



Roll Call Number

22-0047

Agenda Item Number

34

Date January 10, 2022

APPROVAL OF SECOND RENEWAL AGREEMENT TO LICENSE AGREEMENT WITH ISLAMIC CENTER OF DES MOINES FOR USE OF A PORTION OF GLENDALE CEMETERY TO BURY DECEASED MEMBERS OF THE ISLAMIC FAITH

WHEREAS, the Parks and Recreation Department, owns and operates Glendale Cemetery; and

WHEREAS, on January 6, 1997, by Roll Call No. 97-074, the City Council approved a License Agreement between the City of Des Moines and the Islamic Center of Des Moines which conditionally grants the Islamic Center a license to use 527 spaces in Block 37B of Glendale Cemetery to bury members of the Muslim faith; and

WHEREAS, the License Agreement was amended by Addendum on December 21, 1998, by Roll Call No. 98-3897 to permit burials without a vault or burial space liner and to permit certain variations in the burial process, and amended by Second Addendum by Roll Call No. 99-1692, on May 24, 1999, to permit additional variations in the burial process regarding the manner of digging graves and the handling the body into the grave, and was renewed by the 2016 Renewal Agreement until January 6, 2022 ("the License Agreement"); and

WHEREAS, the 2016 Renewal Agreement, approved by the City Council on October 10, 2016, by Roll Call No. 16-1729, provides for up to three (3) additional five (5) year renewals for the payment of \$5,000 per renewal, subject to the continuing determination that \$5,000 provides fair market value during subsequent renewal terms, and Parks and Recreation Department staff have negotiated a proposed Second Renewal Agreement, a copy of which is in the City Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the Second Renewal Agreement to License Agreement Between the City of Des Moines and Islamic Center of Des Moines, a copy of which is available in the City Clerk's Office, is hereby approved and the Mayor is authorized and directed to sign the Agreement on behalf of the City and the City Clerk is authorized and directed to attest to his signature.

(Council Communication No. 22- 002) Moved by Sheumaker to Adopt.

Approved As To Form:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | ✓ | | | |
| BOESEN | ✓ | | | |
| GATTO | ✓ | | | |
| SHEUMAKER | ✓ | | | |
| MANDELBAUM | ✓ | | | |
| VOSS | ✓ | | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 7 | | | |
| 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.

J. M. Frankin Cownie Mayor

P. Kay Cmelik City Clerk

SECOND RENEWAL AGREEMENT TO
LICENSE AGREEMENT
BETWEEN
THE CITY OF DES MOINES
AND
ISLAMIC CENTER OF DES MOINES

10th This SECOND RENEWAL AGREEMENT is made and entered into and is effective on this 10 day of January ~~10~~, 2022, by and between the City of Des Moines (“City”) and Islamic Center of Des Moines (“Islamic Center”), to that License Agreement for the exclusive use of a portion of Glendale Cemetery to bury deceased members of the Muslim faith, dated January 6, 1997, and as amended by Addendum dated December 21, 1998, to permit burials without a vault or burial space liner and to permit certain variations in the burial process, and by Second Addendum dated May 24, 1999 to permit additional variations in the burial process regarding the manner of digging graves and the handling the body into the grave and as renewed by the 2016 Renewal Agreement (“the License Agreement”).

WHEREAS, the License Agreement conditionally grants unto the Islamic Center a license to use 527 spaces in Block 37B of Glendale Cemetery to bury members of the Muslim faith; and

WHEREAS, pursuant to the original License Agreement, it terminates on the occurrence of either January 6, 2017, or use of all 527 burial spaces, or dissolution of the Islamic Center; with the Islamic Center having the right to exercise an option to renew the License Agreement; and

WHEREAS, to date, 218 spaces have been used by the Islamic Center in block 37B and the Islamic Center has communicated its desire to renew the License Agreement; and

WHEREAS, on October 10, 2016, by Roll Call No. 16-1729, the City approved a Renewal Agreement with the Islamic Center to renew the License Agreement for an initial term of five (5) years until January 6, 2022, with up to three (3) additional five (5) year renewals; and

WHEREAS, the City and the Islamic Center desire to renew the License Agreement for an additional five years upon the same terms of the License Agreement.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties hereto, it is agreed as follows:

1. Upon the payment by the Islamic Center to the City of \$5,000, the term of the License Agreement shall be extended until January 6, 2027.
2. Paragraph 8 of the License Agreement shall be amended by deleting subsection (a) and replacing it with the date of January 6, 2027.

3. In all other respects the License Agreement between the parties remains in full force and effect.

IN WITNESS WHEREOF, the parties to this RENEWAL AGREEMENT have hereunto set their hands on this day and year as first above written.

CITY OF DES MOINES, IOWA

ISLAMIC CENTER OF DES MOINES

T.M. Franklin Cownie
T.M. Franklin Cownie, Mayor

Makhdoom Khan
Makhdoom A. Khan, President

Approved As To Form:
Ann DiDonato
Ann DiDonato, Assistant City Attorney

Attest: P. Kay Cmelik
P. Kay Cmelik, City Clerk

STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 10th day of January, 2022 before me, the undersigned, a Notary Public, personally appeared T. M. FRANKLIN COWNIE and P. KAY CMELIK, to me personally known, who, being by me duly sworn, did state that they are the MAYOR and CITY CLERK, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution adopted under Roll Call 22- 0047, dated January 10, 2022, and that T. M. Franklin Cownie and P. Kay Cmelik acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Sandi L. Deery
Notary Public in the State of Iowa



STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 29th day of December, 2021, before me, a notary public, personally appeared MAKHDOOM A. KHAN, who being by me duly sworn did say that he is the PRESIDENT of the ISLAMIC CENTER OF DES MOINES, an Iowa non-profit corporation, and that the foregoing instrument was signed on behalf of said Islamic Center of Des Moines by authority of its Board of Directors, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it voluntarily executed.

Julie D. Wieszorek
Notary Public in the State of Iowa

