

★ Roll Call Number

11-1526

Agenda Item Number

73B

Date August 29, 2011

APPROVAL OF SECOND AMENDMENT TO ROBERT D. RAY ASIAN GARDEN 28E  
AGREEMENT BY AND BETWEEN THE CITY OF DES MOINES AND CHINESE  
CULTURAL CENTER OF AMERICA

WHEREAS, on October 24, 2005, by Roll Cal No. 05-2601, 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, such improvements have been completed and the City has accepted such improvements; and

WHEREAS, CCCA has advised the City that it will not be able to provide maintenance of the Asian Gardens per the 28E Agreement and the Des Moines River Front Development Authority ("RDA") has advised the City that it will agree to undertake such responsibilities; and

WHEREAS, City staff and the CCCA have negotiated a Second Amendment to the Agreement which deletes the maintenance requirements, a copy of which is on file in the City Clerk's Office; and

WHEREAS, the CCCA has executed said Amendment; and

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the Second Amendment to Robert D. Ray Asian Garden 28E Agreement By and Between the City of Des Moines and the Chinese Cultural Center of America, 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 Amendment on behalf of the City and the City Clerk is hereby directed to attest to said signature.

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Moved by Hensley 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	7			
MOTION CARRIED	APPROVED			
<u>T. M. Franklin</u> 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.

Diane Rauh City Clerk