractors and material suppliers pursuant to Chapter 573 of the Iowa Code, and administer the retainage fund in accordance therewith;

(i) Upon contractor request for final payment, conduct a final inspection and develop a punch list of items for completion, if any; and

(j) Maintain all Project documents and records for the mandatory three (3)-year retention period from the date of final payment for inspection and auditing by Bondurant, WRA and any other authorized governmental agency.

The Parties further agree that the Operating Contractor shall be entitled to charge to the Project its costs and those of the WRA Director in administering the performance of this Agreement by the Parties. Bondurant agrees to pay such charges pursuant to periodic billings from the Operating Contractor, and such charges shall be included in Bondurant's Certification of Final Project Cost as provided in Paragraph 24 of this Part. If Bondurant disputes the amount of the costs of administration billed to it by the Operating Contractor, either the WRA or Bondurant may cause said matter to be submitted to binding arbitration as provided in Part VII hereof.

23. Contract change orders requested by the contractor, which increase the contract price for construction of Project Improvements, shall be subject to review and approval by the WRA Board or the WRA Director, pursuant to the WRA Policy Regarding the Provision or Procurement of Design and Construction Services for WRA Improvement Projects, as said Policy presently exists or as it is hereafter amended by action of the WRA Board. If the WRA Director and the Expediting Communities cannot agree with respect to a proposed contract change order, any of the Parties may cause the matter to be submitted to the WRA Technical Committee for further review and recommendation. If at the conclusion of such review by the Technical Committee the WRA Director and the Expediting Communities are still in disagreement with respect to the proposed change order, any of the Parties may cause such proposed change order to be submitted to the WRA Board for its consideration. The Board's determination with respect to any change order shall be considered final. Bondurant shall be deemed authorized to expend not to exceed the amount of the lowest responsive, responsible bid approved by the Board to secure the construction of the Project Improvements. Absent the approval of contract change orders by the Board or by the WRA Director, either before or after such change orders are authorized by Bondurant, Bondurant shall be responsible for all construction cost increases which it incurs in connection with such change orders which are in excess of the lowest responsive, responsible bid approved by the Board, and such excess costs shall not be included in the purchase price of the Project (a/k/a Final Project Cost) to be paid by the WRA under Part VI hereof.

24. When the contractor requests final payment, Bondurant shall arrange for a final inspection of the Project Improvements and shall inform the Operating Contractor in writing of the date and time thereof.

The WRA shall cause its Operating Contractor to provide a qualified representative to attend and participate in such final inspection. The Expediting Communities and the Operating Contractor shall be responsible for developing the punch list of work items for completion, and shall determine when such items have been completed. If the Expediting Communities and the Operating Contractor have a dispute as to whether the Project Improvements have been completed, or with regard to the punch list of work items remaining to be completed, any of the Parties may cause said matter to be submitted to binding arbitration as provided in Part VII hereof. Upon determination by the Expediting Communities and the Operating Contractor that construction of the Project Improvements have been completed, they shall present their joint recommendation in that regard to the WRA Board, together with Bondurant's Certification of Final Project Cost, which Certification shall include a listing of:

- (a) all design costs for the Project;
- (b) all property acquisition costs for the Project, including the consultant fee for property acquisition services, the fee for appraisal services, and the cost to acquire (purchase costs and condemnation awards) all properties required for the Project;
- (c) the cost to construct the Project Improvements north of the south right of way line of Interstate 80, including the consultant fee for construction administration, observation and inspection services; and
- (d) all charges made to the Project by the Operating Contractor to cover its cost of administering this Agreement.

In the event that Bondurant subsequently determines that it has incurred bona fide project costs, consistent with the provisions of this Agreement, in excess of the Final Project Cost amount shown in the Certification of Final Project Cost approved by the Board, it may submit a request for Board approval of the inclusion of such additional costs in the Final Project Cost amount, together with such supporting documentation as the WRA Director may require. The Board may, in its discretion, approve such request for inclusion of additional costs in the Final Project Cost amount if it determines that such costs were incurred in accordance with the provisions of this Agreement and with applicable WRA Policies. If the Board declines to approve Bondurant's request for inclusion of such additional costs in the Final Project Cost amount, either the WRA or Bondurant may cause said matter to be submitted to binding arbitration as provided in Part VII hereof.

25. Upon the Board's determination that the Project has been completed, and upon the Board acceptance of Bondurant's Certification of Final Project Cost, Bondurant shall be authorized to make final payment to the contractor. If the Board declines to approve Bondurant's Certification of Final Project Cost, either the WRA or Bondurant may cause said matter to be submitted to binding arbitration as provided in Part VII hereof.

26. (a) In the event that the condemnation award for a property acquired by condemnation is under appeal to district court or to an appellate court as of the date of Project completion, and the award and the fees and costs associated therewith have not been finally determined, Bondurant's Certification of Final Project Cost shall include an estimate of the final amount of such award, fees and costs upon conclusion of the appeal proceedings.

(b) If upon the conclusion of the district court appeal the amount of the condemnation award, fees and costs is less than the estimate, the Final Project Cost amount and purchase price of the

Project shall be decreased accordingly. If such appeal is concluded by trial, and the final amount of the trial court award, and the fees and costs assessed by the court, exceed the estimate, the Final Project Cost amount and purchase price of the Project shall be increased accordingly. If it is proposed that such district court appeal be concluded by a negotiated settlement or by consent decree increasing the award, fees or costs, such proposed settlement or consent decree shall be subject to approval by the WRA and Bondurant. If the proposed settlement or consent decree is not approved by both the WRA and Bondurant, the district court appeal shall be tried.

