

Date September 25, 2017

APPROVING 28E AGREEMENT BETWEEN DRAKE UNIVERSITY AND THE CITY  
REGARDING OPERATION AND SHARED MAINTENANCE OF THE DRAKE  
MUNICIPAL OBSERVATORY

WHEREAS, the City of Des Moines is the owner of the real property an building known locally as the Drake Municipal Observatory (the "Observatory"); and

WHEREAS, on August 18, 1919, by Ordinance No. 2832, the City allowed Drake University to occupy and use the Observatory and equip said site for observatory purposes, upon the condition that said site and equipment shall be open to the public at reasonable times and under reasonable rules; and

WHEREAS, Drake University furnished the scientific instruments, displays, staff, and telescope at the Observatory; and

WHEREAS, to determine the structure's condition and recommend options for continued use of the building the City hired a structural consulting engineer in 1999 to assess the condition of the building, resulting in the Historic Structures Report on the Observatory, dated October 4, 1999, which identified and prioritized improvement, repair and maintenance needs of the Observatory; and

WHEREAS, Drake University and the City have completed most of the items in said Report , with both parties responsible for on-going inspection and maintenance; and

WHEREAS, Park and Recreation department staff and Drake University staff have negotiated an agreement for maintenance and repairs, and operations and programming for an initial period until December 31, 2022 with an automatic renewal for two additional terms of 5 years unless either party indicates is intention to terminate the Agreement before a renewal period; and

WHEREAS, Iowa Code (2017) Chapter 28E allows any public agency in Iowa, including municipalities, to enter into agreements with public or private agencies for joint or cooperative action with respect to any power, privilege or authority exercised or capable of being exercised by the public agency; and

WHEREAS, it is in the best interest of the City to enter into this 28E Agreement, a copy of which is on file in the office of the City Clerk, to improve, repair and maintain the Observatory for the benefit of the students at Drake University and the citizens of Des Moines.



Roll Call Number

Agenda Item Number

39

Date September 25, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of Des Moines, Iowa, that the Drake Municipal Observatory 28E Agreement, a copy of which is on file in the office of the City Clerk, be and is hereby approved and the Mayor is hereby authorized and directed to sign said Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to said signature.

BE IT FURTHER RESOLVED that the City Manager is authorized to terminate the Agreement prior to the first or second 5 year renewal if the City Manager determines such termination to be in the best interests of the City.

(Council Communication No. 17- *666*)

Moved by \_\_\_\_\_ to approve.

APPROVED AS TO FORM:

*Ann DiDonato*

Ann DiDonato  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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