

Date August 29, 2011

APPROVAL OF AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE DES MOINES RIVER FRONT DEVELOPMENT AUTHORITY FOR MAINTENANCE AND REPAIR OF ROBERT D. RAY ASIAN GARDEN

WHEREAS, on October 24, 2005, by Roll Call No. 05-222601, 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 including a pavilion structure, plantings, paths, water features, and a character stone garden 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 such Asian Garden improvements (“the 28E Agreement”); and

WHEREAS, the 28E Agreement is in effect until October 24, 2025; and

WHEREAS, on August 29, 2011, by Roll Call No. 11-____, the City Council accepted the Robert D. Ray Asian Garden improvements constructed by the Chinese Cultural Center of America, (“CCCA”); and

WHEREAS, on August 29, 2011, by Roll Call No. 11-____, the City Council approved a Second Amendment to the 28E Agreement in which the responsibility of CCCA for maintenance of the Robert D. Ray Asian Garden improvements constructed by the Chinese Cultural Center of America was deleted; and

WHEREAS, the Des Moines River Front Development Authority (“RDA”) has offered to be responsible for maintenance and repair of the Asian Garden improvements, excluding major capital repairs, during the term of the 28E Agreement; and

WHEREAS, City staff and the RDA have negotiated a Robert D. Ray Asian Garden Maintenance and Repair Agreement, a copy of which is on file in the City Clerk’s Office; and

WHEREAS, such proposed Agreement provides that it shall be co-terminus with the 28E Agreement and may be terminated by the City in the event that the City enters into an agreement with a third party for the operation of downtown parks, including the Robert D. Ray Asian Garden; and

WHEREAS, the RDA has executed said Agreement; and

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

★ **Roll Call Number**

Agenda Item Number

73C

Date August 29, 2011

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the Robert D. ray Asian Garden Maintenance and Repair Agreement By and Between the City of Des Moines and Des Moines River Front Development Authority, a copy of 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 Agreement on behalf of the City and the City Clerk is hereby directed to attest to said signature.

Moved by _____ to adopt.

(Council Communication No. 11- **581**)

APPROVED AS TO FORM.

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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