(c) Unless the WRA and Bondurant agree the district court's award, or its assessment of fees and costs, is excessive and should be appealed, the award of the district court and the fees and costs which it assesses shall be paid and the Final Project Costs and purchase price shall be adjusted accordingly. If the district court's award, or its assessment of fees and costs, is appealed to an appellate court by the property owner, such appeal shall be defended unless the WRA and Bondurant agree to a settlement of such appeal. If upon conclusion of an appellate court appeal the amount of the district court's award, fees and costs is less than the estimate, the Final Project Cost amount and purchase price of the Project shall be decreased accordingly. If upon the conclusion of such appeal the amount of the district court's award, and its assessment of fees and costs is more than the estimate, the Final Project Cost amount and purchase price of the Project shall be increased accordingly. The settlement of any appellate court appeal shall be subject to the approval of both the WRA and Bondurant.

(d) If Bondurant does not agree with the Board's reduction of the Final Project Cost and purchase price as provided in subparagraphs (b) or (c) above, either the WRA or Bondurant may cause said matter to be submitted to binding arbitration as provided in Part VII hereof.

(e) The payment of \$1,000,000 by Altoona in paragraph 28(c) shall not be subject to arbitration or appeal.

27. (a) Upon Bondurant's demonstration to the satisfaction of the WRA that final payment has been made to the contractor, and that all property acquisition costs and related fees and charges then due have been paid as required in Part IV, the WRA Board shall by resolution agree to allow the connection of the Project Improvements to the WRA System and their use by Bondurant and Altoona, with operation and maintenance thereof by the WRA, all on an interim basis until final acceptance and purchase of the Project Improvements by the WRA as provided in Part VII hereof. Bondurant and Altoona pursuant to Paragraph 27(b) of this part, shall be responsible for payment of WRA operation and maintenance costs attributable to the Project Improvements as of the date said Improvements are actually connected to the WRA System and wastewater flows therefrom into the WRA System commences.

(b) The Parties acknowledge that if the Expediting Communities elect to proceed with a construction contract south of Interstate 80, the Parties shall amend this agreement prior to approval by the WRA of any construction. Said amendment shall provide the City of Altoona, rather than the City of Bondurant, shall be responsible for the construction contract and administration as set forth herein.

Part VI - Expediting Community's Financing of Project Improvements Pending WRA's Issuance of Bonds; WRA Purchase of Project Improvements; Expediting Community's Conveyance of Project Improvements and Project Properties to WRA; WRA's Final Acceptance of Project Improvements.

28. (a) The Parties acknowledge and agree that pursuant to the WRA Agreement and Exhibit 31 thereto, the WRA is not expected to issue bonds for design and construction, and for acquisition of property for Mud Creek Interceptor, Phase 23 Project until 2012, or thereafter. The Parties further agree that Bondurant shall be solely responsible for funding the design of the Project Improvements. The Parties further agree that Bondurant shall be responsible for funding acquisition of property for the Project. The Parties further agree that the responsibility for funding construction of the Project north of the south right-of-way line of Interstate 80 shall rest with the City of Bondurant. The Parties further agree that the responsibility for funding construction of the project south of the south right-of-way line of Interstate 80 shall be determined by the Expediting Parties by an amendment to this Agreement prior to any construction by the expediting communities of the project south of the south right-of-way line of Interstate 80. The Parties agree the responsibility for funding the design, acquisition of property and construction shall continue until such time as the WRA issues its bonds to purchase the Project as provided in the WRA Agreement and in Exhibit 31 thereto. The financing costs incurred by Bondurant and Altoona shall not be included in the Certificate of Final Project Cost or form part of the purchase price paid by the WRA for the Project Improvements.

(b) The Parties acknowledge that Exhibit 31 to the WRA Agreement provides that the Mud Creek Interceptor, Phase 23 Project is to be funded with March 1, 2012 new money bonds with an estimated present value of \$6,750,000 and the future value cost of \$8,715,738.

(c) The Parties acknowledge and agree that Altoona is responsible to provide funding for \$1,000,000 of design and right-of-way acquisition related costs for the Mud Creek Interceptor and that such costs will not be shared or reimbursed by the WRA or Bondurant. The Parties agree that the sum of \$1,000,000 will be deducted from the purchase price paid by the WRA for the Project Improvements.

29. (a) Bondurant and Altoona represent that they will fund the design and construction of the Project Improvements, and the acquisition of property for the Project, on an interim basis as hereinabove provided, by advancing cash from cash reserves, or through the sale of bonds, notes or other financing options, where principal and interest payments thereon are payable by Bondurant and/or Altoona as indicated in Part VIII hereof.

(b) The Parties agree that the purchase price of the Project Improvements north of the south right of way line of Interstate 80 shall be the amount set forth in the Certificate of Final Project Cost approved by the Board, and that such amount will be funded by the WRA solely through the issuance of bonds as described in the WRA Agreement, less Altoona's responsibility as set forth above in Paragraph 28(c). Bondurant and Altoona acknowledge that the timing of the issuance of bonds for the Project, or any phase thereof, shall be in the Board's sole discretion, but if the Board or an arbitrator, acting pursuant to Paragraph 26 of Part V hereof, has approved Bondurant's Certificate of Final Project Cost prior to March 1, 2012, funding for the Project shall be included in the bond issue contemplated for issuance on March 1, 2012 regardless whether said bond issue occurs before or after said date.

30. Upon its issuance of bonds for the Project as above provided, and as provided in the WRA Agreement and Exhibit 31 thereto, and upon the availability of WRA bond proceeds, the WRA agrees that it will purchase the Project for the amount shown in Bondurant's Certification of Final Project Cost which has been approved by the WRA Board.

31. When bond funds are available for the Project Improvements, the Board shall so notify Bondurant and request that Bondurant initiate the process under Section 364.7 of the Iowa Code for conveyance of the Project Improvements and Project Properties to the WRA. Such conveyance shall be by Quit Claim Deed in the form appended hereto as Exhibit B, and shall be accomplished pursuant to governing body proceedings (resolutions and public notice of intent to convey) in the form appended hereto as Exhibit C. Prior to commencing the conveyance process under Section 364.7 of the Iowa Code, Bondurant, and if applicable Altoona, shall prepare and submit to the WRA the proposed form of Quit Claim Deed, including the description of the Project Improvements and Project Properties to be conveyed, together with the proposed governing body proceedings (governing body resolutions and public notice of intent to convey), by which Bondurant, and if applicable Altoona, will authorize such conveyance. Upon review and approval of the proposed form of Quit Claim Deed and governing body proceedings by the WRA Operating Contractor's legal counsel, the WRA Director shall direct Bondurant, and if applicable Altoona, to initiate said conveyance proceedings.

