

May 7, 2007

Date

**CLOSE HEARING ON 28E OPERATING AGREEMENT BETWEEN THE CITY OF DES MOINES AND EDMUNDSON ART FOUNDATION, INC., D/B/A DES MOINES ART CENTER, FOR "WESTERN GATEWAY" SCULPTURE PARK**

**WHEREAS**, the Master Plan for the park bounded by 10<sup>th</sup> Street to 15<sup>th</sup> Street and Grand Avenue and Locust Street, commonly referred to as "Western Gateway Park" ("the Park"), envisioned works of art being placed in the Park; and

**WHEREAS**, John and Mary Pappajohn have agreed to donate several pieces of sculpture to the Edmundson Art Foundation, Inc., d/b/a the Des Moines Art Center ("DMAC"), with the intention that such pieces be placed in the Park; and

**WHEREAS**, the DMAC desires to install and maintain such sculptures in certain areas of the Park to be exhibited for the enjoyment of the general public; and

**WHEREAS**, the DMAC will retain the ownership of such sculptures; and

**WHEREAS**, the City, pursuant to its authority under Iowa Code Chapter 28E, desires to cooperate with the DMAC in the development of a Master Plan designating areas for placement of such sculptures in the Park, and City staff have negotiated a 28E Operating Agreement, a copy of which is on file in the City Clerk's office; and

**WHEREAS**, the Park and Recreation Board has voted to recommend adoption of said 28E Operating at its meeting on February 20, 2007; and

**WHEREAS**, the DMAC Board has approved the execution of said 28E Operating Agreement on February 20, 2007; and

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**WHEREAS**, on February 22, 2007, due notice of a proposal to enter into a 28E operating Agreement for the term of 49 years with Edmundson Art Foundation, Inc., d/b/a the Des Moines Art Center for the Western Gateway Park Sculpture be set down for hearing on February 26, 2007, at 5:00 p.m., in the City Council Chambers was given as provided by law, setting forth the time and place for hearing on said agreement; and

**WHEREAS**, on February 26, 2007, by Roll Call No. 07-389, the City Council continued the hearing to March 26, 2007; and

**WHEREAS**, on March 26, 2007, by Roll Call No. 07-588, the City Council continued the hearing to May 7, 2007, to permit time to finalize the security arrangements for the Sculpture Park; and

**WHEREAS**, Mr. Pappajohn and DMAC have requested that the Master Plan be completed prior to the execution of the 28E Agreement and also desire that Mr. Mario Gandleonas be consulted on development of such Master Plan, which is anticipated to require an indeterminate number of months to accomplish.

★ Roll Call Number

Agenda Item Number

61

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the public hearing is hereby closed and the matter of the consideration of the approval of the above described 28E Agreement shall be set for public hearing at a time following completion of the Master Plan for placement of sculptures within a designated sculpture garden within "Western Gateway Park".

Council Communication No. 07- \_\_\_\_\_)

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

APPROVED AS TO FORM:

*Ann DiDonato*

Ann DiDonato  
Assistant City Attorney

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