


## COUNCIL COMMUNICATION

	Number:	<b>21-399</b>	Meeting:	<b>September 13, 2021</b>
	Agenda Item:	<b>50B</b>	Roll Call:	<b>21-1446</b>
	Submitted by:	<b>Pamela S. Cooksey, P.E., Assistant City Manager, Steven L. Naber, P.E., City Engineer, Benjamin R. Page, Park &amp; Recreation Director, Jonathan A. Gano, P.E., Public Works Director</b>		

### AGENDA HEADING:

Approving Agreement regarding BUILD Grant to the Des Moines Area Metropolitan Planning Organization (MPO) between the City of Des Moines, the Des Moines Area MPO, Central Iowa Water Trails, LLC (CIWT), and Polk County Conservation (PCC); also, receiving and filing project plans and specifications.

### SYNOPSIS:

Recommend approval and authorization to execute the Agreement Regarding USDOT BUILD Grant to the Des Moines Area MPO between the City, Des Moines Area MPO, CIWT, and PCC, to implement the Better Utilizing Investments to Leverage Development (BUILD) Grant by defining responsibilities for design, construction, operations, maintenance, City financial contribution and other obligations related to the water trail improvements at Prospect Park, Birdland Marina, Scott Avenue and Harriet Street, and receiving and filing plans and specifications relating to the project and directing the City Engineer to review said plans and consider them for approval by the City Engineer.

### FISCAL IMPACT:

Amount: \$6,000,000 contribution and \$200,000 (estimated) for storm box repair.

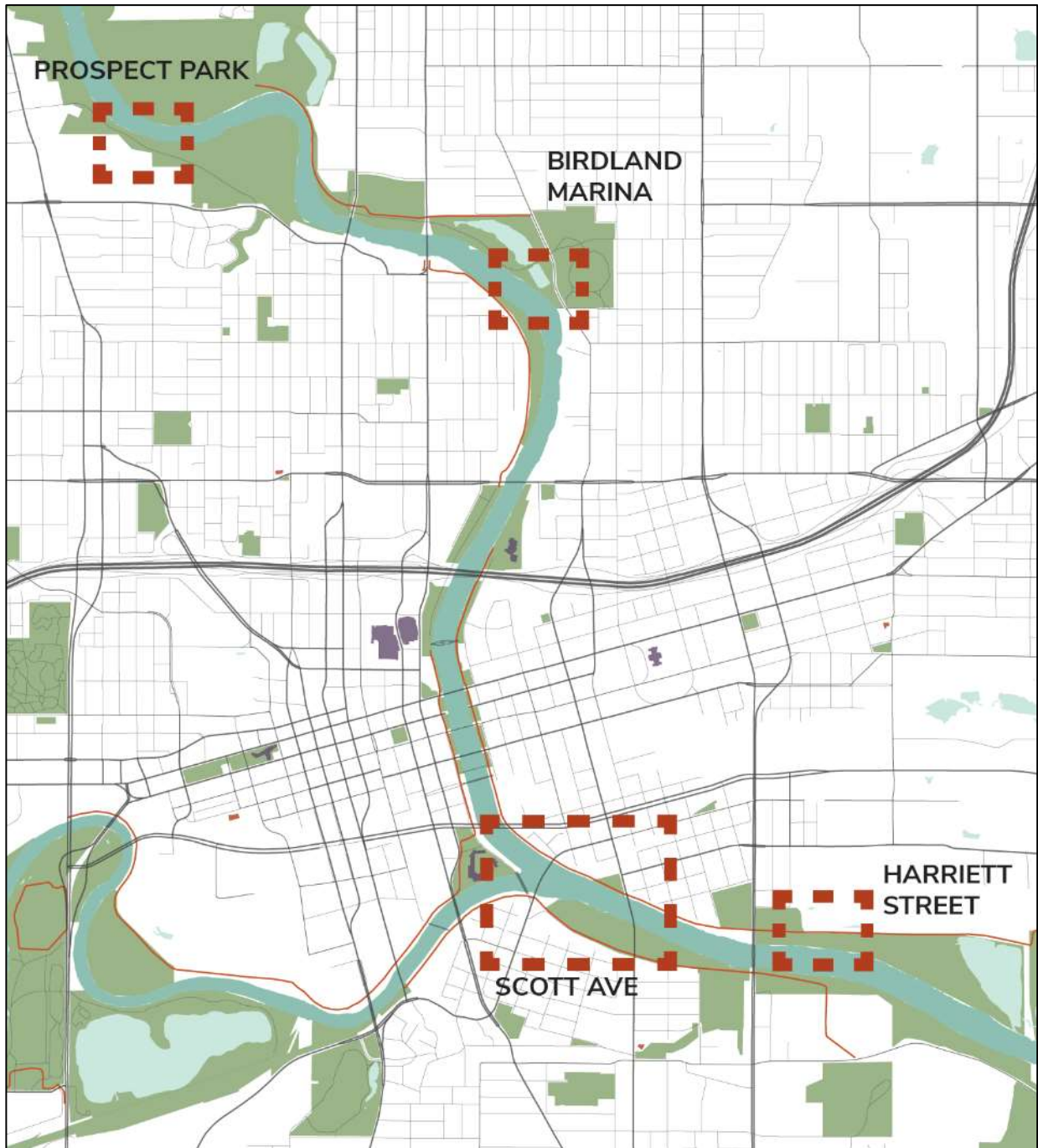
Funding Source: 2021-2022 CIP, Page 45, Central Iowa Water Trails Contributions, MSX02, Being: \$6,000,000 G.O. Bonds to be issued and 2021-2022 CIP, Page 86, Water Trails Regional Improvements, PK194, G.O. Bonds.