32. Upon completion of the Section 364.7 conveyance process and execution of the Quit Claim Deed by Bondurant, Bondurant shall so inform the WRA Director and shall arrange a time and place for closing. At the closing, Bondurant, and if applicable Altoona, shall deliver the executed Quit Claim Deed for the Project Improvements and Project Properties, together with the executed governing body proceedings and proof of publication of notice of intent to convey, to the WRA Operating Contractor's legal counsel for examination and approval. Upon approval thereof by the WRA Operating Contractor's legal counsel, the WRA Director shall deliver to Bondurant the WRA's warrant in the amount of the purchase price thereof, being the final cost amount shown in the Certification of Final Project Cost, less Altoona's responsibility set forth in paragraph 28(c). approved by the Board, or in such increased Final Cost Amount subsequently approved by the Board at the request of Bondurant, as provided in Part V, Paragraphs 24 or 26.

Part VII - General Provisions

33. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Contract documents" as used herein shall have the same meaning as is provided in Division 1, Section 1010, paragraph 1.02, subparagraph 18. of the Urban Standard Specifications, wherein that term is defined as follows:

18. CONTRACT DOCUMENTS. The contract documents consist of the following: The notice to bidders and notice of public hearing; the instructions to bidders; general provisions and covenants; special provisions; standard specifications; supplemental specifications; plans; addenda; proposal; contract; performance, payment, and maintenance bond; insurance certificate(s); notice to proceed; and change orders. These documents form the agreement whereby the Contractor will furnish all labor, equipment, tools and materials, and perform all work necessary to satisfactorily accomplish the proposed improvement. The contract documents are complimentary and what is called for by one shall be as binding as if called for by all.

(b) "Design documents" means and includes the plans and specifications and those portions of the WRA's standard specifications or supplemental specifications pertaining to a particular type of WRA Improvement.

(c) "WRA Improvement" means any new building or facility, comprising a "public improvement" as that term is defined under the Iowa competitive bidding law, the estimated cost of which improvement is in excess of the amount which requires the solicitation of competitive bids.

34. Notices and Invoices. All notices which the Parties are authorized or required to give one another pursuant to this Agreement, and all invoices, shall be in writing and may be personally delivered or sent by ordinary mail to the addresses hereafter provided. Mailed notices or invoices shall be deemed to be received by the Party to whom directed when they are postmarked. Such notices and invoices shall be delivered or mailed to the following persons at the addresses listed:

Notices to WRA:
Chair, WRA Metropolitan Board
c/o Des Moines Wastewater Reclamation Facility
3000 Vandalia Road
Des Moines, Iowa 50317

Notices to Expediting Communities:
Mark Arentsen, City Administrator
City of Bondurant
200 Second Street NE, P.O. Box 37
Bondurant, IA 50035-0037

Jeff Mark, City Administrator
City of Altoona
407 Eighth Street SE, P.O. Box 338
Altoona, IA 50009-0338

35. Audit. The WRA may by notice in writing request access to Bondurant's and Altoona's records for purposes of conducting an independent audit of its costs and expenses to be paid by the WRA as part of the purchase price for the Project Improvements pursuant to this Agreement. Such notice shall identify the records sought for audit. Bondurant and Altoona shall provide access to the records sought for audit within 30 days after receipt of the audit request. Such audit shall be conducted by a certified public accounting firm retained by the WRA, and shall be conducted at the WRA's expense. The audit findings shall be promptly provided to the WRA.

In the event that any Party disputes the findings of the audit, it may notify the other Parties of its objection thereto and request binding arbitration to resolve the matter as provided in paragraph 38 hereof.

36. Declaration of Default and Notice. In the event that any Party determines that another Party has defaulted in the performance of its obligations hereunder, the aggrieved Party may declare that default has occurred and give notice thereof to the defaulting Party. Notice of default shall be given in writing, shall specify the nature of the default and the provision of the Agreement involved, and shall specify what action is required of the defaulting Party to correct the default. The defaulting Party shall have 30 days from the date of its receipt of the notice of default to correct the default. If at the end of said 30-day period the default has not, in the opinion of the aggrieved Party, been corrected, that Party may thereupon terminate the Agreement as provided in Paragraph 37 hereof.

37. Termination. Any Party may terminate this Agreement for default by another Party by giving written notice of termination. Termination shall be effective on the 30th day following the giving of notice; Provided, however, that in the event judicial proceedings are initiated by a Party in a court of competent jurisdiction to determine if a material breach has occurred, termination shall be suspended pending resolution of such proceedings.

38. Dispute Resolution - Arbitration.

(a) The Parties agree that any disputes arising between or among them with regard to the amount of administration costs billed to Bondurant by the Operating Contractor as provided in Part V, Paragraph 22, or with regard to the determination whether the Project Improvements have been completed or with regard to the list of work items remaining to be completed as provided in Part V, Paragraph 24, or with regard to the determination or approval of the Final Project Cost amount as provided in Part VI, Paragraphs 25 and 26, or with regard to the WRA approval of additional project costs as provided in Part VI, Paragraph 30, or with regard to audit findings made pursuant to Paragraph 35 of this Part, may be submitted to binding arbitration at the request of an aggrieved Party. Any request for arbitration must be in the form of a written notice requesting arbitration. Such notice shall identify each disputed matter to be submitted to arbitration. In the absence of agreement to the contrary by the Parties to such arbitration, the question or questions to be arbitrated shall be those specified in the notice requesting arbitration.

