



# Council Communication

Office of the City Manager

Date

February 26, 2007

Agenda Item No. 57  
Roll Call No. 07-  
Communication No. 07-119  
Submitted by: Donald M. Tripp, Park and  
Recreation Director

## AGENDA HEADING:

Approving the Operating Agreement with the Des Moines Art Center for the Western Gateway Park Sculpture Park.

## SYNOPSIS:

To approve the Western Gateway Park Sculpture Garden Operating Agreement with the Des Moines Art Center which provides for maintenance of the art and grounds and security at the park.

## FISCAL IMPACT:

Amount: The estimated value of the sculptures is between \$15,000,000 and \$20,000,000. Sculpture installation costs are estimated at \$2,000,000. There will also be costs for annual operating expenses for care of the art, increased ground care responsibilities, and for the provisions of appropriate security systems and related staff.

### Funding Sources:

- John and Mary Pappajohn will donate the art, estimated to be worth up to \$20 million.
- \$2 million in sculpture installation costs and related park improvements will be fundraised through a capital campaign led by James W. Cownie. Consideration is being given to applying for Vision Iowa funds.
- The other operating costs will be funded through private contributions (use of a portion of Cownie funds) and in-kind contributions from surrounding property owners (Meredith Corporation, Allied Insurance, etc.).

## ADDITIONAL INFORMATION:

The adopted Master Plan for Western Gateway Park envisioned works of art being placed in the park. The first such installation, the Temple Chess and Poetry Garden, by Siah Armajani, was commissioned under the terms of the operating agreement of the Greater Des Moines Community Foundation, the Greater Des Moines Public Art Foundation and the City of Des Moines, with completion in spring 2006. It is located in the plaza between the Temple for the Performing Arts and Central Library.

John and Mary Pappajohn are longtime Des Moines residents who have international stature as collectors of art. They approached Councilmember Christine Hensley with an idea to donate several pieces of world-class sculpture art for placement in Western Gateway Park. Following staff and Des Moines Art Center (DMAC) research of outdoor sculpture areas in other cities, and consideration of various options,

the Pappajohns have agreed to donate the art to the DMAC. The DMAC has since entered into an agreement with the Pappajohns related to this gift.

An agreement is needed between the City of Des Moines and the DMAC to allow placement of the art in Western Gateway Park. The agreement will also clarify issues such as installation, cost, care, security and continued public access to the park. It is most important to note that all parties have been adamant about maintaining Western Gateway Park as a free and open public park, a place where all people may enjoy this extraordinary artwork. The Park and Recreation Board will be considering a few Western Gateway Park park rule modifications to assure appropriate activity in the vicinities of the art.

Staff has worked with the DMAC and the Pappajohns to prepare the Western Gateway Park John and Mary Pappajohn Sculpture Garden Operating 28E Agreement by and between the Des Moines Art Center and the City of Des Moines. The terms and conditions of this agreement establish the following:

- A master plan identifying multiple sites for the location of sculptures within the sculpture park area shall be developed through a selection committee comprised of Mary and John Pappajohn, or their designees, and one representative each of the City and the Art Center. The master plan shall describe the current use of the land, any known change in land use contemplated by the proposed sculpture and the general area to be occupied by each sculpture. The master plan and any amendments which may be made to it shall be subject to approval by the City Council after it has been submitted for review and recommendation by the Park and Recreation Board.
- Site plans for each sculpture shall be prepared jointly and agreed upon by the Art Center and the City Park and Recreation Director, or other City staff as designated by the City Manager. Site plans and the selection of each individual sculpture must receive City Council approval. Site plans for the individual sculptures shall in all events specify the boundaries and dimensions of what shall be considered the sculpture. Additionally, each site plan shall specify the “area of ambience” for the individual sculpture, that is, the area of the Sculpture Park Area within which the design of each sculpture is focused, and which cannot be changed without detracting from the sculpture. No substantial change in use of the areas of ambience shall be permitted during the term of the Agreement without mutual consent of the Art Center and the City.
- All such park improvements needed for the installation of the sculptures shall be paid for by private funds and shall be consistent with the character of the Sculpture Park Area. Site plans shall also include a plan to provide security for the sculpture and area of ambience. Security shall be paid for by private funds and may include video surveillance, additional patrols by police or security officers, or other means of providing security for the sculpture and area of ambience.
- Selection of the sculptures shall be made by three-fourths approval of the Selection Committee. The selection of sculptures for inclusion within the Sculpture Park Area must receive approval of the City Council, after review and recommendation of the Park and Recreation Board. No sculpture may be placed in Western Gateway Park or the Sculpture Park Area without the prior review and approval of the Selection Committee.
- The DMAC shall be solely responsible for the acquisition of sculptures for the Sculpture Park Area and for all costs associated with the commissioning, acquisition and installation of each sculpture. All sculptures within the Sculpture Park Area shall be the property of the Art Center, excluding the sculptures by Ed Hendricks and Siah Armajani, which are located in the Park between 10<sup>th</sup> Street and 12<sup>th</sup> Street. The Art Center shall coordinate the installation of each individual piece of sculpture with the City’s Park and Recreation Director and City Engineer’s approvals.
- The DMAC may for any reason and at any time demand early withdrawal of the sculptures. The Selection Committee may also remove the sculptures by a vote of 3 of the 4 members.

- The City will maintain the grounds, including the area of ambience and the DMAC will maintain the sculptures, including their base area. The DMAC is responsible for the structural integrity of the sculptures and shall perform any maintenance or repairs to same.
- Except for specific events, for which the City has granted a permit to use the Sculpture Park Area and to charge an entrance fee, the public shall have cost-free access to the Sculpture Park Area during normal park operating hours.
- The City shall adopt park rules or City ordinances which will prohibit the use of balls, flying discs or similar active recreation equipment that might damage the sculptures and domestic animals in the areas of ambience within the Sculpture Park Area.

Included in the Council packet is the press release from the Des Moines Art Center highlighting the Mary and John Pappajohn gift including background information on the Pappajohns and donated sculptures along with a rendering of the sculptures.

This project will require some modifications to Western Gateway Park; those will be done by the City of Des Moines using private funds prior to installation of the art by the DMAC. It is expected that some of the art will be installed in 2007, but there is not an exact timetable for the project.

There are very few sculpture gardens that can claim the level of significance that will be acclaimed at Western Gateway Park. In the United States, facilities on a level with Des Moines' proposed sculpture garden include the Olympic Sculpture Park in Seattle, Washington; the National Gallery of Art's Sculpture Gardens and Hirshhorn Museum in Washington, D.C.; the Minneapolis Sculpture Garden in Minneapolis, Minnesota; and the Kansas City Sculpture Park in Kansas City, Missouri.

#### **PREVIOUS COUNCIL ACTION(S): NONE**

#### **BOARD/COMMISSION ACTION(S):**

Date: February 20, 2007

Roll Call Number: 07-019

Action: Park and Recreation Board approved the Art Center Agreement for Western Gateway Park Sculpture Garden. Motion carried. 8-0. The agreement has been slightly altered since its review and recommendation for approval by the Board. The Pappajohns requested that the approval of the Master Plan by the Selection Committee be made by three of the four members to be consistent with the other Selection Committee approval sections of the agreement. The version approved by the Park and Recreation Board required "consensus" approval by the Selection Committee. Staff recommends the City Council approve the agreement with this change as the City Council still maintains its position of final approval.

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Future actions related to site plans and selection of art for the park.