### ADDITIONAL INFORMATION:

- The MPO was awarded a \$25 million BUILD Grant for the CIWT: Phase I Dam Mitigation and User Access Project. The Iowa Department of Transportation (IDOT) is the recipient of the BUILD Grant and the MPO is considered a First-Tier Recipient. The MPO is the contracting authority and in responsible charge of the project. The MPO is entering into a series of sub agreements that address the design, construction administration and observation, funding, operations and maintenance and other obligations. This agreement is the only sub agreement that includes the City of Des Moines.

- The project is a joint effort by the MPO and CIWT and includes modifying the low-head dam at Scott Avenue to help facilitate a water recreational trail and enhance three (3) additional sites along the Des Moines River, including Prospect Park, Birdland Marina, and the Harriet Street Corridor.
- The project construction plans and specifications have been provided to City staff for review and comment. The City Engineer has is prepared to approve the project plans and specifications subject to resolution of outstanding comments as set forth in the City Engineer communication attached hereto. By this resolution, Council will:
  - Receive and file said plans and specifications authorizes and directs the City Engineer to review said plans and specifications and all non-substantive revisions thereto.
  - To consider approval thereof subject to resolution of the attached comments, and to return substantive revisions to City Council to receive and file prior to City Engineer approval.
- The project plans and specifications for Scott Avenue specify an in-river structure called the “WaveShaper”. The WaveShaper is a patented product of McLaughlin Whitewater Design Group that is a division of the Merrick & Company. Rick McLaughlin designed and patented this product and is one (1) of the engineers on the project design team.
- The project construction includes removal of trees that is being accomplished in accordance with the City’s Tree Mitigation Ordinance. The proposed improvements at both Prospect Park, Harriet Street and Scott Avenue do not include full mitigation of all trees being removed due to the location and change in use at those sites. Consistent with City Capital Improvement Projects, mitigation will be accomplished by payment into the City’s Tree Mitigation Fund. Based on current plans, estimated payments total \$159,600. The final amount will be adjusted to reflect changes in the proposed plans. Acceptance of the completed projects is subject to receipt of payment for tree mitigation.
- The planned water recreation in the Des Moines River at Scott Avenue requires changes to existing fishing areas on the Scott Avenue Bridge. Pending further consideration, input and direction from Iowa Department of Natural Resources (IDNR), appropriate City ordinance(s) will be drafted and brought back to City Council for consideration. Fishing will need to be limited on the southern portion of the Scott Avenue Bridge where there is potential conflict with water recreation uses due to the planned modification to the Scott Avenue Dam which will allow watercraft to safely pass over the dam. Limitations being discussed still allow seasonal and daily fishing when water recreation is not occurring, such as winter and dark. The current proposal restricts fishing sunrise to sunset between April 1 and October 31.
- The Agreement grants the MPO, Polk County, PCC, CIWT and their respective contractors access to City-owned and leased property for the construction and maintenance of the project improvements. The water trails project has been coordinated with the City levee improvements that will be occurring at the same time.

