



Roll Call Number

22-1058

Agenda Item Number

59

Date June 27, 2022

HOLD 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 Easement; 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed License Agreement for Conservation with the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), as described below, are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of a License Agreement for Conservation between the City of Des Moines, Iowa, and the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), as on file in the office of the City Clerk, 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-



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05-128-006, Des Moines, Iowa, legally described as follows, for the purpose of constructing and maintaining stream corridor improvements for the WRA Fourmile Creek Stabilization – South of University Project, for a twenty-year term (through March 7, 2042) and for no consideration pursuant to Iowa Code §364.7(3), and said License Agreement for Conservation is hereby approved:

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.

3. The Mayor is authorized and directed to sign the License Agreement for Conservation identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the License Agreement for Conservation, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department.
5. The Real Estate Division Manager is authorized and directed to forward the original of the License Agreement for Conservation, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing the documents to be recorded.
6. There are no proceeds associated with this transaction



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Moved by Gatto to adopt.

Second by Boesen.

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and a TOTAL row.

Handwritten signature of J. M. Frankhu Cownie, 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.

Handwritten signature of Laura Baumgartner

Laura Baumgartner, Acting City Clerk