(b) There shall be one arbitrator chosen by mutual agreement by the Parties to such arbitration. If the Parties to such arbitration fail to agree on an arbitrator, application shall be made to the President of the Polk County Bar Association by the Party requesting arbitration to name such arbitrator. Should any of the Parties to such arbitration refuse or neglect to supply the arbitrators with any papers or information demanded in writing by the arbitrators, the arbitrator is empowered to proceed ex parte.

(d) No one shall be qualified to act as an arbitrator if service in such role would create a conflict of interest. The arbitrator selected shall be qualified by experience and knowledge of the matter to be submitted to arbitration.

(e) The award of the arbitrator shall be binding. The arbitration award may be for damages, and may include any legal or equitable remedy otherwise available to the Parties, provided that the arbitrator may not make a finding of material breach and shall not have authority to declare termination of this Agreement. The award may be impeached only for fraud or mistake. Such award shall be a condition precedent to any right of legal action.

(f) The costs of arbitration shall be shared equally by the Parties to such arbitration.

(g) The award of the arbitrators shall be in writing and it shall not be open to objection on account of the form of the proceeding or the award.

39. If any section, provision or part of this Agreement shall be found to be invalid or unconstitutional, such finding shall not affect the validity of the Agreement as a whole or any section, provision or part thereof not found to be invalid or unconstitutional.

40. This Agreement may be executed in six counterparts, each of which so executed shall be deemed to be an original.

41. This Agreement represents the entire agreement between the WRA and the Expediting Communities. Any subsequent change or modification to the terms of this Agreement shall be in the form of a duly executed addendum to this Agreement.

42. Indemnification and hold Harmless.

Bondurant agrees to defend, pay on behalf of, indemnify, and hold harmless the WRA, the Board and other Participating Communities of the WRA, including the WRA's Operating Contractor and Altoona, from and against any and all claims, demands, suits or loss, including any and all outlay and expense connected therewith and for any damages which may be asserted, claimed or recovered against or from WRA, the WRA's Operating Contractor, or Altoona, by reason of personal injury, including bodily injury or death and property damages, including loss of use thereof which arises out of or is connected to or associated with violation of this Agreement by Bondurant, including any fine or penalty imposed on the WRA, the WRA's Operating Contractor, or Altoona due to a violation of law, regulation, permit or standard attributable to a violation of this Agreement or action or inaction by Bondurant.

Altoona agrees to defend, pay on behalf of, indemnify, and hold harmless the WRA, the Board and other Participating Communities of the WRA, including the WRA's Operating Contractor and Bondurant from and against any and all claims, demands, suits or loss, including any and all outlay and expense connected therewith and for any damages which may be asserted, claimed or recovered against or from WRA or the WRA's Operating Contractor, or Bondurant, by reason of personal injury, including bodily injury or death and property damages, including loss of use thereof which arises out of or is connected to or associated with violation of this Agreement by Altoona, including any fine or penalty imposed on the WRA, the WRA's Operating Contractor, or Bondurant due to a violation of law, regulation, permit or standard attributable to a violation of this Agreement or action or inaction by Altoona.

43. Specific Performance.

In addition to any other remedies available under applicable law, each party shall have the right to equitable remedy or specific performance to enforce compliance with any provision of this Agreement.

Part VIII – Specific Provisions to Bondurant and Altoona

44. Nothing in this Part shall alter or change Bondurant's and Altoona's responsibility for payment of all costs of the Project Improvements, including design and construction and the acquisition of property for the Project Improvements, all as hereinabove provided, until such time as the WRA issues its bonds to purchase the Project, as provided in the WRA Agreement and in Exhibit 31 thereto.

45. Bondurant and Altoona agree that Bondurant will obtain from the Iowa Finance Authority a zero interest (0%) Planning and Design Loan under the Clean Water State Revolving Fund (SRF) loan program. Proceeds of the Planning and Design Loan will be used to fund SRF eligible design and right-of-way acquisition costs.

46. Altoona agree to provide funds to pay for costs associated with design and acquisition of property interests for the Project Improvements that are not eligible for participation under the SRF Planning and Design Loan program up to the sum of \$1,000,000. Such funds shall be provided as required by Bondurant to complete the acquisition of property interests.

47. Bondurant and Altoona agree that on the maturity date of the Planning and Design Loan, Altoona will retire the balance due on the Planning and Design Loan in an amount not to exceed \$1,000,000, less any payments by Altoona under Paragraph 46. If the Planning and Design Loan does not mature before the date the WRA purchases the Project Improvements, Altoona shall retire the Planning and Design Loan up to the sum of \$1,000,000, less any payments by Altoona under Paragraph 46, with said action occurring prior to the date the WRA is scheduled to purchase the Project Improvements.

48. Bondurant and Altoona agree that if the Planning and Design Loan matures prior to the date of the receipts of the purchase of the Project Improvements, Bondurant will be responsible to finance the balance of the Planning and Design Loan after the required contribution by the City of Altoona as provided in Paragraph 47. Bondurant agrees that it will be responsible for the repayment of the Planning and Design Loan to the Iowa Finance Authority or for converting the loan to an interest bearing SRF loan.

49. In the event there are costs incurred for design and right-of-way acquisition that are not included in the proceeds of the purchase of the Project Improvements by the WRA, the costs will be paid equally by the City of Bondurant and the City of Altoona. Within 30 days after receipt of proceeds of the purchase of the Project Improvements by the WRA, Altoona shall remit to Bondurant any remaining share of the non-reimbursed costs.

50. Bondurant shall be responsible for funding construction of the Project Improvement north of the south line right of way line of Interstate 80. Bondurant and Altoona agree that prior to the construction of any portion of the Mud Creek Interceptor south of the south right-of-way line of Interstate 80 the parties shall agree on a method of funding the construction. The funding of the construction of the Mud Creek Interceptor south of the south right of way line of Interstate 80 shall be set forth in an amendment to this agreement to be approved by the WRA, Bondurant and Altoona prior to the approval to construct any portion of the Mud Creek Interceptor.

