CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Acceptance of Re-designation as Iowa Great Place **DATE:** July 15, 2019
RESOLUTION: Acceptance of re-designation

FINANCIAL IMPACT: There is no financial impact for the re-designation. The re-designation allows the City to apply for grants in the future.

BACKGROUND: The City of West Des Moines was designated as an Iowa Great Place in 2007. This year the Iowa Department of Cultural Affairs revived the Great Places Program. The City applied for re-designation in April and has been notified of the award of re-designation. The designation is for five years (2019-2024).

The program, defined in Iowa Code 303.3C, is administered by the Iowa Arts Council, a division of the Iowa Department of Cultural Affairs, and the Iowa Great Places Advisory Board.

Each designated Iowa Great Place is eligible to receive grant funding for a single project during the five year designation. Funding for this program is from an appropriation from the Iowa Legislature through the Rebuild Iowa Infrastructure Fund.

OUTSTANDING ISSUES (if any): None

RECOMMENDATION: The City Council approve a resolution to accept the re-designation as an Iowa Great Place and authorize the Mayor to sign the Memorandum of Understanding.

ATTACHMENTS:

Exhibit I	-	Resolution
Exhibit II	-	Memorandum of Understanding

GAG

Lead Staff Member: Christine Gordon, AICP, Housing Planner

STAFF REVIEWS

Department Director	Clyde E. Evans, AICP CEE
Appropriations/Finance	
Legal	JDS
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

EXHIBIT I

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, ACCEPTING THE RE-DESIGNATION AS AN IOWA GREAT PLACE AND AUTHORIZING THE MAYOR AND TO SIGN THE MEMORADUM OF UNDERSTANDING

WHEREAS, the City Council of the City of West Des Moines on April 15, 2019, directed staff to apply for re-designation as an Iowa Great Place; and

WHEREAS, the Iowa Department of Cultural Affairs awarded the City of West Des Moines re-designation as an Iowa Great Place for five years; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES AS FOLLOWS:

Section 1. The City Council accepts the re-designation from the Iowa Department of Cultural Affairs

Section 2. The City Council authorizes the Mayor to sign the Memorandum of Understanding on behalf of the City as it relates to this re-designation.

PASSED AND ADOPTED on July 15, 2019

_____
Steven K. Gaer
Mayor

ATTEST:

_____
Ryan Jacobson
City Clerk

EXHIBIT I

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE STATE OF IOWA, ACTING BY AND THROUGH THE IOWA DEPARTMENT OF CULTURAL AFFAIRS
AND
City of West Des Moines

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), is effective as of July 1, 2019, and is made by and between **THE STATE OF IOWA, ACTING BY AND THROUGH THE IOWA DEPARTMENT OF CULTURAL AFFAIRS** ("State"), and City of West Des Moines ("Great Place").

In furtherance of the purposes of the Great Places program ("Program"), created on January 11, 2005, by Governor Thomas J. Vilsack's Executive Order 39 and legislatively implemented in Iowa Code 303.3C and Iowa Code 303.3D, the parties hereby enter into this MOU. In consideration of the mutual covenants contained in this MOU, the sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. PURPOSE. The purpose of this MOU is to assist the Great Place in the cultivation of the unique aspects of its community for the benefit of its citizens and the State, and to outline the areas where the State and the agencies and boards under the direction and control of the State ("Agencies" and "Boards") may assist the Great Place in accomplishing the objectives specified in the Great Place's proposal dated 01/07/2019 ("Proposal").

SECTION 2. IDENTIFICATION AND INCORPORATION OF VISION PLAN.

2.1 When used in this MOU, the term "Vision Plan" refers to the separate document submitted in the Proposal and the steps, if any, that the Great Place and any appropriate Agencies or Boards may take in furtherance of the Vision Plan.

2.2 The boundary map negotiated for this Great Place is attached hereto as Exhibit A and is hereby incorporated into and made a part of this MOU. The parties may jointly agree to amend, supplement, or modify the boundary map, either through an amendment to this MOU or in connection with a Project for which funds are granted pursuant to a Grant Agreement entered into by the parties, as defined and described in Section 3 hereof.

