

.....
Date..... April 9, 2007

APPROVING AMENDMENT TO 28E AGREEMENT FOR PARK/SCHOOL/LIBRARY SITE
IN SOUTHEAST DES MOINES

WHEREAS, the Park and Recreation Department is charged with providing recreational opportunities, leisure activities, and facilities throughout Des Moines; and

WHEREAS, the 1995 Park and Recreation Comprehensive Master Plan, Parklands, recommends the construction of new parks in residential areas of the City that are not presently served by a park within approximately one-half mile to one-mile of the center of a residential neighborhood; and

WHEREAS, the Easter Lake New Town Plan segment of the City's 2020 Community Character Plan specifically recommends a "town center" in the south east area of the City that includes a school, library, and park; and

WHEREAS, on April 11, 2005, by Roll Call No. 05-880 the City Council approved a 28E Agreement between the Des Moines Independent Community School District ("School District") and the City for the development of a shared campus including a school, library, and a park in which the parties agreed to each purchase 30 acres of adjacent land, to exchange 10 acre parcels, and to establish a steering committee to create a master plan for development of a shared campus ("the 28E Agreement"); and

WHEREAS, the 28E Agreement provides for five members of the Steering Committee to represent the School District, one member to represent the Des Moines Public Library ("Library"), and five members to represent the City; and

WHEREAS, the Library Board of Trustees desire that the one additional member to represent the Library be added on the Steering Committee, bringing the total membership of the Steering Committee to twelve; and

WHEREAS, an amendment to the 28E Agreement has been prepared, a copy of which is on file in the City Clerk's Office, which increases the Library representative from one to two on the Steering Committee, and also provides that the parties share in the costs of hiring a consultant, by contributing 5/12 of the expense by the City and School District each and 1/6 of the expense by the Library; and

★ **Roll Call Number**

Agenda Item Number

51 B

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Date April 9, 2007

WHEREAS, the School District at its March 13, 2007 meeting and the Library Board of Trustees at its March 20, 2007 meeting have approved such Amendment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the above described Amendment to the 28E Agreement between the Des Moines Independent Community School District and the City of Des Moines be and is hereby approved and the Mayor is directed to sign such Amendment on behalf of the City and the City Clerk is authorized to attest to his signature.

(Council Communication No. 07-145)

Moved by _____ to approve.

APPROVED AS TO FORM:

Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLISSIS				
TOTAL				

MOTION CARRIED APPROVED

.....
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

**AMENDMENT TO CHAPTER 28E AGREEMENT
CITY OF DES MOINES
AND
DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT
SOUTHEAST PARK LAND ACQUISITION 28E AGREEMENT**

Date APR - 9 2007

Agenda Item 57B

Roll Call # _____

AMENDMENT to Chapter 28E Agreement by and between the DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT, hereinafter called the SCHOOL DISTRICT, and the CITY OF DES MOINES, IOWA, hereinafter called the CITY.

WHEREAS, the SCHOOL DISTRICT and the CITY have entered into a Chapter 28E Agreement dated April 5, 2005, which is on file with the Iowa Secretary of State and recorded on April 21, 2005 in the records of the Polk County Recorder at Book 11027 and Pages 506-517, (“the Agreement”); and

WHEREAS, the SCHOOL DISTRICT and the CITY desire to include the BOARD OF TRUSTEES OF THE DES MOINES PUBLIC LIBRARY, hereinafter called the LIBRARY, as a party to this Amendment; and

WHEREAS, the SCHOOL DISTRICT and the CITY desire to modify the Agreement to add an additional LIBRARY representative to the Steering Committee, provide for the sharing of the cost sharing of a consultant to help in the preparation of the master plan, and provide for LIBRARY approval of the master plan.

