

Date..... April 8, 2013

APPROVING LICENSE TO THE GREATER DES MOINES PUBLIC ART FOUNDATION FOR THE INSTALLATION, DISPLAY AND MAINTENANCE OF GLASS MURAL ON COURT AVENUE STORM WATER STATION AND AUTHORIZING THE MAYOR TO EXECUTE LICENSE AGREEMENT FOR SAME AND TO EXECUTE ASSOCIATED INTELLECTUAL PROPERTY AGREEMENTS FOR GLASS MURAL AND DANGO SCULPTURES AT THE HUB SPOT

WHEREAS, the Phase One Master Plan for 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 05-1062 on April 25, 2005; and

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

WHEREAS, on December 22, 2003, by Roll Call No. 03-2902, the City Council approved the negotiation of a contract for the establishment and administration of a Public Arts Program with the Greater Des Moines Community Foundation (“GDMCF”), which contract was entered into by the City and the GDMCF on March 19, 2004 (“the Contract”); and

WHEREAS, the GDMCF formed the Greater Des Moines Public Art Foundation (“Foundation”) to conduct the affairs and activities of the Public Art Program under the Contract pursuant to the Clarifying Amendment dated July 12, 2004, and approved by the City Council by Roll Call No. 04-1451 on July 12, 2004; and

WHEREAS, on March 26, 2012, by Roll Call No. 12-0491, the City Council approved a License Agreement with the Foundation for the installation of 5 ceramic sculptures titled “Dangos” by artist Jun Kaneko at the Hub Spot (“the Dango License Agreement”); and

WHEREAS, the Foundation is the owner of a fused glass mural titled “Expansion” by artist Jun Kaneko (the “Mural”); and

WHEREAS, the Foundation desires to install and display the Mural on the north wall of the Court Avenue Storm Water Pump Station (“the Pump Station”), across the street from the 5 Dangos sculptures for the enjoyment of the public; and

WHEREAS, the Foundation has determined that the placement of the Sculptures at such location is consistent with the Principal Riverwalk Master Plan; and

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WHEREAS, the Access Advisory Board approved the placement of the Sculptures at its March 20, 2013 meeting; and

WHEREAS, a License Agreement has been prepared which provides that the Foundation will retain the ownership of the Mural and the Foundation will have maintenance responsibility for the Mural maintenance for a period of 20 years; and

WHEREAS, pursuant to the License Agreement and the Dango License Agreement, artist Jun Kaneko has executed a Waiver of Visual Artist Rights Act and a Non-Exclusive, Limited Copyright License in connection with display of the Mural and the Dango sculptures; and

WHEREAS, it is in the best interests of the City to enter into the License Agreement with the Greater Des Moines Public Art Foundation to allow the installation, display and maintenance of the Mural in consideration of the enjoyment of the public and the maintenance obligations to be undertaken by the Foundation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the above described Agreement Between the City of Des Moines and the Greater Des Moines Public Art Foundation for Installation and Maintenance of Jun Kaneko Glass Mural "Expansion" on City storm Water Pump Station in the Principal Riverwalk, a copy of which is 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 authorized and directed to attest to the Mayor's signature.

BE IT FURTHER RESOLVED, that the Mayor is authorized and directed to execute on behalf of the City any necessary intellectual property rights agreements in connection with the Dango sculptures and the Expansion mural, including copyright licenses and waivers of Visual Artists Rights Act, subject to approval as to form by the Legal Department.

(Council Communication 13-) Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato

Sponsored by Councilmember Hensley.

Ann DiDonato, Assistant City Attorney

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

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.

MOTION CARRIED APPROVED

Mayor

City Clerk