2.3 The Great Place understands and acknowledges that a commitment by the State, an Agency, Board, or other entity to assist the Great Place in the identification or application for funding or financial assistance in the Vision Plan or elsewhere in this MOU does not in any way constitute a guarantee that the Great Place will receive the requested funding or financial assistance.

2.4 The Great Place understands and acknowledges that a commitment by the State, an Agency, Board or other entity to consider or review legislative or regulatory changes does not constitute a guarantee that the desired changes will ultimately be enacted or adopted.

SECTION 3. GRANT AGREEMENT. As a condition precedent to receiving legally available funds, if any, from the Iowa Great Places Program Fund ("Grant Funds"), the Great Place shall be required to execute an Iowa Great Places Grant Agreement in the form provided by the Department of Cultural Affairs ("Grant Agreement"), for each Project for which monies from the Grant Funds are sought by the Great Place.

SECTION 4. RESPONSIBILITIES OF THE STATE. Pursuant to this MOU, the State agrees to do the following:

4.1 The State shall direct Agencies and Boards to undergo the tasks assigned to them pursuant to the Vision Plan.

4.2 The State, through the efforts of the Department of Cultural Affairs, shall endeavor to promote projects and initiatives implemented by the Great Place resulting from the Vision Plan through established networks.

4.3 The State, through the efforts of the Department of Cultural Affairs, shall provide technical assistance and professional development resources on an annual basis to the Great Place.

4.4 Nothing in this MOU shall obligate the State to provide Grant funds for any Project; any obligation of the State to provide funding shall be governed by and subject to the terms of the Grant Agreement.

SECTION 5. RESPONSIBILITIES OF THE GREAT PLACE. Pursuant to this MOU, the Great Place agrees to do the following:

5.1 The Great Place shall implement the Proposal pursuant to the Vision Plan.

5.2 The Great Place shall be designated for five years, at which point they have the option to apply for re-designation.

5.3 To the extent that the Great Place or its agents have previously received grants or assistance from the State, a Board or Agency, the Great Place and its agents shall fulfill those prior obligations. The Great Place acknowledges that failure to completely fulfill the Great Place's outstanding obligations for prior Board or Agency assistance may hinder or preclude further assistance.

5.4 The Great Place shall participate in more than two qualifying Great Places meetings, events or professional development opportunities as determined by the State within the five-year designation period in order to maintain designation.

5.5 The Great Place shall be willing to be active participants in the Iowa Great Places mentoring program for potential or newly designated communities as requested by the State.

SECTION 6. DURATION. This MOU shall become effective on July 1, 2019, and shall be in effect for a period of five (5) years ("Term").

SECTION 7. TERMINATION FOR CAUSE.

7.1 The failure by the Great Place to make substantial, timely progress toward performance of the obligations in the Vision Plan may constitute grounds for default. However, an inability to complete a Proposal due to the failure to obtain necessary funding shall not be grounds for default under this MOU.

7.2 If there is a default event, the State shall provide written notice to the Great Place requesting that identified breaches or noncompliance be remedied. Such notice shall state the date by which the breaches or noncompliance must be remedied. In the event that the breaches or noncompliance continue to be evidenced beyond the date specified in the written notice, the State may at its option:

7.2.1 Immediately terminate the MOU without additional written notice and without penalty; or

7.2.2 Unilaterally revise the MOU or the Vision Plan to remove or otherwise modify or affect the obligations of the Great Place and the State with respect to the area of breach or noncompliance.

SECTION 8. TERMINATION FOR LACK OF FUNDS OR CHANGE IN LAW.

8.1 Notwithstanding anything in this MOU to the contrary, and subject to the limitations, conditions, and procedures set forth below, the State shall have the right to terminate this MOU without penalty and without future obligation, by giving thirty (30) days written notice to the non-terminating party as a result of any of the following:

8.1.1 The Great Places Program legislation, currently codified as Iowa Code 303.3C and 303.3D, is repealed or substantially modified; or

8.1.2 There is a decision of any court or an arbitration panel, or any law, rule, regulation or executive order is enacted, promulgated or issued, that materially

affects the ability of the Great Place, the State or the Department of Cultural Affairs to fulfill its obligations under this MOU or the Grant Agreement or under Iowa Code 303.3C or 303.3D.