- Pursuant to the Agreement, the City will be contributing \$6,000,000 to the project construction over four (4) years FY2022 – FY2025, subject to City Council budget approvals, construction deadlines, and compliance with Iowa Code Chapters 26 and 573 and the BUILD Grant Agreement. In addition, the City is responsible for the construction cost of the stormwater box repair at the Scott Avenue Dam that will be including in the water trail project construction. CIWT provided the design of the repair and the work will be bid by IDOT as part of the water trail project. The cost of the stormwater box repair is estimated not to exceed \$200,000, subject to further inspection that could result in increased City cost.
- Following construction that is completed in accordance with the approved plans and specifications, the City will accept ownership of the landside project improvements, excluding those within the Des Moines River, power/controls for in-water improvements, safety, course directional, decorative and artistic signage, and any modifications or attachments to the Scott Avenue Dam.
- Following construction, CIWT will be responsible for overseeing the operation and maintenance of the completed project. The City of Des Moines will perform the landside maintenance and repair at all sites on City-owned or leased property. Cost for maintaining the Birdland Marina, Harriet Street, and Scott Avenue locations will be tracked by the City and reimbursed annually by CIWT. The City is not responsible for the costs of rebuilding or replacement of project improvements. CIWT will contract with PCC to provide in-water maintenance for the project.
- Upon completion of the four (4) locations City staff have forecasted the need for 1 (one) Parks and Recreation Department maintenance worker, one (1) 7-month maintenance worker, and one (1) purchase of a truck. These costs are planned for FY2023.
- The City's standard indemnification has been modified to indemnify CIWT for the City's responsibilities regarding funding and maintenance of landside improvements in accordance with the Agreement.
- This City Council action includes directing the City Manager to return to City Council with appropriate ordinance(s) and rules to regulate fishing at Scott Avenue and authorizing the City Manager to administer and monitor compliance with the terms of the Agreement and to provide written consent, including appropriate terms, to assignment of CIWT's responsibilities and liabilities under the Agreement, in accordance with the conditions of the BUILD Grant Agreement and subject to the approval as to form by the Legal Department.



**PREVIOUS COUNCIL ACTION(S):**

Date: May 24, 2021

Roll Call Number: [21-0800](#), and [21-0801](#)

Action: Items related to the Central Iowa Water Trails: Phase I Dam Mitigation and User Access Project:

- (A) [Granting](#) a variance of Floodplain Development Code Section 50-34 (14) for development in a Floodway that results in an increase in base flood elevation to the Des Moines Area Metropolitan Planning Organization (DMAMPO) on behalf of Central Iowa Water Trails, LLC (CIWT) for the CIWT Scott Avenue Project. ([Council Communication No. 21-228](#)) Moved by Mandelbaum to adopt. Motion Carried 7-0.
- (B) [Approving](#) “Letter of No Objection” regarding proposed Central Iowa Water Trails: Phase I Dam Mitigation and User Access Project. ([Council Communication No. 21-224](#)) Moved by Mandelbaum to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Board: Urban Design Review Board

Date: June 15, 2021

Resolution Number: NA

Action: Review and Recommendation of Central Iowa Water Trails – Prospect Park, Birdland Marina, and Harriet Street Design Review. Recommend approval of the Prospect Park, Birdland Marina, and Harriet Street final design as presented by Hielkema. Seconded by Clark. Motion carried. Yes – 7, No – 0, Abstain – 0, Absent – 2.

Review and Recommendation on of the Central Iowa Water Trails – Scott Avenue Dam Preliminary Design Review. Recommend approval of the preliminary design noting Board comments for final review by Hielkema. Seconded by Wilke-Shapiro. Motion carried. Yes – 6, No – 0, Abstain – 0, Absent – 3.