51. It is the intent of Bondurant and Altoona that the design and acquisition of property interests will be completed on or before January 1, 2012.

52. Bondurant shall proceed with the construction of that portion of the Mud Creek Interceptor north of the south right-of-way line of Interstate 80 prior to the date for the sale of bonds by the WRA to purchase the Project Improvements, subject to the provisions of this Agreement. Said improvements will be completed by the City of Bondurant no later than December 31, 2009, or such other date as set forth in an enforceable order. Bondurant, Altoona and WRA agree that Bondurant and Altoona are not obligated to proceed with any construction of the Project Improvements south of the south right-of-way line of Interstate 80 prior to the sale of the bond issue to provide such proceeds. Bondurant, Altoona and the WRA agree that in the event construction of some of the Mud Creek Interceptor is not initiated prior to the purchase of the Project Improvements by the WRA, that Bondurant and Altoona will convey and provide to the WRA the complete design and

plan drawings for the portions of the Mud Creek Interceptor for which construction was not previously initiated and all right of way acquired for the Project in the manner set forth in this Agreement if not previously conveyed to the WRA for the purpose of allowing the WRA to proceed with construction of the Mud Creek Interceptor.

53. Bondurant agrees that it is solely responsible for complying with any Iowa Department of Natural Resources and/or any other governmental agency order or directive with regard to completing construction of the Mud Creek Interceptor north of the south right-of-way line of Interstate 80 by the date set forth above and/or as required by the Iowa Department of Natural Resources or any other agency charged with enforcement. Bondurant agrees to defend, pay on behalf of, indemnify, and hold harmless the WRA, the Board and other Participating Communities of the WRA, including the WRA's Operating Contractor and Altoona, from and against any and all claims, demands, suits or loss, including any and all outlay and expense connected therewith and for any damages which may be asserted, claimed or recovered against or from WRA, the WRA's Operating Contractor, or Altoona which arises out of or is connected to or associated with failure to complete the improvements by the date set forth above and/or as required by the Iowa Department of Natural Resources or any other agency charged with enforcement and/or any resulting environmental violations, including but not limited to any fine or penalty imposed on the WRA, the WRA's Operating Contractor, or Altoona.

Part IX – Temporary Connections and Flow Provisions

54. The City of Altoona agrees to allow the City of Bondurant to implement and construct a temporary connection to the City of Altoona sanitary sewer system. Such temporary connection shall be made at the 24-inch trunk sewer owned by the City of Altoona and located on the north side of Interstate 80, or such other location as the City of Altoona may approve.

55. The City of Bondurant agrees to limit the maximum wastewater flow through any temporary connection to the City of Altoona sanitary sewer system to a peak flow rate of not more than 2.0 mgd. The City of Altoona and WRA may agree to allow the City of Bondurant to discharge flow at higher flow rates for the purpose of dewatering the Bondurant treatment and storage facilities. Bondurant agrees to abide by the terms and conditions established by Altoona and the WRA for any discharge rates in excess of 2.0 mgd.

56. The Parties agree the City of Bondurant shall be solely responsible for the costs for design, right-of-way acquisition and construction of any temporary connections to the City of Altoona sanitary sewer system or to the Mud Creek Interceptor. The parties agree that the design, acquisition of property and construction of the temporary construction shall not be considered a part of the Project Improvements contemplated under this Agreement and not included in the Certification of Final Project Costs.. It shall be Bondurant's responsibility to comply with all laws and regulations regarding or pertaining to such connections. If requested by the WRA or Altoona, Bondurant shall install a flow meter at such temporary connection for purposes of providing the WRA records of its flow entering the Altoona system.

57. The City of Altoona shall have the right to approve the design of any temporary connections to its system. Said approval shall not be withheld if the design is in conformance with the requirements of

Paragraphs 54 and 55. The WRA shall have the right to review and approve any connection to the Mud Creek Interceptor, which approval shall not be unreasonably withheld, and will be given an opportunity to review other aspects of any temporary connection.

**DES MOINES METROPOLITAN WASTEWATER
RECLAMATION AUTHORITY (WRA)**

By _____
Jody E. Smith, Chair, WRA Board

Attest:

Gary Lorenz, Secretary, WRA Board

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Jody E. Smith and Gary Lorenz, to me personally known, and, who, being by me duly sworn, did say that they are Chairperson and Secretary, respectively of the WRA Board; that the instrument was signed and sealed on behalf of the WRA by authority of its Board, as contained in the Resolution No. 07- ____, adopted by the WRA Board on the ____ day of _____, 2007, and that Jody E. Smith and Gary Lorenz acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public in and for the State of Iowa

CITY OF BONDURANT, IOWA

By _____
Marla McCoid, Mayor

Attest:

Mark Arentsen, City Administrator

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marla McCoid and Mark Arentsen to me personally known, and, who, being by me duly sworn, did say that they are Mayor and City Administrator, respectively of the CITY OF BONDURANT, IOWA; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in (Ordinance No. _____ passed) (the Resolution adopted) by the City Council, under Roll Call No. _____ of the City Council on the _____ day of _____, 2007, and that Marla McCoid and Mark Arentsen acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public in and for the State of Iowa

CITY OF ALTOONA, IOWA

By _____
Timothy Burget, Mayor

Attest:

Jeff Mark, City Administrator

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Timothy Burget and Jeff Mark, to me personally known, and, who, being by me duly sworn, did say that they are Mayor and City Administrator, respectively of the CITY OF ALTOONA, IOWA; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in (Ordinance No. _____ passed) (the Resolution adopted) by the City Council, under Roll Call No. ____ of the City Council on the ____ day of _____, 2007, and that Timothy Burget and Jeff Mark acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public in and for the State of Iowa

