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Date February 19, 2024

**RESOLUTION APPROVING AGREEMENT REGARDING TEMPLE CHESS & POETRY GARDEN
WITH GREATER DES MOINES PUBLIC ART FOUNDATION**

WHEREAS, in March 2004, pursuant to Des Moines City Council Roll Call No. 03-2902, the City and the Community Foundation of Greater Des Moines (“Foundation”) entered into an Agreement for Administration of the Public Arts Program (“Administration Agreement”), whereby the City transferred responsibility for administration of the Public Arts Program and the associated private fundraising to the Foundation (through its predecessor entity) and allocated funding to the Foundation for said purpose; and

WHEREAS, said Administration Agreement has since been amended twice to clarify that the responsibility for administration of the Public Art Program had been transferred to the Foundation, which thereafter formed the nonprofit Greater Des Moines Public Arts Foundation (GDMPAF) to accomplish the purposes of the Administration Agreement and assign its obligations under said agreement to the GDMPAF; and

WHEREAS, the City owns parkland located in downtown Des Moines on the north side of Locust Avenue, between 10th and 12th Streets, which parkland is situated between the Des Moines Public Library – Central Library and the Temple Building (“Garden Property”); and

WHEREAS, in approximately 2005, the GDMPAF acquired the “Temple Chess & Poetry Garden” art installation, including fixtures, such as decorative fencing, and personal property, such as inlaid chess tables, chairs, and other decorative elements (collectively, “GDMPAF Installation”), which GDMPAF Installation thereafter was installed in the Garden Property; and

WHEREAS, the GDMPAF owns and is responsible for maintenance, repair, and replacement of the GDMPAF Installation, and the City is responsible for similar obligations for the Garden Property; and

WHEREAS, the GDMPAF Installation no longer serves the needs of the City, its Public Library or Parks and Recreation Department, the GDMPAF, the Temple Building, or the public, and no longer fulfills the Administration Agreement requirement on the GDMPAF that “the placement and display of the art does not impose any burden upon the City or upon the future operation of City facilities”; and

WHEREAS, in June 2019, the City and the GDMPAF entered into a Temporary Access License Agreement (GDMPAF Art Storage) regarding storage of several non-fixture elements of the GDMPAF Installation, whereby the City agreed to store said elements in its Public Works Administration Building for a limited time, which License Agreement has since expired; and

WHEREAS, in August 2023, GDMPAF again requested the City to store additional non-fixture elements of the GDMPAF Installation, which elements are currently being stored in the City’s Municipal Service Center 2 facility; and

WHEREAS, the City desires to repurpose the Garden Property for parkland uses that are more conducive to the needs of the Central Library, the Temple Building, and the City and public, and that are able to be maintained in alignment with the City’s routine parkland maintenance by the Parks and Recreation Department; and

WHEREAS, the GDMPAF agrees that the Garden Property should be repurposed, and acknowledges that the GDMPAF Installation must be removed from said Property in order to achieve the repurposing by the City, and further wishes to address disposition of the GDMPAF Installation; and

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WHEREAS, the City and GDMPAF have negotiated an Agreement, on file in the office of the City Clerk, by which the City and GDMPAF agree to terminate the GDMPAF Installation to allow for said repurposing by the City of the Garden Property, and which ratifies continued storage of the GDMPAF Installation in the City’s Municipal Service Center 2 on a temporary basis.

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

1. The Agreement Regarding Temple Chess and Poetry Garden between the City of Des Moines, Iowa and the Greater Des Moines Public Art Foundation to terminate the GDMPAF Installation and allow City repurposing of the Garden Property as well as continued temporary storage of the GDMPAF Installation in the City’s Municipal Service Center 2, is hereby approved, and the Mayor is hereby directed and authorized to execute said Agreement on behalf of the City.
2. The City Manager and his designee(s) are directed to administer said Agreement for compliance and to act on behalf of the City in accordance with the terms of the Agreement.

(Council Communication No. 24-_____)

Moved by _____ to adopt.

Second by _____.

APPROVED AS TO FORM:

/s/ Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COLEMAN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

_____ Mayor

_____ City Clerk