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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

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**28E AGREEMENT
BETWEEN
THE CITY OF DYERSVILLE, IOWA
AND
DELAWARE COUNTY, IOWA
FOR THE RECONSTRUCTION OF
X-49 FROM 12TH AVENUE SW TO 1ST AVENUE WEST**

This Agreement, dated for reference purposes the 3RD day of DECEMBER 2018, is made and entered into by and between the City of Dyersville, Iowa (City) and Delaware County, Iowa (County).

WHEREAS, City and County desire to reconstruct X-49 roadway from 12th Avenue SW to 1st Avenue West within the City of Dyersville and Delaware County; and

WHEREAS, the Dyersville City Council and the Delaware County Board of Supervisors have identified the street reconstruction of X-49 from 12th Avenue SW to 1st Avenue West as a priority in the Dyersville area; and

WHEREAS, City and County recognize the street reconstruction of X-49 will have a positive impact to the public interest and minimize City and County expenses; and

WHEREAS, City and County desire to enter into an agreement for the purpose of carrying out the street reconstruction of X-49 from 12th Avenue SW to 1st Avenue West (the Public Improvement).

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

SECTION 1. IDENTITY OF THE PARTIES.

1.1 City is a municipality of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 364. For purposes of this Agreement, the City's address is 340 1st Avenue East, Dyersville, Iowa 52040.

1.2 County is a political subdivision of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 331. For purposes of this Agreement, the County's address is 301 E. Main Street, Manchester, Iowa 52057.

SECTION 2. PURPOSE. The purpose of this Agreement is to provide the manner in which the parties will cooperate with one another to successfully complete the Public Improvement.

SECTION 3. NO SEPARATE ENTITY CREATED.

3.1 No separate legal or administrative entity is created by this Agreement.

3.2 The City Administrator, Public Works Director and County Engineer are responsible for coordinating the Public Improvement.

3.3 The City Administrator, Public Works Director and County Engineer will meet periodically but not less than monthly to review and coordinate the Public Improvement.

SECTION 4. DURATION. This Agreement remains in effect perpetually until terminated pursuant to Section 10.

SECTION 5. POWERS AND DUTIES.

5.1 The parties retain all powers and duties conferred by law and must assist each other in the exercise of such powers and duties and the performance of this Agreement.

5.2 City will be responsible for the street reconstruction and underground storm sewer improvements of X-49 from 12th Avenue SW to 1st Avenue West, including but not limited to design, construction testing and inspection.

5.3 Upon completion of the project, County will transfer jurisdiction of their portion of X-49 roadway from 12th Avenue to 1st Avenue West to the City. The City shall accept said transfer of jurisdiction of roadway.

SECTION 6. MANNER OF FINANCING.

6.1 County shall pay City \$300,000.00 for their portion of the public improvement upon completion of the project.

6.2 City shall be responsible for all remaining costs associated with the public improvement.

SECTION 7. ENTIRE AGREEMENT.

7.1 This Agreement contains the entire Agreement and integrates all of the terms and conditions contained in and incidental to such Agreement and supersedes all prior negotiations and communications concerning this Agreement, oral or written, between

the parties, their agents, employees and representatives. No modifications or waiver of any provision in this Agreement will be valid unless in writing and signed by all parties. If, for any reason, any provision of this Agreement is inoperative, the validity and effect of the other provisions are not affected thereby.

72 If any provisions of this Agreement are found to be invalid by any court, administrative agency, or tribunal of competent jurisdiction, the invalidity of any such provision will not affect the validity of the remaining provisions hereof.

73 This Agreement binds and inures to the benefit of the parties and their respective successors and assigns. The parties agree that neither City nor County may assign their rights and obligations hereunder to any party without prior written consent of the other party. Such consent will not be unreasonably withheld.

SECTION 8. GOVERNING LAW. This Agreement is governed by and interpreted under the laws of the State of Iowa.

SECTION 9. AMENDMENTS. This Agreement may be amended at any time by the parties. All amendments must be in writing, signed by both parties, and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8.

SECTION 10. TERMINATION. This Agreement will terminate upon mutual agreement of the parties.

SECTION 11. EFFECTIVE DATE. This Agreement takes effect upon execution by the parties as required by law, filing with the Iowa Secretary of State and recording with the Delaware County Recorder.

SECTION 12. DISPUTE RESOLUTION. Any dispute between the parties arising out of or within the scope of the interpretation, construction, or application of this Agreement shall, prior to the commencement of any formal legal proceedings, be submitted to arbitration. Either party may submit to the other a written request for arbitration. Within ten (10) days after the date of such request, City and County will each select one (1) arbitrator and notify the other party of the name and address of such arbitrator. The arbitrators so selected will, within ten (10) days after being notified of their selection, select a third (3rd) arbitrator. After doing so, the arbitrators must notify City and County in writing of the name and address of the third (3rd) arbitrator. The arbitration proceedings will be governed by Iowa Code Chapter 679A.

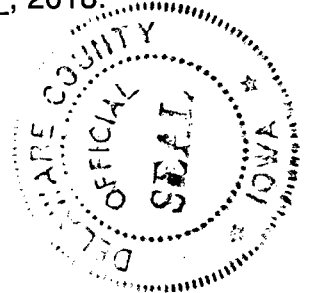
APPROVED BY: DELAWARE COUNTY BOARD OF SUPERVISORS

[Signature]
Delaware County Chairperson

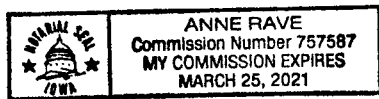
Date: 12/10/18, 2018.

ATTEST:

[Signature]
Delaware County Auditor



On this 10th day of December, 2018, before me, Anne Rave, a Notary Public, in and for the State of Iowa, personally appeared Pete Buschmann and Carla K Becker, to me personally known and who, being duly sworn, did say that they are the Chairperson of the Board of Supervisors and Delaware County Auditor, respectively, of the County of Delaware, 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 Board of Supervisors, as contained in the resolution adopted by the Board of Supervisors of Delaware County on the day of December 10, 2018, and Pete Buschmann and Carla K Becker 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.



[Signature]
Notary Public

APPROVED BY: CITY OF DYERSVILLE, IOWA

[Signature]
James A. Heavens, Mayor

Date: DEC. 3, 2018.

ATTEST:

Tricia L. Maiers
Tricia L. Maiers, City Clerk

On this 3rd day of December, 2018, before me, Lori A. Pantton, a Notary Public, in and for the State of Iowa, personally appeared James A. Heavens and Tricia L Maiers to me personally known and who, being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Dyersville, 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 the resolution adopted by the City Council, of the City of

Dyersville City Council on the 3rd day of December,
2018, and James A. Heavens and Tricia L. Maiers 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.

Lori A. Panton

Notary Public