NOW THEREFORE, in consideration of the mutual undertakings hereby provided, the SCHOOL DISTRICT, the CITY and the LIBRARY hereby agree as follows:

1. Section II.A.1. of the Agreement shall be amended by changing “eleven (11) members” to “twelve (12) members”.
2. Section II.A.1.e. shall be amended by changing “one person” to “two persons.”
3. Section II.B. shall be amended by deleting that section and substituting the following:

The CITY shall engage a consultant to assist the Steering Committee in the development of a master plan, which consultant shall be jointly agreed upon by the SCHOOL DISTRICT, the CITY and the LIBRARY. The parties shall share in the cost of such consultant as follows: 1/6 LIBRARY, 5/12 SCHOOL DISTRICT, and 5/12 CITY. Following the Steering Committee's establishment of a master plan, the SCHOOL DISTRICT and the CITY agree to adopt a mutually agreed to master plan for the SHARED CAMPUS, Such master plan must first receive the approval of the LIBRARY for that portion of the master plan relating to the proposed library before adoption by the CITY and the SCHOOL DISTRICT.

4. The parties shall approve this Amendment by resolution of their respective board or council, which shall authorize the execution of this Amendment. This Amendment will then be filed in the Offices of the Iowa secretary of State and the Recorder of Polk County, in accordance with Chapter 28E of the Code of Iowa (2007). This Amendment shall become effective when recorded in the Polk County Recorder's Office.
5. Except as so amended, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have subscribed their names this _____ day of _____, 2007.

CITY OF DES MOINES

ATTEST:

T. M. Franklin Cownie, Mayor

Diane Rauh, City Clerk

APPROVED AS TO FORM:



Ann DiDonato, Assistant City Attorney

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 T. M. Franklin Cownie and Diane Rauh, 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 Des Moines, Iowa that the seal affixed signed on behalf of the corporation, by authority of its City Council as contained in the resolution adopted by the City Council, under Roll Call No.07 _____ and that T. M. Franklin Cownie and Diane Rauh acknowledged the execution of the instrument to be the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public for the State of Iowa
My Commission Expires _____

**DES MOINES INDEPENDENT
COMMUNITY SCHOOL DISTRICT**

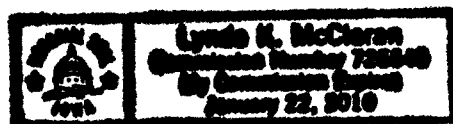
Ginny Strong
~~Mare Ward, President~~ Ginny Strong, Vice-President *G.S.*

Patti Schroeder
Patti Schroeder, Secretary

STATE OF IOWA)
) ss
COUNTY OF POLK)

On this 13th day of March, 2007 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared ~~Mare Ward~~ ^{Ginny Strong} and Patti Schroeder, to me known, who, being by me duly sworn, did say that they are the ^{Vice} President and Secretary, respectively, of the Des Moines Independent Community School District Board, that no seal has been procured by the corporation, and that the instrument was signed on behalf of the corporation, by authority of its Board and that ~~Phil Roeder~~ ^{Ginny Strong} and Patti Schroeder acknowledged the execution of the instrument to be the voluntary act and deed of the Board by it and them voluntarily executed.

Lynnda McClaran
Notary Public for the State of Iowa
My Commission Expires 1/22/10



**BOARD OF TRUSTEES OF THE
DES MOINES PUBLIC LIBRARY**

Jule Thorsen

Jule Thorsen, Library Board President

ATTEST:

Dorothy Kelley

Dorothy Kelley, Acting LIBRARY Director

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 5th day of April, 2007, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared JULE THORSEN and DOROTHY KELLEY, to me personally known, and who, being by me duly sworn did state that they are the PRESIDENT OF THE BOARD OF TRUSTEES OF THE DES MOINES PUBLIC LIBRARY and ACTING LIBRARY Director, respectively, of the BOARD OF TRUSTEES OF THE DES MOINES PUBLIC LIBRARY; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of the BOARD OF TRUSTEES OF THE DES MOINES PUBLIC LIBRARY by authority of its BOARD OF TRUSTEES, and that JULE THORSEN and DOROTHY KELLEY acknowledged the execution of the instrument to be the voluntary act and deed of LIBRARY of Des Moines, Iowa, by it and by them voluntarily executed.

Catherine Newton
Notary Public in the State of Iowa