SECTION 9. TERMINATION DUE TO GREAT PLACE'S ELECTION. Through the provision of thirty (30) days written notice, the Great Place may forego its status as an Iowa Great Place. If the Great Place chooses to do so, the Great Place acknowledges that it will no longer be eligible for assistance which depends in whole or in part on the Great Place's status as a designated Great Place. If a Great Place chooses to forego its status as an Iowa Great Place, the Great Place relieves the State, its Agencies and Boards from further obligations or responsibilities under this MOU and the Vision Plan. By acting in such a manner, the Great Place likewise is relieved of further obligation under this MOU and the Vision Plan.

SECTION 10. EFFECT OF TERMINATION. Termination of this MOU under the terms of Sections 7, 8 or 9 hereof shall not operate to terminate any Grant Agreement the Great Place may have entered into with the State, nor shall termination of the MOU override, remove or otherwise affect any responsibility or obligation that the Great Place or its agents may have agreed to assume either under a Grant Agreement or as a condition to receipt of any other grant award or other assistance.

SECTION 11. CONTRACT ADMINISTRATION.

11.1 Amendments. This MOU may be amended in writing from time to time by mutual consent of the Director or Director's Designee and the Great Place. All amendments to this MOU must be fully executed by the Director or Director's Designee and the Great Place.

11.2 Third Party Beneficiaries. There are no third party beneficiaries to this MOU. This MOU is intended only to benefit the State and the Great Place.

11.3 Assignment and Delegation. This MOU is premised upon the Great Places designation granted to the Great Place. Accordingly, this MOU may not be assigned, transferred or conveyed in whole or in part.

11.4 Integration. This MOU, and any documents incorporated herein by reference, represents the entire agreement between the parties. The Great Place represents and agrees that it is not relying on any representations or covenants of the State except for those expressly included in this MOU or in any Grant Agreement.

11.5 Not a Joint Venture. Nothing in this MOU shall be construed as creating or constituting the relationship of a partnership, joint venture, or other association of any kind between the parties hereto. Neither party shall have the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon the other party to this MOU.

11.6 Use of Third Parties. The Great Place acknowledges that the State, its Agencies or Boards may contract with third parties for the performance of any of State's obligations under this MOU or the Vision Plan.

11.7 Delay or Impossibility of Performance. A party shall not be considered to be in default under this Agreement if performance is delayed or made impossible by an act of God, flood, fire, or other similar events beyond its control.

11.8 Notices. Any notices provided pursuant to this MOU shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of mailing such notice.

If to the State:
Department of Cultural Affairs
State Historical Building
Attn: Director or Director's Designee
600 E. Locust St.
Des Moines, IA 50319

If to the Great Place:
City of West Des Moines
4200 Mills Civic Pkwy
West Des Moines, Iowa 50265

11.9 Severability. If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this MOU.

11.10 Counterparts. The parties agree that this MOU has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

11.11 Governing Law and Forum. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this MOU without regard to the choice of law provisions of Iowa law. In the event any court proceeding is commenced in connection with this MOU, the proceeding shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if such court has jurisdiction. If however, such court lacks jurisdiction and jurisdiction lies only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division.

This provision shall not be construed as waiving any immunity to suit or liability, in state

or federal court, which may be available to DCA or the State of Iowa.