EXHIBIT A

PROJECT DESCRIPTION AND LOCATION MAP

MUD CREEK INTERCEPTOR, PHASE 23 PROJECT

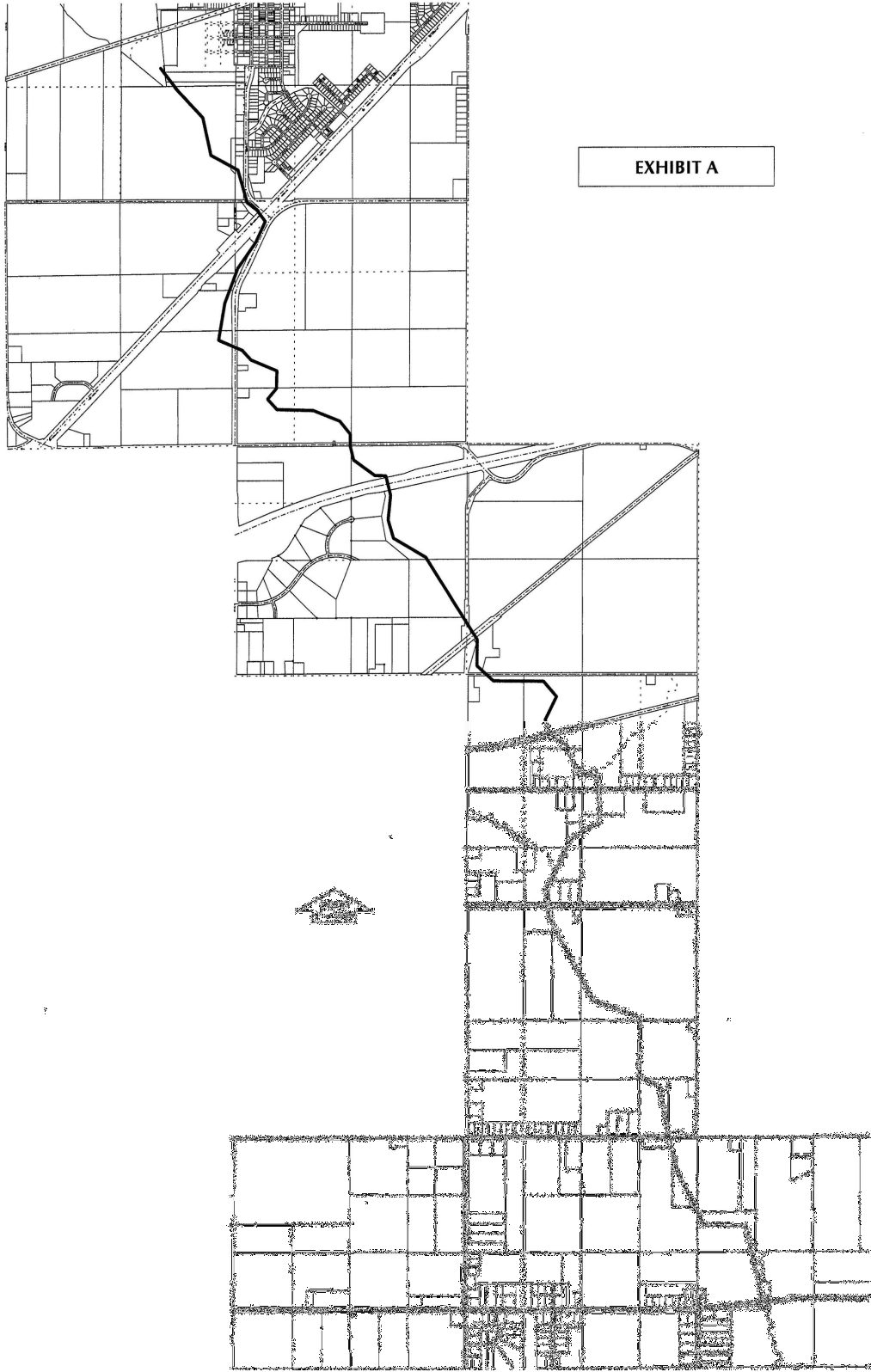


EXHIBIT A

WASHINGTON RECLAMATION AUTHORITY
NEED CHECK INTERCEPTOR

EXHIBIT B

**FORM OF QUIT CLAIM DEED FOR CONVEYANCE OF
PROJECT IMPROVEMENTS AND PROJECT PROPERTIES TO THE WRA**

Fee:

Return to: **Kathleen Vanderpool**
WRA
City Hall
400 Robert D. Ray Drive
Des Moines, IA 50309

Type of Document: **Quit Claim Deed from City of Bondurant and City of Altoona to WRA**

Prepared by: **Kathleen Vanderpool** **400 Robert D. Ray Drive** **Des Moines 50309** **283-4130**
Individual's Name Street Address City Zip
Phone

Address Tax
Statement: **WRA** **3000 Vandalia Road** **Des Moines 50317**
323-8000
Individual's Name Street Address City Zip
Phone

JULIE HAGGERTY
Polk County Administration Building
111 Court, Room 250
Des Moines, IA 50309-2251
515-286-3160

www.polkrecorder.com
Polk County Recorder

Prepared by and return to: Kathleen Vanderpool, Deputy City Attorney, Legal Dept., City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309 (515) 283-4130

Project Name: Conveyance of Wastewater Treatment and Conveyance Facilities to WRA Activity ID:

QUIT CLAIM DEED
(CORPORATE GRANTOR)

For the consideration of One Dollar (\$1.00) and other valuable consideration in hand paid by the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), receipt of which is hereby acknowledged, the City of Bondurant, a city organized and existing under the laws of the State of Iowa, and Grantor herein, and the City of Altoona, a city organized and existing under the laws of the State of Iowa, and Grantor herein, does hereby Quit Claim to the WRA all its right, title, and interest in and to

- (a) the Project Improvements for the Mud Creek Interceptor, Phase 23 Project, described as follows:

Mud Creek Interceptor, Phase 23 Project

The Mud Creek Interceptor (Phase 23)

- (b) the Project Properties acquired for the Mud Creek Interceptor, Phase 23, described in Exhibit A hereto, and
- (c) crossing licenses and permits for said Project Improvements on railroad rights-of-way listed and identified in Exhibit A hereto.

