

★ Roll Call Number

16-1734

Agenda Item Number

41 ✓

Date October 10, 2016

APPROVING AGREEMENT WITH THE GREATER DES MOINES PUBLIC ART FOUNDATION  
FOR THE INSTALLATION AND MAINTENANCE OF KERRY JAMES MARSHALL "A  
MONUMENTAL JOURNEY" SCULPTURE IN HANSEN TRIANGLE IN THE PRINCIPAL  
RIVERWALK AND AUTHORIZING MAYOR TO EXECUTE AGREEMENT FOR SAME AND TO  
EXECUTE ASSOCIATED INTELLECTUAL PROPERTY AGREEMENT

WHEREAS, the Des Moines City Council encourages the installation of art for the public enjoyment in downtown Des Moines, including the installation of public art within the Principal Riverwalk; and

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, ("the RDA Agreement"); and

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

WHEREAS, the City and MidAmerican Energy entered into a Lease Agreement for the Hansen Triangle to be included as part of the Principal Riverwalk, which initial term expires on December 31, 2028, with an optional renewal for an additional 10 years ("the Lease Agreement"); and

WHEREAS, on November 23, 2009, by Roll Call No. 09-2136, the Hansen Triangle leasehold was dedicated by the City Council as parkland and as part of 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 Arts 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. 04-145 on July 12, 2004; and

WHEREAS, the Foundation is the owner of one large scale sculpture to be constructed of brick masonry with a steel core beam titled "A Monumental Journey" by artist Kerry James Marshall (the "Artwork"); and

WHEREAS, the Foundation desires to install, display and maintain the Artwork on the Hansen Triangle; and

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



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WHEREAS, the Riverfront Development Authority ("RDA") approved the placement of the Artwork at the Hansen Triangle on September 27, 2016; and

WHEREAS, the Access Advisory Board approved the placement of the Artwork at its July 20, 2016 meeting; and

WHEREAS, the Foundation will retain the ownership of the Artwork and provide for maintenance of the Artwork; and

WHEREAS, pursuant to the License Agreement, the Artist is required to execute a Waiver of Visual Artist Rights Act and a Non-Exclusive, Limited Copyright License in connection with display of the Artwork; and

WHEREAS, it is in the best interests of the City to enter into the Agreement with the Foundation to allow the installation, display and maintenance of the Artwork 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 Kerry James Marshall "A Monumental Journey" Sculpture in Hansen Triangle 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 Artwork, including copyright licenses and waivers of Visual Artists Rights Act, subject to approval as to form by the Legal Department.

(Council Communication 16-578 )

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Ann DiDonato  
Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin  
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