SECTION 12. EXECUTION

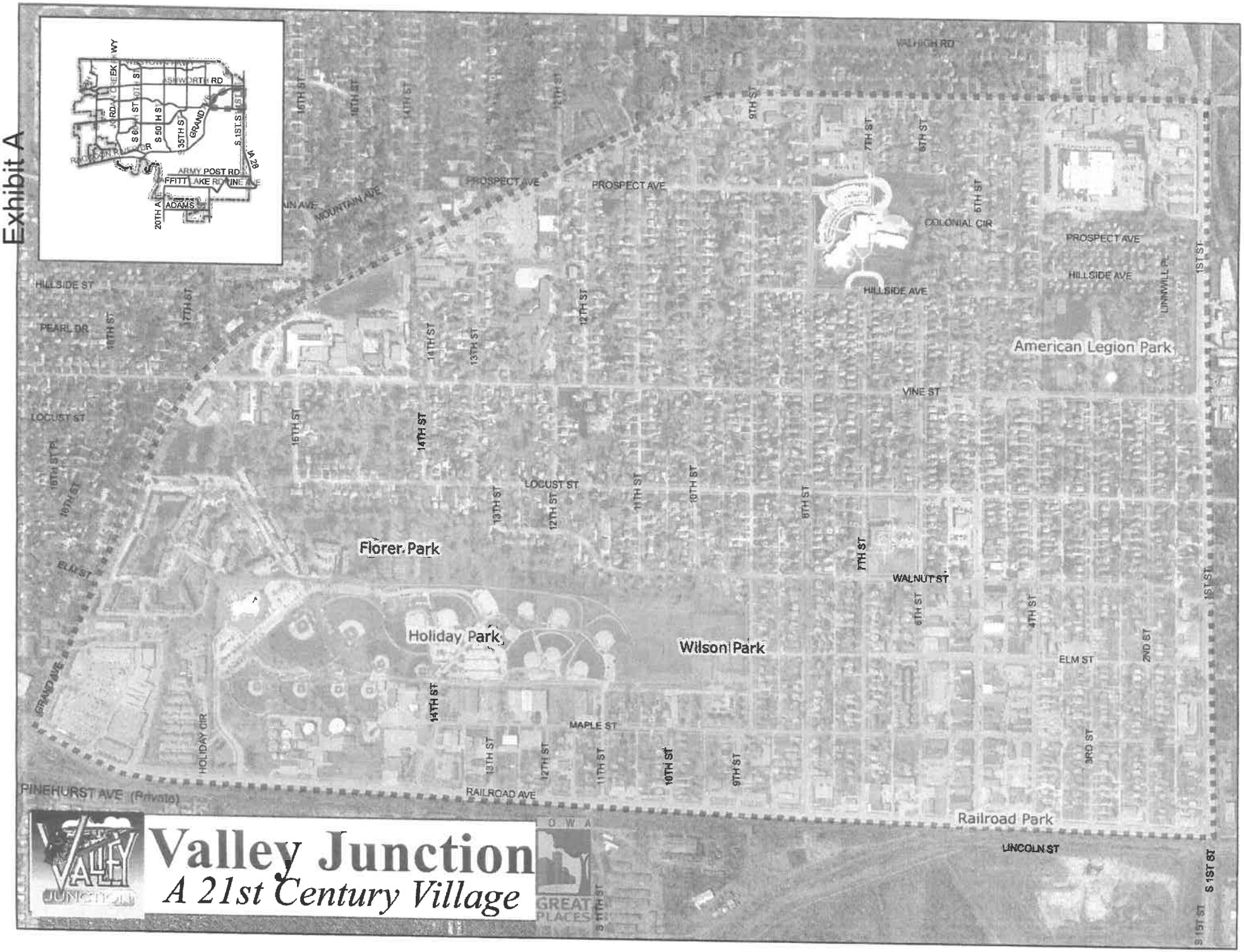
IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

Authorized Official of the Great Place: Steve Gaer		**Date:**	

As the legal authorizing official of the Department, I agree to all terms and conditions outlined above and certify that the information contained in this document, including all attachments, is true and correct.

Director of the Department or Director's Designee:		**Date:**	

Exhibit A


Valley Junction
A 21st Century Village
Florer Park
Holiday Park
Wilson Park
American Legion Park
Railroad Park
PROSPECT AVE
HILLSIDE AVE
HILLSIDE ST
PEARL DR
LOCUST ST
VINE ST
WALNUT ST
ELM ST
MAPLE ST
RAILROAD AVE
PINEHURST AVE (Private)
LINCOLN ST
COLONIAL CIR
HOLIDAY CIR
GRAND AVE
MOUNTAIN AVE
VALHIGH RD
ASHWORTH RD
ARMY POST RD
ADAMS
20TH AVE
35TH ST
S 50TH ST
S 1ST ST
1ST ST
2ND ST
3RD ST
4TH ST
5TH ST
6TH ST
7TH ST
8TH ST
9TH ST
10TH ST
11TH ST
12TH ST
13TH ST
14TH ST
15TH ST
16TH ST
17TH ST
18TH ST
18TH ST PL
LINNWILL PL
GREAT PLACES