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Date..... July 9, 2007

**APPROVAL OF AMENDMENT TO ROBERT D. RAY ASIAN GARDEN 28E
AGREEMENT BY AND BETWEEN THE CITY OF DES MOINES AND CHINESE
CULTURAL CENTER OF AMERICA**

WHEREAS, on October 24, 2005, by Roll Cal No. 05-2601, the City Council approved the Robert D. Ray Asian Garden 28E Agreement By and Between the City of Des Moines, Iowa and Chinese Cultural Center of America, ("CCCA"), which provided that CCCA would be responsible for the design, construction, and maintenance, with its own privately raised funds, of certain improvements to be named the Robert D. Ray Asian Garden, ("Asian Garden"), to an area north of the Armory Building in the south end of the Jimmy Muto Recreation Area, owned by the City, and to make a charitable gift to the City of the Asian Garden; and

WHEREAS, the Agreement provides that the Asian Garden construction will be completed by September 1, 2006; and

WHEREAS, the Agreement provides that the City will be responsible for the construction of the Character Stone Garden portion of the Asian Garden and will contribute \$25,000 towards the construction of the Character Stone Garden, with any remaining funds needed for such construction to be provided by the CCCA; and

WHEREAS, although the pavilion and substructure have been constructed, CCCA needs additional time to complete its fund raising and construction; and

WHEREAS, CCCA desires to be responsible for the construction of the Character Stone Garden and that the City's contribution of \$25,000 be used toward maintenance of the Asian Garden; and

WHEREAS, City staff and the CCCA have negotiated an amendment to the Agreement extending the construction completion date to November 1, 2007 for most of the improvements and until July 1, 2008 to complete the landscaping, a copy of which is on file in the City Clerk's Office; and

WHEREAS, the Agreement provides that such improvements are required to be constructed according to the plans and specifications approved by the City; and

WHEREAS, on October 24, 2005, by Roll Call No. 05-2602, and on June 19, 2006, by Roll Call No. 06-1182, the City Council approved private construction contracts for the substructure and pavilion; and



Roll Call Number

Agenda Item Number

42A

Date July 9, 2007

WHEREAS, a letter of financial commitment has been provided and private construction contracts will be entered into for the remaining work, including grading, construction of ponds, mechanical, electrical, access path , and landscaping; and

WHEREAS, the remaining work will be undertaken subject to final approval of the Army Corps of Engineers; and

WHEREAS, the CCCA has executed said Amendment; and

WHEREAS, it is in the best interest of the City to approve and enter into said Amendment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the Amendment to Robert D. Ray Asian Garden 28E Agreement By and Between the City of Des Moines and the Chinese Cultural Center of America, which is on file in the City Clerk's Office, be and is hereby approved and the Mayor is authorized and directed to sign said Amendment on behalf of the City and the City Clerk is hereby directed to attest to said signature.

Moved by _____ to adopt.

(Council Communication No. 07-402).

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