



Date February 24, 2020

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH EDMUNDSON ART FOUNDATION, INC., D/B/A THE DES MOINES ART CENTER FOR THE DISPLAY AND MAINTENANCE OF A SCULPTURE AND FOUNTAIN AT HANSEN TRIANGLE, APPROVAL OF LICENSE, AND AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT

WHEREAS, on November 23, 2009, by Roll Call No. 09-2136, the City Council approved a lease agreement between MidAmerican Energy Company and the City of Des Moines for use of “Hansen Triangle” as parkland (the Lease Agreement”) and as part of the Principal Riverwalk; and

WHEREAS, the Lease Agreement authorized the City to allow the installation, operation, display and maintenance of a sculpture within the leasehold; and

WHEREAS, the Phase One Master Plan for the 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 04-599 on March 22, 2004; and

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

WHEREAS, the Edmundson Art Foundation, Inc. (“Des Moines Art Center”) is the owner of the Quantum Leaf sculpture and fountain by Sally Pettus (the “Sculpture”); and

WHEREAS, on December 7, 2009, by Roll Call No. 09-2227, the City Council approved the Agreement Between the City of Des Moines and the Des Moines Riverfront Development Authority (“RDA”) and Edmundson Art Foundation, Inc. d/b/a/ the Des Moines Art Center for Display and Maintenance of Quantum Leaf Sculpture and Fountain in Hansen Triangle (“the Agreement”); and

WHEREAS, RDA desired to terminate the Agreement, which termination agreement was approved by the City Council on February 24, 2020 by Roll Call No. 20 - _____; and

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WHEREAS, the City and DMAC desire to continue the display of the Sculpture for the enjoyment of the public and to enter into a new agreement for the display and maintenance of the Sculpture at Hansen Triangle on the southwest corner of Hansen Triangle; and

WHEREAS, an agreement has been prepared which provides that the Des Moines Art Center will retain the ownership of the Sculpture and the Des Moines Art Center will have maintenance responsibility for the Sculpture, including the fountain, for the time period of the Lease Agreement, which is currently until December 31, 2028, with an option of a ten-year renewal, or until December 31, 2040, whichever date occurs sooner, a copy of which agreement is available for public review in the City Clerk's Office; and

WHEREAS, it is in the best interests of the City to enter into an agreement with the Des Moines Art Center to allow the display and maintenance of the Sculpture in consideration of the enjoyment of the public and the maintenance obligations to be undertaken by the Des Moines Art Center; and

WHEREAS, on February 10, 2020 by Roll Call No. 20-_____, it was duly resolved by the City Council that the proposed license agreement be set down for hearing on February 24, 2020, at 5:00 pm in the Council Chamber; and

WHEREAS, due notice of said proposal to enter into such agreement to allow the use of public real property interests was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed license, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed grant of this license agreement as described below are hereby overruled and the hearing is closed.

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2. The public would not be inconvenienced by reason of the conveyance of this license for a period not to exceed December 31, 2040, to display and maintain a sculpture and fountain owned by the Des Moines Art Center in Hansen Triangle.

3. That the grant of this license agreement to Edmundson Art Foundation, Inc., d/b/a the Des Moines Art Center for the consideration of maintenance to be performed by the grantee and in consideration for the public enjoyment of the sculpture, be and is hereby approved.

4. The Mayor is authorized and directed to sign the Agreement Between the City of Des Moines and Edmundson Art Foundation, Inc. d/b/a the Des Moines Art Center for Display and Maintenance of Quantum Leaf Sculpture and Fountain in Hansen Triangle, a copy of which is on file in the City Clerk's Office, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Clerk is authorized and directed to forward the original of this license agreement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

(Council Communication 20-)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

CERTIFICATE

I, P. Kay Cmelik, 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