

December 22, 2014

Date

APPROVAL OF SECOND AMENDMENT OF LEASE AND OPERATION, MANAGEMENT AND MAINTENANCE AGREEMENT WITH GREATER DES MOINES BOTANICAL GARDEN FOR BOTANICAL CENTER AND ADJACENT GROUNDS

WHEREAS, the City of Des Moines owns and operates the City of Des Moines Botanical Center, including adjacent greenhouses, located at 909 Robert D. Ray Drive, Des Moines, Iowa 50316-2897 ("Botanical Center"), and approximately 13.498 acres of grounds adjacent to the Botanical Center and between the Botanical Center and the Des Moines River, including the park drive known as Robert D. Ray Drive; and

WHEREAS, on May 9, 2011, by Roll Call No. 11-0822, the City Council approved the Lease Agreement in which the Greater Des Moines Botanical Garden corporation ("GDMBG") agreed to be responsible, at its cost, for \$7,500,000 in improvements, including expanded gardens on the grounds of the Botanical Center, by June 1, 2015, and to create an endowment of \$2,000,000 for operational expenses at the Botanical Center and grounds, and \$500,000 for construction related costs and operating costs during and immediately after construction as consideration for rent, for an initial period of 25 years, with two 25 year renewal options at the option of the GDMBG ("Lease Agreement"); and

WHEREAS, per the Lease Agreement, such improvements must be constructed in accordance with a Master Plan approved by the City Council; and

WHEREAS, on June 11, 2012, by Roll Call No. 12-0935, the City Council approved the conceptual Master Plan developed by GDMBG for construction of improvements in the Botanical Center and its grounds; and

WHEREAS, the Lease Agreement commenced on January 1, 2013; and

WHEREAS, on December 17, 2012, by Roll Call No. 12-1971, the City Council approved an Amendment to the Lease Agreement regarding certain utilities, a fire hydrant installation, and Hazardous Substances commonly used in the operation of botanical gardens or offices; and

WHEREAS, due to the age and condition of the Botanical Center glass dome, all of the approximately 650 geodesic panels and associated hardware to the Botanical Center dome must be replaced at an estimated cost of \$1,500,000 ("the Dome Project"); and

WHEREAS, City staff and GDMBG have negotiated an amendment to the Lease Agreement requiring GDMBG to make such replacement of the dome panels and to provide the City with two additional free uses of the Botanical Center per year for City revenue generating events, a copy of which is on file in the City Clerk's Office.

26A

December 22, 2014

Date.....

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

1. The proposed Second Amendment to the Lease, Operation, Management and Maintenance Agreement to require the Greater Des Moines Botanical Garden to replace the approximately 650 geodesic panels and all of the associated hardware to the Botanical Center dome by no later than July 1, 2015, and to provide the City with the right to use the Botanical Center for two revenue generating events each year at no charge to the City, is hereby approved.
2. The Mayor is authorized and directed to sign said Second Amendment as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. The City Clerk is authorized and directed to forward the original of the Second Amendment to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded.
4. Upon execution of said Second Amendment, the Real Estate Division of the Engineering Department is authorized and directed to forward the original of the said lease amendment to the Polk County Recorder's Office for the purpose of causing said document to be recorded.
5. Upon receipt of the recorded document back from the Polk County Recorder, the Real Estate Division shall file the original of the Second Amendment and send copies to the City Clerk, the Land Records Clerk and to the Greater Des Moines Botanical Garden.

(Council Communication No. 14-597)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato

Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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

26A



Greater Des Moines
Botanical Garden

Exploring, explaining and celebrating the world of plants

October 22, 2014

Scott Sanders
City Manager
City of Des Moines
400 East 1st Street
Des Moines, IA 50309

Dear Mr. Sanders:

The Greater Des Moines Botanical Garden project is moving along substantially, as projected in the Lease Agreement with the City and the Master Plan approved by the City Council in June 2012. Construction on the first seven acres of outdoor gardens will conclude by the end of the year and will officially open to the public in the spring of 2015.

Our original fundraising goal of \$10,000,000 was increased along the way to \$11,600,000, and we have closed out the Phase I Campaign after raising \$12,000,000. During the summer of 2013 we launched a Phase II Campaign to raise an additional \$6,200,000 in order to capitalize on the efficiencies of building gardens adjacent to the Phase I gardens while expanding our curatorial opportunities and endowment. To date we have raised \$3 million towards the \$6.2 million goal. Through the Phase I fundraising we were able to secure \$2.4 million for the endowment and by the conclusion of the Phase II campaign we will have raised a total of \$3.6 million for the endowment.

When Buz Brenton, Tom Urban, Janis Ruan and I began exploring the opportunity for a new business model and way forward for the Botanical Center it was certainly understood that the facility was in need of significant updates. With the commencing of the lease and the fundraising that has made the renovations possible, the Greater Des Moines Botanical Garden has overcome many challenges that stem from years of deferred maintenance while the facility was under the City's and Des Moines Water Works' leadership.

In recent months the Botanical Garden has identified that the 650 geodesic dome panels and associated hardware are in very bad condition. As a result, during any rain event, it is literally raining inside the conservatory. The Board of Directors recognized the devastating impact that this could have on our operational revenue and supported the pursuit of options to overcome this challenge. The original manufacturer of the dome was brought to the table to review the structure and propose solutions. Due to the extensive failure of both the panels and the associated hardware we decided that the best solution was to proceed with the full replacement of all 650 panels along with the battens and hardware for \$1.5 million. And as a result of a rare opening in the manufacturing schedule this summer, the production of the parts was expedited in order to complete the work before winter.

Certainly a \$1.5 million repair to the conservatory structure was never on the radar of Buz Brenton, Tom Urban, Janis Ruan or myself. If it had been on our radar, we might not have pursued the transfer of leadership to the non-profit. As community leaders and now as the stewards of the Greater Des Moines Botanical Garden along with the full Board of Directors we have supported moving forward with the \$1.5 million repair.

The Greater Des Moines Botanical Garden is requesting that the City of Des Moines, as the owner of the facility, support this critical and significant repair. In addition to requesting the City's support we have \$750,000 in pending requests with private individuals, a capital grant application that we are submitting to Bravo Greater Des Moines for \$150,000, and we are prepared to request support from Polk County once we have confirmed support from the City of Des Moines.

Please let us know if there is additional information you need to give full consideration to this request.

Thank you.

Sincerely,

Stephanie Jutila
President and CEO
sjutila@dmbotanicalgarden.com
515.323.6261

Fred W. Weitz
Chair, Board of Directors
weitzfred@msn.com
515.490.6770

City bond funds
\$150K

Cc: Bob Mahaffey, Ben Page