**City Council Communication**

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| Department: Community Development Department<br><br>CASES #MIS-24-005 | Resolution No.: | City Council: 09/23/2024 |

**Subject/Title**

Request: Resolution authorizing the City of Council Bluffs to enter into the "Joint City/County Land Use 28E Agreement" with Mills County and directing the Mayor to execute this agreement on behalf of the City of Council Bluffs.

**Background/Discussion**

In Spring 2024, the Advance Southwest Iowa Corporation (ASWIC) was contacted by a site selection firm, representing an industrial manufacturer, about building a new plant facility on properties located at the northeast corner of the intersection of Interstate 29 and Bunge Avenue in Mills County. The design and purpose of the facility requires infrastructure (i.e. sanitary sewer) that is not currently available in said area of Mills County. The City of Council Bluffs has existing infrastructure less than a mile north of the subject property that could be extended to service the proposed development. The City's policy for extending infrastructure outside of their corporate limits is to require immediate annexation or an annexation agreement with the property owner(s), if immediate annexation is not practicable. The subject properties are not contiguous to the City of Council Bluffs' corporate limits; therefore immediate annexation is not practicable at this time. The City of Council Bluffs wishes to enter into a 28E agreement with Mills County that allows the City to review subdivision requests and enter into annexation agreements with property owners that are located within two-miles of the City's corporate limit in Mills County. This agreement would allow the City of Council Bluffs and Mills County to work together cooperatively on development projects that require subdivision activity and/or infrastructure extensions that are not planned or readily available in Mills County.

Chapter 354.9 of the Code of Iowa (2023) allows the City of Council Bluffs to establish an extra-territorial area within two miles of the City's municipal boundaries for the purpose of reviewing and approving subdivisions. This Chapter further grants the City the authority to require that subdivisions within the two-mile area adhere to the City's subdivision standards and conditions, unless an alternative set of standards and conditions are created via a 28E agreement between the City and Pottawattamie County. Chapter 28E of the Code of Iowa (2023) enables two or more local governments to enter into agreements to cooperate for their mutual advantage. In August 2023, the City of Council Bluffs and Pottawattamie County amended their respective comprehensive plans to adopt a new Joint Land Use Study (JLUS) and entered into a new 28E agreement regarding subdivision activity within the City's two-mile limit. The agreement has an initial term of 20 years and will be automatically renewed for three successive 10 year terms, unless either party provides the other party a written notice one year in advance of the expiration of the initial or renewal term. The City of Council Bluffs is proposing to enter into the same agreement with Mills County.

The JLUS evaluated existing land uses, current zoning maps, and the future land use plans as most recently adopted by the City of Council Bluffs, Pottawattamie County, and Mills County within a three-mile area adjacent to Council Bluffs' municipal boundary. The study identified appropriate and desirable land uses while taking into consideration the ability to serve areas with infrastructure, appropriate roadway networks, and natural development constraints within said three mile area. Additionally, the study established a set of goals, policies, and implementation strategies to promote orderly growth and efficient development within the two-mile area. The policies also serve to protect and preserve natural resources and environmentally sensitive features, direct development to areas with physical characteristics which can accommodate development, and effectively and economically provide services for future growth and development.

The City of Council Bluffs and Mills County have discussed incorporating Chapter 6: Proposed Future Land Use Recommendations of the JLUS into Mills County's comprehensive plan. A detailed overview of Chapter 6 is stated below:

Chapter 6: Proposed Land Use Recommendations
This Chapter identifies appropriate future land uses, as well as, proposed new growth service areas and their associated goals/policies/implementation strategies for parcels within the study area. The proposed policies were created by the steering committee to promote orderly and sustainable growth and development within the two-mile limit. The policies also allow opportunities for development to occur with or without immediate annexation depending upon factors such as growth service area designation, existing development pattern, proximity to the City's municipal boundary, and potential to be served with future urban services (i.e., sanitary sewer, storm sewers, and water).

Additionally, the following definitions were created to provide clarity to terms that are stated throughout the proposed policies:

A. Development shall mean the subdividing of land for the purpose of providing a buildable lot(s) for any new commercial, industrial, and/or residential land use(s) and/or structure(s);

B. City development standards shall mean all land development, building, and construction regulations, as specified below:
   i. Iowa Statewide Urban Design and Specifications (SUDAS), as administered by the Council Bluffs Public Works Department;
   ii. Title 12: Council Bluffs Fire Code, of the Council Bluffs Municipal Code, as administered by the Council Bluffs Fire Department;
   iii. Title 13: Buildings and Construction, of the Council Bluffs Municipal Code, as administered by the Council Bluffs Permits and Inspections Division; and
   iv. Title 14: Subdivisions of the Council Bluffs Municipal Code, as administered by the Council Bluffs Community Development Department;

C. Homestead parcel split shall be the dividing of a parcel or tract of land that contains one habitable residential unit into two parcels in which the "homestead" parcel (i.e., the parcel retaining the residential unit) contains no more than four acres, and the remainder of the parcel to be split is 20 acres or greater;

D. Parent parcel shall mean the existing parcel(s) or tract(s) of land, according to the Pottawattamie County Assessor's Office as of the first adoption date of this study. Parent parcel excludes any lots that are within a platted subdivision that was formally reviewed and approved by the Pottawattamie County Board of Supervisors as of the first adoption date of this study.