GRANTOR'S RESERVATION OF RIGHTS

- 1. Erection of Structures and Placement Equipment or Plantings on Project Properties in Public Rights-of-Way; Duty to Restore.**

(a) Grantor reserves the right to construct or authorize the construction of streets or alleys over, adjacent to or across the Project Improvements or Project Properties, and to dedicate or accept dedication of same as public streets or alleys, and further reserves the right to construct or authorize the construction of structures, or to place or authorize the placement of equipment or plantings, within such street or alley rights-of-way, including but not limited to

bridges; sanitary and storm sewers and appurtenances; water mains and appurtenances; traffic signals and appurtenant cables and boxes; streetlights; streetscape improvements including street furniture, planter boxes, fountains, public art, streets and sidewalks including special street or sidewalk surfaces; irrigations systems; and plantings including street trees, shrubs, flowers and sod;

all as it shall deem necessary or appropriate. Such structures, equipment and plantings shall be so placed as not to physically interfere with or prevent the day-to-day operation and maintenance of the Project Improvements located within the Project Properties; provided, however, that if the construction of such structures by Grantor would require the relocation of a portion of the Project Improvements, and provided that such relocation is determined to be technically and financially feasible by Grantor and Grantee, Grantee shall agree to undertake such relocation, or shall agree to allow Grantor to undertake such relocation. Grantor shall pay the cost of acquiring right-of-way for, and of designing and constructing, any such relocation made at its request.

(b) In the event Grantee is required to access the Project Improvements in public rights-of-way for purposes of repairing, reconstructing or replacing said Project Improvements, Grantee shall be responsible for restoring, at its sole cost and expense, or for paying Grantor's cost to restore, the public right-of-way, including street, alley and sidewalk surfaces, and all structures, equipment and plantings placed therein, which are disturbed, damaged or destroyed by such activities.

(c) In the event Grantor is required to access its public rights-of-way for purposes of repairing, reconstructing or replacing its structures or equipment identified above, Grantor shall be responsible for restoring or repairing, at its sole cost and expense, or for paying Grantee's cost to restore, Grantee's Project Improvements which are disturbed, damaged or destroyed by such activities.

2. **Reservation of Right to Regulate Use and Occupancy of Right-of-Way.** The Grantor does hereby reserve to itself the right to regulate the use and occupancy of street rights-of-way constructed upon, adjacent to or across the Project Properties.

Said Project Improvements and Project Properties are being conveyed to the WRA pursuant to the provisions of the Chapter 28E Agreement by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) and the City of Bondurant and the City of Altoona for the Provision of Property Acquisition, Design and Construction Administration Services, and for Financing of an Expedited Project to Construct WRA Improvements, entered into by and between said parties on and as of _____, 2007, which Agreement is found of record in the Polk County

Recorder's Office at Book ____, Pages _____. Said Project Improvements and Project Properties and properties are being acquired for public purposes and a Declaration of Value is not required. Iowa Code Section 428A.1. This deed and transfer is exempt from transfer tax as the grantor is a political subdivision of the State of Iowa. Iowa Code Section 428A.2(6).

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, according to the context.

Signed this _____ day of _____, 20__.

CITY OF BONDURANT, IOWA

By _____
Marla McCoid, Mayor

Attest:

Mark Arentsen, City Administrator

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marla McCoid and Mark Arentsen, to me personally known, and, who, being by me duly sworn, did say that they are Mayor and City Administrator, respectively of the CITY OF BONDURANT, IOWA; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in (Ordinance No. ____ passed) (the Resolution adopted) by the City Council, under Roll Call No. _____ of the City Council on the ____ day of _____, 2007, and that Marla McCoid and Mark Arentsen acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public in and for the State of Iowa

EXHIBIT C

**FORM OF GOVERNING BODY PROCEEDINGS AND NOTICE OF INTENT TO
CONVEY PROJECT IMPROVEMENTS AND PROJECT PROPERTIES TO WRA**

**RESOLUTION OF INTENT TO CONVEY
PROJECT IMPROVEMENTS AND PROJECT PROPERTIES FOR THE
MUD CREEK INTERCEPTOR, PHASE 23 PROJECT
TO THE DES MOINES METROPOLITAN
WASTEWATER RECLAMATION AUTHORITY**

WHEREAS, the Mud Creek Interceptor, Phase 23 Project is an Expansion Improvement Project to be undertaken by the WRA on behalf of the City of Bondurant and the City of Altoona, the construction of which is scheduled to commence in 2012 as shown in Exhibit 31 to the WRA Agreement; and

WHEREAS, pursuant to a Chapter 28E Agreement entered into by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), the City of Bondurant (Bondurant) and the City of Altoona (Altoona) on February _____, 2007, the WRA, and the City of Bondurant and the City of Altoona agreed that (a) that Bondurant would immediately design, acquire property for, and construct an expedited WRA Expansion Improvement known as the Mud Creek Interceptor, Phase 23 Project, which project was scheduled to commence in 2012, and (b) that Bondurant and Altoona would fund such project on an interim basis until the WRA issues bonds pursuant to the original schedule and that when the WRA had issued its bonds for said Project, Bondurant would convey the Project Improvements and Project Properties to the WRA and the WRA would pay Bondurant for the cost of said improvement as more particularly set forth in the 28E Agreement; and

WHEREAS, the Mud Creek Interceptor, Phase 23 Project was completed by Bondurant's Contractor in _____, 20____ and accepted by the City of Bondurant in _____, 20____; and

WHEREAS, the WRA issued its bonds for said Project on _____, 20__, and now has bond proceeds available to acquire said Project; and

WHEREAS, in order to convey the Mud Creek Interceptor, Phase 23 Project Bondurant is required to undertake the statutory process for conveyance of the Project Improvements and of the Project Properties to the WRA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Bondurant, Iowa, that:

1. The City Council declares its intent and proposal to convey to the WRA by quit claim deed all its rights, title and interest in and to
 - (a) the Project Improvements for the above referenced Project, described as follows:

Mud Creek Interceptor, Phase 23 Project

The Mud Creek Interceptor (Phase 23),
 - (b) the Project Properties acquired for the above referenced Project, described in Exhibit A hereto, and
 - (c) crossing licenses and permits for said Project Improvements on railroad rights-of-way listed and identified in Exhibit A hereto.

