

Date.....December 7, 2009.....

HOLD HEARING FOR GRANT OF A LICENSE TO EDMUNDSON ART FOUNDATION, INC., D/B/A THE DES MOINES ART CENTER, AND THE RIVERFRONT DEVELOPMENT AUTHORITY FOR THE DISPLAY AND MAINTENANCE OF A SCULPTURE AND FOUNTAIN AT HANSEN TRIANGLE, APPROVAL OF LICENSE, AND AUTHORIZING THE MAYOR TO EXECUTE LICENSE AND CITY MANAGER TO EXECUTE RENEWAL

WHEREAS, the Phase One Master Plan for the Principal Riverwalk design, development and improvement of riverfront public amenities and public spaces was approved by the City Council pursuant to the Chapter 28E Agreement Between the City of Des Moines and the Des Moines Riverfront Development Authority for Planning, Constructing and Maintaining Riverfront Improvements in the Downtown Area, approved by the City Council by Roll Call 04-599 on March 22, 2004; and

WHEREAS, such Master Plan anticipates that public art will be included within the Principal Riverwalk; and

WHEREAS, the Edmundson Art Foundation, Inc. (“Des Moines Art Center”) is the owner of the Quantum Leaf sculpture and fountain by Sally Pettus; and

WHEREAS, the Des Moines Art Center and the Des Moines Riverfront Development Authority (“RDA”) desire to install, maintain and display the sculpture on the southwest corner of Hansen Triangle; and

WHEREAS, on September 27, 2004, by Roll Call No. 04-2052, the City Council approved the placement of the sculpture within the proposed Principal Riverwalk improvements and authorized and directed the City Manager to determine the precise location of the sculpture, review all schematic drawings and site plans, and execute all required agreements for the sculpture installation, maintenance, insurance and indemnification by the RDA; and

WHEREAS, in 2007 the Des Moines Art Center installed and is displaying the sculpture within the Hansen Triangle for the enjoyment of the public; and

WHEREAS, the Lease Agreement authorized the City to allow the installation, operation, display and maintenance of the sculpture within the leasehold; and

WHEREAS, a License Agreement has been prepared which provides that the Des Moines Art Center will retain the ownership of the sculpture and the Des Moines Art Center will have maintenance responsibility for the sculpture, and RDA will be responsible for the maintenance of the fountain for the time period of the Lease Agreement which is until December 31, 2028, with the option of a ten year renewal; and

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WHEREAS, on November 23, 2009, by Roll Call No. 09-~~2137~~ the City Council approved a lease agreement between MidAmerican Energy Company and the City of Des Moines for use of "Hansen Triangle" as parkland (the Lease Agreement") and as part of the Principal Riverwalk; and

WHEREAS, it is in the best interests of the City to enter into a license agreement with the RDA and the Des Moines Art Center to allow the installation, display and maintenance of the sculpture and fountain in consideration of the enjoyment of the public and the maintenance obligations to be undertaken by the RDA and the Des Moines Art Center; and

WHEREAS, due notice of said proposal to lease public real property interests was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed lease, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed lease of public real property as described below are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of the conveyance of this license agreement for a period until December 31, 2028, with an option of an additional ten years, to install, display and maintain a sculpture and fountain owned by the Des Moines Art Center in Hansen Triangle.
3. That the grant of this license agreement to Edmundson Art Foundation, Inc., d/b/a the Des Moines Art Center and the Des Moines Riverfront Development Authority for the consideration of maintenance to be performed by the grantees and in consideration for the public enjoyment of the sculpture, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Agreement Between the City of Des Moines and the Des Moines Riverfront Development Authority and Edmundson Art Foundation, Inc. d/b/a the Des Moines Art Center for Display and Maintenance of Quantum Leaf Sculpture and Fountain in Hansen Triangle, a copy of which is in the City Clerk's Office, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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5. The City Manager is authorized to sign the ten year renewal of such license agreement after the initial term of this lease, subject to his determination that renewal is in the best interests of the City, and the City Clerk is authorized and directed to attest to the City Manager's signature.

6. The City Clerk is authorized and directed to forward the original of this license agreement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the License Agreement and copies of the other documents to the grantees.

(Council Communication 09-843)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

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