

★ Roll Call Number
23-0835

Agenda Item Number
35

Date June 12, 2023

**RESOLUTION APPROVING SECOND AMENDMENT TO AND ASSIGNMENT OF AGREEMENT
WITH COMMUNITY FOUNDATION OF GREATER DES MOINES AND
THE GREATER DES MOINES PUBLIC ART FOUNDATION
FOR ADMINISTRATION OF THE PUBLIC ARTS PROGRAM**

WHEREAS, on October 22, 2001, by the passage of Ordinance No. 14,005, the City Council established the Public Arts Commission and the Public Arts Program, with the goal of annually funding the Public Arts Program at a level equal to 1.5 percent (1.5%) of the general obligation funds of the City appropriated for capitol improvements as included in the adopted Capitol Improvements Program (CIP); and

WHEREAS, on June 9, 2003, and December 22, 2003, by Roll Call Nos. 03-1315 and 03-2902 respectively, the City Council authorized the City Manager to negotiate and the Mayor to sign a contract with the Community Foundation of Greater Des Moines, formerly known as the Greater Des Moines Community Foundation (“Foundation”) which provides that the uncommitted funds appropriated in FY2002/03 for public art, and that all future appropriations for public art, be transferred for administration by the Foundation for public arts projects consistent with the goals and objectives of the Public Arts Program and the requirements identified in Council Communication No. 03-265; and

WHEREAS, the terms of the contract with the Foundation have been memorialized by written Agreement dated March 19, 2004, which Agreement has been amended by Clarifying Amendment approved by the City Council on July 12, 2004, by Roll Call No. 04-1451; and

WHEREAS, the Foundation’s obligations pursuant to the Agreement have been undertaken by the Public Arts Foundation (PAF) since its inception; however, no formal assignment of the Agreement from the Foundation to PAF has occurred, and the Foundation and PAF wish now to formalize said assignment; and

WHEREAS, the City Manager has now negotiated with the Foundation and the PAF to formally assign the agreement from the Foundation to the PAF, and to amend the Agreement and allow the PAF to use up to 50 percent (50%) of the funding provided by the City toward administrative costs for the PAF and the PAF Board, and further to replace references and requirements to store funds in a Trust Account with references and requirements of a traditional account, all as set forth in the Second Amendment and Assignment on file in the office of the City Clerk.

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

1. The Second Amendment to and Assignment of Agreement between the City of Des Moines, Iowa, the Community Foundation of Greater Des Moines, and the Greater Des Moines Public Art Foundation for Administration and Funding of the Public Arts Program, in form on file in the office of the City Clerk, is hereby approved, and the Mayor is hereby directed and authorized to execute said Second Amendment and Assignment on behalf of the City.
2. The City Manager or his designee is directed to administer said Agreement, as amended, for compliance.

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Moved by Gatto to adopt.

Second by Mandelbaum

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1
MOTION CARRIED	APPROVED			

J. M. Frank Mayor

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.

Laura Baumgartner City Clerk