Four new service area classifications were created as part of the study in order to distinguish areas that are/are not a priority for future City growth, as follows:

i. City Growth Area 1A – *Land located within the three-mile study area that is generally adjacent to City limits and is substantially developed with subdivisions and smaller lots in County jurisdiction and may or may not have access or planned access for services including: water, sanitary sewer, storm sewer, emergency services, electricity, natural gas, communications, and roadways. Property in this area is not expected to be further developed unless assembled into larger development projects and fully served to urban standards. This area is not a priority for future annexation unless it provides a contiguous connection to future development, but may be annexed as subdivision or development of individual sites occur.*

ii. City Growth Area 1B – *Land located within the three-mile study area that is a priority for growth in an urban development pattern. The land is identified as an area having access, or planned access, for services including water, sanitary sewer, storm sewer, emergency services, power, natural gas, communications, and roadways. Areas should be developed to City standards. The area is projected to have access to a roadway network. In many cases this area can be serviced from existing infrastructure with extension and does not require installation of new main service trunk lines. Areas will be annexed and reclassified into the appropriate City zoning district as subdivision or development of individual sites occur.*

iii. City Growth Area II – *Land located within the three-mile study area that lies between areas that will likely be developed to urban densities and areas that will remain rural in character. It is possible that some areas may be serviced to the extent that urban densities could be achieved, but the timing of extension of services is uncertain and a level of development should still be allowed in the transitional time. In specific instances development could occur prior to the extension of services provided an agreement is reached that ensures connection would be made when available. Area should be developed to City standards, such that annexation and absorption into the City is possible in the future as infrastructure arrives and becomes adjacent to City limits. Upon annexation, property would be reclassified into the appropriate City zoning district. This area may also be suitable for transitional areas where some level of development is possible, provided it does not hinder the full development of the parcel at a later date. Development in this growth area shall be served by municipal water service and septic systems or common sewage treatment plants constructed to City subdivision and design standards.*

iv. County Development Area – *Land within the three-mile study area that is not likely to develop beyond rural and agricultural uses as the location of these properties is such that they are beyond a reasonable expectation of future annexation by the City due to difficulty of extending services to an extent that would support urban density patterns. Urban level of services and transportation enhancements area unlikely to occur. It is possible that water service may be available in portions of this area, but sanitation facilities will be by individual septic system. The transportation network varies in characterization from pavement, bituminous and gravel surface, and rural section without curb and gutter.*

Each service area has its own set of goals, policies, and implementation strategies for subdividing land and allowing development to occur in an orderly and efficient manner. Some of the more notable policies in the document include:

- Delayed voluntary annexation agreements in situations where development is proposed but cannot be annexed since it's not immediately adjacent to the City's municipal boundary. Said annexation agreements will be recorded with Mills County and will apply to the current landowners as well as any future successors or assigns;
- Allowing lot line adjustments, which do not create new parcel(s) of land, without annexation in certain areas of the two-mile limit;
- Allowing a 'homestead parcel split' so that a property owner or estate can retain an existing habitable residential dwelling and sell the remaining acreage, or vice-versa with an annexation agreement.
- Establishing minimum acreage requirements for parcel splits, homestead parcel splits, and subdivisions so that development in the two-mile limit area occurs at urban and/or sub-urban densities, which is necessary for funding and maintaining major infrastructure extensions.

It should be noted the current Service Area Categories map shows areas immediately surrounding the Interstate 29/Bungee Avenue interchange being designated as City Growth Area 1B. Recent discussions between the Council Bluffs Community Development Department and Mills County Planning resulted in the map being amended to show a mixture of City Growth Area 1B and County Development Area. The map update was determined to be necessary in order to provide clarity on how subdivision development will be

reviewed and approved between the City and Mills County within the entire two-mile ETJ area. Additionally, the map update shows City and County growth area designations within the three-mile study area boundary for guidance on growth as future annexations in Mills County occur.

On September 10, 2024, the Mills County Planning Commission recommended approval of the request to amend their comprehensive plan to incorporate Chapter 6: *Proposed Future Land Use Recommendations* of the Joint City-County Land Use Study and the associated 28E two-mile limit agreement between the City of Council Bluffs and Mills County into their plan document. Then on September 17, 2024 the Mills County Board of Supervisors approved a resolution to incorporate Chapter 6: *Proposed Future Land Use Recommendations* of the Joint City-County Land Use Study and the associated 28E two-mile limit agreement between the City of Council Bluffs and Mills County into their plan document. The Council Bluffs City Council must approve a resolution to enter into the "Joint City/County Land Use 28E Agreement" with Mills County and direct the Mayor to execute the agreement on behalf of the City in order to final the agreement between the two government entities.

**Recommendation**

The Community Development Departments recommends approval to enter into the "Joint City/County Land Use 28E Agreement" with Mills County and directing the Mayor to execute this agreement on behalf of the City of Council Bluffs.

**Attachments**

Attachment A*:* Chapter 6 of the Joint City-County Land Use Study
Attachment B: Proposed Service Area Categories Map for Mills County
Attachment C: Proposed 28E agreement

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