Board: Parks and Recreation Board

Date: March 23, 2021

Resolution Number: [21-018](#) and [21-019](#)

Action: Motion by Bollard that this plan be moved to City Council with an amendment that would include the wordage that CIWT would be responsible for all signage specific to water trails rather in or out of water including safety, directional, informational and artwork including maintenance costs. Second by Potter. Motion carried.

Approving the master plan as presented in four sites in Phase 1 - Motion by Woodard to approve the first phase of CIWT plan as presented. Second by Potter. Motion carried.

Board: Urban Design Review Board

Date: February 2, 2021

Resolution Number: NA

Action: Review and Recommendation of Central Iowa Water Trails – Scott Avenue Dam Final Design Review. Recommend approval of final design as presented subject to staff comments by Morgan Huggins. Seconded by Ward. Motion carried. Motion carried. Yes – 6, No – 0, Abstain – 0, Absent –3.

Board: Zoning Board of Adjustment

Date: January 27, 2021

Resolution Number: ZON 2021-0001, ZON 2021-00002, ZON 2021-00003

Action: Appeal for a Conditional Use Approval (per City Code Section 134-6.4) for a “Public Recreation Area” use in an “F” District, to allow construction of a whitewater in-river course with upland access along the river banks (*2100 Saylor Road, 1501 Harriet Street, 1301 Prospect Road*), is granted, subject to the following conditions:

1. Any construction shall be in accordance with a Site Plan as reviewed and approved by the City’s Permit & Development Center.
2. Any construction shall be in compliance with all applicable State and Federal regulations, including but not limited to those of FEMA, Army Corps of Engineers, and/of DNR. Vote: 6-0, with all Board members present voting in favor

Board: Plan and Zoning Commission

Date: January 21, 2021

Resolution Number: NA

Action: Request from City of Des Moines (owner) represented by Pamela Cooksey (Assistant City Manager), for the following regarding the property in the vicinity of 1501 Harriet Street.

Dory Briles made a motion for approval of Part A) the proposed rezoning to “P2” Public, Civic, & Institutional District be found not in conformance with the PlanDSM: Creating Our Tomorrow Plan Land Use Plan designation of Industrial, Part B) APPROVAL of amendment to the PlanDSM Creating Our Tomorrow Plan future land use classification from Industrial to Park/Open Space and Part C) APPROVAL of rezoning the subject property from “I1” Industrial District to “P2” Public, Civic, & Institutional District, to allow the property to be developed with public recreation area use. THE VOTE: 14-0.

Board: Access Advisory Board

Date: January 20, 2021

Resolution Number: [21-04](#)

Action: Central Iowa Water Trails – Prospect park, Birdland Marina, Harriet Street Corridor and Scott Avenue Bridge Site. Motion by Strong to Approve. Seconded by Meddaugh. Motion Carried 10-0.

Board: Zoning Board of Adjustment

Date: December 16, 2020

Resolution Number: ZON 2020-00145

Action: Appeal for a Conditional Use Approval (per City Code Section 134-6.4) for a “Public Recreation Area” use in an “F” District, to allow construction of a whitewater in-river course with upland access along the river banks (*1313 Southeast 1<sup>st</sup> Street*), is granted, subject to the following conditions:

1. Any construction shall be in accordance with a Site Plan as reviewed and approved by the City’s Permit & Development Center.
2. Any construction shall be in compliance with all applicable State and Federal regulations, including but not limited to those of FEMA, Army Corps of Engineers, and/of DNR.

Vote: 7-0, with all Board members voting in favor.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Future actions will include:

- Approval of funding contributions in Council budget approvals.
- Supplemental Agreement modifying the long-term lease at Prospect Park.
- Any proposed amendments to the agreement or material changes to the plans and specifications.
- Fishing regulations at Scott Avenue.
- Acceptance of the completed land-side project improvements.
- Agreement with WRA to address enclosure to be constructed around gateway at Scott Avenue.

For more information on this and other agenda items, please call the City Clerk’s Office at 515-283-4209 or visit the Clerk’s Office on the first floor of City Hall, 400 Robert D Ray Drive. Council agendas are available to the public at the City Clerk’s Office on Thursday afternoon preceding Monday’s Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk’s Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).