



City Attorney's Office

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August 7, 2009

The Honorable Ann Campbell, Mayor,  
and Members of the City Council  
of the City of Ames, Iowa

Re: 28E Agreement with DNR for Sport Fishing Restoration Project


Dear Mayor Campbell and Council Members:

Earlier this summer the City Council repealed several ordinances related to the management and regulation of fishing at Ada Hayden Heritage Park. At that time, it was anticipated that the Iowa Department of Natural Resources would assume responsibility for management of the fish population and enforcement of State fishing regulations. The repeal of the local ordinances also made the City of Ames eligible for federal funding for sport fishing restoration projects administered by the Iowa DNR.

The City Council on June 9 authorized staff to submit an application for grant funding to Iowa DNR. Recently DNR notified the Parks and Recreation Department that the grant has been approved, providing 75% of the total construction costs up to \$90,000 for the construction of an ADA-compliant fishing pier. This 28E Agreement provides for City administration of the construction project and for DNR management of sport fishing at Ada Hayden Heritage Park. The Agreement preserves the City's authority to utilize the lake as an indirect water supply source and to restrict angler access to roadways, causeways, and bridges as necessary to protect public safety.

Appendix B to the Agreement, providing the special terms and conditions, is attached for your reference. I recommend approval of this 28E Agreement.

Yours truly,

  
Douglas R. Marek  
City Attorney

Attachment

c: Diane Voss, Nancy Carroll

## **APPENDIX B**

### **AGREEMENT FOR FISH MANAGEMENT AND PUBLIC ACCESS TO FISH**

In consideration of the improvement of fishing in the following described area, this agreement is entered into on the last signing date between the owner of the hereinafter described area, City of Ames, and the Iowa Department of Natural Resources, Iowa DNR.

It is agreed that the owner, City of Ames, hereby grants and conveys to such persons as comply with the regulations of the Iowa Department of Natural Resources and the laws of Iowa the right during the term of this agreement of free access for the purpose of fishing in the following described area: Ada Hayden Lake.

It is further agreed that the City of Ames grants and conveys to the Iowa DNR, or its agents or assigns, right of ingress and egress and access to said above described area for the purpose of managing or regulating fishing and/or carrying out the terms of this agreement.

It is further agreed that the City of Ames has removed any ordinance, rule, or regulation related to managing or regulating fish populations at the said above described area.

It is further agreed that the City of Ames shall not establish any ordinance, rule, or regulation in the said above described area to manage or regulate fish populations.

It is further agreed that the City of Ames from time to time shall continue to use Ada Hayden Park Lake as an indirect water supply source. During periods of drought the City of Ames reserves the right to pump water from the lake to the South Skunk river to augment the natural recharge of the local aquifer and thereby improve the productivity of its municipal supply wells. Under these circumstances it is conceivable that the water level in the Ada Hayden Park Lake shall be lowered to such a level that fishing or other recreational uses of the lake are temporarily impeded. Such an eventuality shall not be construed as "an ordinance, rule, or regulation related to managing or regulating fishing," nor in any other way constitute a violation of this agreement.

It is further agreed that the City of Ames shall restrict angler access to areas of roadways, causeways and bridges by way of an ordinance, rule or regulation where it has been determined there is a threat to public safety.