

~~28E~~ AGREEMENT FOR USE OF DES MOINES PUBLIC LIBRARY LIBRARIES BY WINDSOR HEIGHTS RESIDENTS

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THIS AGREEMENT ~~made and entered into the 15th day of April, 2019,~~ by and between the ~~CITY OF~~ DES MOINES PUBLIC LIBRARY (hereinafter referred to as "DMPLes Moines") and the CITY OF WINDSOR HEIGHTS (hereinafter referred to as "Windsor Heights")

~~WHEREAS, the cities of Des Moines and Windsor Heights are municipal corporations organized and existing under the laws of the State of Iowa and are public agencies as defined by Iowa Code Chapter 28E; and~~

WHEREAS, Windsor Heights ~~each city~~ desires that its residents are able to enjoy the facilities and collections of the libraries operated by the DMPL in the same manner as the City of Des Moines residents and Windsor Heights is willing to share certain costs for the operation of the DMPL libraries ~~es Moines Public Library~~ (hereinafter referred to as "Library"); and

~~WHEREAS, public agencies may enter into an agreement for joint and cooperative action pursuant to Iowa Code Chapter 28E; and~~

WHEREAS, both ~~parties~~ cities find that joint and cooperative action will be to their mutual advantage; ~~and~~

~~WHEREAS, both cities believe that an agreement pursuant to Chapter 28E of the Iowa Code should be entered into with regard to the Library, which agreement will be to their mutual advantage.~~

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, it is hereby agreed by and between Des Moines Public Library and Windsor Heights that:

1. PURPOSE: DMPL ~~The Library~~ intends to provide unrestricted access to library services, circulation of materials, and access to meeting rooms, programs and events for all

residents of the service areas of the cities of Des Moines and Windsor Heights.

2. TERM: This Agreement will be in effect for the period of July 1, 2019, through June 30, 2022, both dates inclusive. Unless the Agreement is terminated by the express written notice of either DMPL Des Moines or Windsor Heights pursuant to paragraph 9 of this Agreement, the parties hereby agree to meet on or before April 1, 2022 to discuss and, if needed, renegotiate the terms of this Agreement.

3. REIMBURSEMENT GENERALLY: It is agreed that Windsor Heights will pay to DMPL Des Moines the sum of \$60,000 for the first year and \$61,800 for year two and \$63,654 for year three. Payments shall be made in equal quarterly installments, to be paid on or before September 1st, December 1st, March 1st, and June 1st, with the first prorated payment of \$10,000 due upon execution of this Agreement and full quarterly payments to begin with the September 1, 2019 payment.

4. INDEMNIFICATION: Each party agrees to indemnify and to hold the other parties, their elected officers, agents, employees and successors and assigns, harmless from and against all claims, demands, actions and/or causes of actions, judgments, settlements, or other costs, including reasonable attorney's fees, which the other party, its successors and assigns, may incur or sustain a) by reason of the indemnifying party's breach of this Agreement or failure to legally or timely meet the responsibilities imposed herein (including, but not limited to, any fiscal obligations herein), or b) by reason of the torts of the indemnifying party. I ADVISE THAT THIS SECTION BE DELETED. You may want to consult with James Remington on this.

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5. AGREEMENT - METHOD OF APPROVAL: The parties hereto shall approve this Agreement by Resolution, which Resolution shall authorize the respective Board President or Mayors to execute this Agreement.

6. ~~AGREEMENT - FILING WITH SECRETARY OF STATE: When this~~

~~Agreement has been approved by the parties hereto, this Agreement shall be electronically filed with the Secretary of the State of Iowa in accordance with the provisions of Iowa Code Section 28E.8.~~

~~7. AGREEMENT – EFFECTIVE DATE: This Agreement shall become effective on July 1, 2019.~~

~~8. DURATION: This Agreement shall be effective from the date herein provided until terminated as herein provided.~~

9. TERMINATION: Either party may terminate this agreement by giving the other party written notice of their intent to terminate this Agreement on or before May 1st prior to the beginning of each new fiscal year. In the event of such termination, Windsor Heights shall be obligated to pay DMPL a prorated portion of the quarterly payment corresponding to the amount of time in that quarter prior to termination.

10. NOTICE: Any notice under this Agreement shall be in writing and shall be deemed to be given when deposited in the United States Post Office.

A. Notices to ~~DMP~~Les Moines shall be addressed: Library Director~~City Manager,~~
Main Library~~City of Des Moines, 1000 Locust~~400 Robert D. Ray Drive, Des Moines, Iowa
50309

B. Notices to Windsor Heights shall be addressed: City Administrator, City of Windsor Heights, 1145 66th Street, Suite 1, Windsor Heights, IA 50324

~~11. SEPARATE ADMINISTRATION: Pursuant to Iowa Code Section 28E.5(2), the parties state that there is no new, separate, legal or administrative entity created hereby.~~

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective officers, pursuant to full authority granted and given as of the day and year first above written.

~~CITY OF~~ DES MOINES PUBLIC LIBRARY _____

By: _____
Wes Graham, Library Board President ~~Mayor, T.M. Franklin Cownie~~

STATE OF IOWA)
)ss:
COUNTY OF POLK)

On this ~~15th~~ _____ day of April, 2019, before me, the undersigned, a Notary Public in and for said County and State, personally appeared WES GRAHAM ~~T.M. Franklin Cownie~~, to me personally known, who, being by me duly sworn, did state that ~~he is~~ they are the ~~PRESIDENT~~ Mayor of the ~~THE BOARD OF TRUSTEES OF THE DES MOINES PUBLIC LIBRARY~~ City of Des Moines, respectively, of said City; that ~~the no seal affixed to the foregoing instrument is the seal of the Des Moines Public Library has been procured by the said City~~; that said instrument was signed on behalf of said Des Moines Public Library ~~City~~ by authority of its Board of Trustees ~~City Council~~; and that the said WES GRAHAM ~~T.M. Franklin Cownie~~ as such officer acknowledge the execution of said instrument to be the voluntary act and deed of said Des Moines Public Library ~~City~~, by it and by him voluntarily executed.

Notary Public
Commission Expires:

CITY OF WINDSOR HEIGHTS

By: _____
Mayor, Dave Burgess

STATE OF IOWA)
)ss:
COUNTY OF POLK)

On this 15th day of April, 2020, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dave Burgess to me personally known, who, being by me duly sworn, did state that they are the Mayor of the City of Windsor Heights, respectively, of said City; that no seal has been procured by the said City; that said instrument was signed on behalf of said City by authority of its City Council; and that the said Dave Burgess as such officer acknowledge the execution of said instrument to be the voluntary act and deed of said City, by it and by him voluntarily executed.

Notary Public

Commission Expires:

