

RESOLUTION NO. 1092

RESOLUTION APPROVING A 28E AGREEMENT WITH CEDAR COUNTY, IOWA, TO CONSTRUCT AND MAINTAIN A DOG PARK IN UNINCORPORATED CEDAR COUNTY.

WHEREAS, the City of West Branch, Iowa (the "City") acquired a parcel in unincorporated Cedar County from Hillshire Brands for use as a dog park; and

WHEREAS, Cedar County and the City are interested in jointly participating in the dog park and for the provision of a parking lot and restroom to serve the dog park and trail; and

WHEREAS, to that end, the City Attorney has drafted a 28E Agreement that requires the approval of both the City Council and the Board of Supervisors of Cedar County; and

WHEREAS, it is in the best interests of the City to approve said 28E Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned 28E Agreement be and the same is hereby approved. Further, the Mayor and City Clerk are directed to execute said Agreement on behalf of the City.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a copy of the fully executed agreement with the Iowa Secretary of State as required by law.

Passed and approved this 15th day of April, 2013.

  
\_\_\_\_\_  
Mark Worrell, Mayor

ATTEST:

  
\_\_\_\_\_  
Matt Muckler, City Administrator/Clerk

Prepared by: Kevin D. Olson, West Branch City Attorney, PO Box 5127, Coralville, Iowa 52241 (319)351-2277

**CHAPTER 28E AGREEMENT BETWEEN THE WEST BRANCH, IOWA AND CEDAR COUNTY, IOWA REGARDING THE CREATION AND MAINTENANCE OF A DOG PARK.**

**THIS AGREEMENT** is made by and between the City of West Branch, Iowa, a municipal corporation (“City”); and the Cedar County, Iowa, a municipal corporation (“County”).

WHEREAS, City was recently donated a parcel of property (the “Property”) located in unincorporated Cedar County for the purposes of using the Property as a Dog Park (the “Project”); and

WHEREAS, City and County believe it is in the best interests of each party to work together to create a Project that will be beneficial to both parties; and

WHEREAS, the parties desire to enter into a 28E Agreement, outlining in detail each of their respective duties and responsibilities regarding said cost sharing arrangement for the Project.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

- I. Purpose. The purpose of the agreement to outline the responsibilities and obligations of each party as it pertains to the construction and maintenance of the Project.
- II. Consideration. The mutual consideration herein is the execution of this Agreement by the parties.
- III. No separate legal entity. No separate legal entity is created by this Agreement. The City Council of West Branch and the Board of Supervisors of Cedar County each will administer the entity’s duties hereunder.
- IV. Duties and Responsibilities.
  - A. Responsibilities of the City.
    1. The City shall be responsible for the creation of a parking lot consisting of six (6) parking spaces that can be used by the general public to access the Project or to use to access the Hoover Trail System. Said parking lot shall consist of gravel material and will be maintained by the City.

2. The City shall be responsible for the erection of a chain-link type fence to enclose the portion of the Project to be used as the Dog Park.
3. The City shall reimburse County, 50% of the cost of the installation of the restroom facility for the Project described in Paragraph (IV)(B)(1) below. Said reimbursement shall occur within 30 days of invoice by the County to the City Clerk.
4. The City shall be responsible for mowing the portion of the Project located on the City's Property.

B. Responsibilities of the County.

1. The County shall be responsible for the installation of a restroom facility at the Project site, subject to the reimbursement provision outlined in Paragraph (IV)(A)(3) above.
2. The County shall provide the maintenance of the restroom facility to be funded out of the Conservation Board budget.
3. The County shall be responsible for the mowing of the portion of the Project site that is already mowed by the County.
4. The County will provide gravel and parking stops to the City in order to create the parking lot as outlined above.

C. Indemnities.

Both the City and County hereby agree to indemnify, defend and hold each other, its employees, agents and contractors from any claims filed against either party by reason of the Project and this Agreement.

V. Duration.

This agreement is effective upon execution of both parties and shall be effective until July 1, 2014. The agreement shall automatically renew on an annual basis unless terminated by either party. Notice of termination shall be provided no less than 30 days prior to renewal of the contract unless otherwise mutually agreed in writing by both parties.

VI. Termination.

In the event the agreement is terminated while the project is partially or fully completed, the distribution of property shall be as follows:

1. Each party shall retain its title in the real estate as owned previous to this agreement. This agreement does not alter any ownership of real estate.

2. The County shall obtain ownership of: restroom facility, parking stops, and any other incidental supplies purchased by the county not otherwise mentioned.
3. The City shall obtain ownership of the gravel, the fence, and any other incidental supplies purchased by the city not otherwise mentioned.

VII. Filing. The City Clerk of West Branch shall file this Agreement with the Secretary of State as required by law.

Dated this 16<sup>th</sup> day of April, 2013.

City:

County:

By: Mark Worrell  
Mark Worrell, Mayor

By: \_\_\_\_\_  
Wayne Deerberg, Chairperson of Board of Supervisors

ATTEST:

ATTEST:

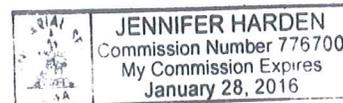
Matt Muckler  
Matt Muckler, City Clerk

\_\_\_\_\_  
Cari Gritton, County Auditor

**STATE OF IOWA, COUNTY OF CEDAR, ss:**

On this 16<sup>th</sup> day of April, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark Worrell and Matt Muckler, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; 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 passed by Resolution of the City Council; and Mark Worrell and Matt Muckler 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.

Jennifer Harden  
A Notary Public in and for the  
State of Iowa



**STATE OF IOWA, COUNTY OF CEDAR, ss:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that they are the Chairperson of the Cedar County Board of Supervisors and the Cedar County Auditor, respectively; 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 Board of Supervisors, as passed by Resolution of the Board of Supervisors; and \_\_\_\_\_ and \_\_\_\_\_ 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.

\_\_\_\_\_  
A Notary Public in and for the  
State of Iowa