2. A public hearing shall be held on _____, 20__ at __:00 __.m. in the _____.
At that time the City Council will consider the above described proposal.

3. The City Clerk is authorized and directed to publish notice of the proposal and hearing in the form hereto attached not less than four or more than twenty days prior to the date of hearing.

Moved by _____ to adopt

NOTICE OF PROPOSAL TO CONVEY PROPERTY

NOTICE IS HEREBY GIVEN that the City Council of the City of Bondurant, Iowa, has adopted a resolution of intent to convey its interest in certain existing wastewater conveyance facilities (interceptor sewers) hereafter identified, to the Des Moines Metropolitan Wastewater Reclamation Authority, pursuant to the provisions of the Chapter 28E Agreement by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), the City of Bondurant and the City of Altoona for the Provision of Property Acquisition, Design and Construction Administration Services, and for Financing of the Mud Creek Interceptor, Phase 23 Project, as an Expedited Project to Construct a WRA Improvement, entered into by and between said parties on and as of _____, 20 ____.

FACILITIES TO BE CONVEYED:

1. Mud Creek Interceptor, Phase 23 Project.

As provided in said resolution, it is the City’s intent to convey to the WRA by Quit Claim Deed:

- (a) its interest in the Project Improvements for the above referenced Project, described as follows:

Mud Creek Interceptor, Phase 23 Project

The Mud Creek Interceptor (Phase 23),

- (b) its interest in the Project Properties acquired for the above referenced Project, described in Exhibit A hereto, and
- (c) its interest in crossing licenses and permits for said Project Improvements on railroad rights-of-way listed and identified in Exhibit A hereto.

NOTICE IS FURTHER GIVEN that the City Council will consider the approval of the proposed conveyance of the above listed properties and facilities to the WRA after a public hearing to be held at __:00 ____m., in the _____ on _____, 20__. Persons interested in the proposal will be given the opportunity to express their views at that hearing. Descriptions of and more particular information concerning the Project Improvements and properties being conveyed are available at the offices of the Des Moines Metropolitan Wastewater Reclamation Facility, 3000 Vandalia Road, Des Moines, Iowa.

PUBLISHED IN THE _____ ON _____.

**RESOLUTION AUTHORIZING CONVEYANCE OF PROJECT
IMPROVEMENTS AND PROJECT PROPERTIES FOR THE
MUD CREEK INTERCEPTOR, PHASE 23
TO THE DES MOINES METROPOLITAN WASTEWATER
RECLAMATION AUTHORITY**

WHEREAS, the Mud Creek Interceptor, Phase 23 Project is an Expansion Improvement Project to be undertaken by the WRA on behalf of the City of Bondurant and the City of Altoona, construction of which is scheduled to commence in 2010, as shown in Exhibit 31 to the WRA Agreement; and

WHEREAS, pursuant to a Chapter 28E Agreement entered into by and between the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), the City of Bondurant (Bondurant) and the City of Altoona (Altoona) on _____, 20____, the WRA, and the City of Bondurant and the City of Altoona agreed that (a) that Bondurant would immediately design, acquire property for, and construct an expedited WRA Expansion Improvement known as the Mud Creek Interceptor, Phase 23 Project, which project was scheduled to commence in 2010, and (b) that Bondurant would fund such project on an interim basis until the WRA issues bonds pursuant to the original schedule and that when the WRA had issued its bonds for said Project, Bondurant would convey the Project Improvements and Project Properties to the WRA and the WRA would pay Bondurant for the cost of said improvement; and

WHEREAS, the Mud Creek Interceptor, Phase 23 Project was completed by Bondurant's contractor in _____, 20____ and was accepted by the WRA Board and the City of Bondurant in _____, 20____; and

WHEREAS, the WRA issued its bonds for said Project on _____, 20____, and now has bond proceeds available to acquire said Project; and

WHEREAS, in order to convey the Mud Creek Interceptor, Phase 23 Project, Bondurant is now required to undertake the statutory process for conveyance of the Project Improvements and of the Project Properties to the WRA.

WHEREAS, on _____, (20____)(20__), by Resolution No. _____, it was duly resolved by this Bondurant City Council that the proposed conveyance to the WRA by quit claim deed of all of the Bondurant’s right, title and interest in and to

- (a) the Project Improvements for the above referenced Project, described as follows:

Mud Creek Interceptor, Phase 23 Project
The Mud Creek, Interceptor (Phase 23),

- (b) the Project Properties acquired for the above referenced Project, described in Exhibit A hereto, and

- (c) crossing licenses and permits for said Project Improvements on railroad rights-of-way listed and identified in Exhibit A hereto,

be set down for hearing on _____, 20__, at ____:00 ____m., in the _____; and

WHEREAS, due notice of said proposal to convey said facilities and properties was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in this proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and the statements of interested persons, if any, all objections to the proposed conveyance of said properties are hereby overruled and the hearing is closed.
2. That the conveyance to the WRA by quit claim deed of all of Bondurant’s right, title and interest in and to

- (a) the Project Improvements for the above referenced Project, described as follows:

Mud Creek Interceptor, Phase 23 Project
The Mud Creek Interceptor (Phase 23),

- (b) the Project Properties acquired for the above referenced Project, described in Exhibit A hereto, and
- (c) crossing licenses and permits for said Project Improvements on railroad rights-of-way listed and identified in Exhibit A hereto,

be and is hereby approved.

3. The Mayor and the City Administrator are hereby authorized and directed to execute and attest, respectively, the quit claim deed for the conveyances identified above.

4. The City Administrator is authorized and directed to forward the original of said quit claim deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the WRA Director.

Moved by _____ to adopt.