



**Roll Call Number**

22-0885

**Agenda Item Number**

316

**Date** June 13, 2022

**SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT FOR CONSERVATION WITH THE DES MOINES METROPOLITAN WASTEWATER RECLAMATION AUTHORITY (WRA) ON CITY-OWNED PROPERTY LOCATED SOUTH OF UNIVERSITY AVENUE AND EAST OF WINEGARDNER ROAD FOR THE WRA FOURMILE CREEK STABILIZATION – SOUTH OF UNIVERSITY PROJECT**

**WHEREAS**, the Des Moines Metropolitan Wastewater Reclamation Authority (hereinafter “WRA”) has requested a license agreement for conservation across a portion of City-owned property located south of University Avenue and east of Winegardner Road, locally known as Geo/Parcels 7823-05-128-005 and 7823-05-128-006, Des Moines, Iowa (hereinafter “Licensed Premises”) for construction of stream corridor improvements for the WRA Fourmile Creek Stabilization – South of University Project (hereinafter “Project”); and

**WHEREAS**, the City’s Real Estate Division has negotiated a License Agreement for Conservation (herein “Agreement”) for the use of the Licensed Premises with the WRA as licensee for the purpose of establishing, constructing, maintaining, and conserving a sustainable and natural stream corridor that supports stream stability, water quality, and ecological functions, particularly including a riparian buffer with permanent vegetative cover and other stream corridor improvements, which Agreement will include, among other terms, a license term commencing upon the execution by City of the License Agreement and terminating on June 27, 2042; and

**WHEREAS**, pursuant to Iowa Code §364.7(3), the WRA shall pay no consideration for said Agreement; and

**WHEREAS**, the City’s Park and Recreation Department has reviewed the proposed Agreement and determined the City will not be inconvenienced by approval of the proposed Agreement with the WRA; and

**WHEREAS**, at its regular meeting on May 24, 2022, the Des Moines Parks and Recreation Board voted 13-0 to recommend approval of the proposed Agreement.

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

1. The City Council of the City of Des Moines, Iowa, proposes to enter into a License Agreement for Conservation with the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) for use of a portion of City-owned property located south of University Avenue and east of Winegardner Road, locally known as Geo/Parcels 7823-05-128-005 and 7823-05-128-006, Des Moines, Iowa, legally described as follows, for the propose of constructing and maintaining stream corridor improvements for the WRA Fourmile Creek Stabilization – South of University Project, for a twenty-year term (through June 27, 2042) and for no consideration pursuant to Iowa Code §364.7(3).



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Date June 13, 2022

PARCEL 1A – LICENSE AGREEMENT FOR CONSERVATION

OUTLOT "X". VALLEY HIGH MANOR, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

PARCEL 1B – LICENSE AGREEMENT FOR CONSERVATION

A PART OF OUTLOT "Y", VALLEY HIGH MANOR PLAT 2, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID OUTLOT "Y"; THENCE WESTERLY ALONG THE NORTH LINE OF SAID OUTLOT "Y" TO THE SOUTHEAST CORNER OF LOT 8, VALLEY HIGH MANOR, AN OFFICIAL PLAT; THENCE SOUTHERLY TO THE NORTHEAST CORNER OF LOT 73, OF SAID VALLEY HIGH MANOR PLAT 2; THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF SAID OUTLOT "Y" TO THE SOUTHERLY CORNER OF SAID OUTLOT "Y"; THENCE NORTHERLY ALONG THE EAST LINE OF SAID OUTLOT "Y" TO THE POINT OF BEGINNING.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

2. A public hearing shall be held on June 27, 2022, at 5:00 p.m. in the City Council Chamber, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. June 23, 2022 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

Please check the posted agenda in advance of the June 27, 2022, meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

- 3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
- 4. There will be no proceeds associated with this transaction.

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7b

Date June 13, 2022

Moved by Gatto to adopt.

Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
Mackenzie L. Moreno, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS       | ABSENT |
|----------------|------|------|------------|--------|
| COWNIE         | ✓    |      |            |        |
| BOESEN         | ✓    |      |            |        |
| GATTO          | ✓    |      |            |        |
| MANDELBAUM     | ✓    |      |            |        |
| SHEUMAKER      |      |      |            | ✓      |
| VOSS           | ✓    |      |            |        |
| WESTERGAARD    | ✓    |      |            |        |
| TOTAL          | 6    |      |            | 1      |
| MOTION CARRIES |      |      | 4 APPROVED |        |

J. M. Frankhu Cowme Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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

Laura Baumgartner, Acting City Clerk