



Roll Call Number

23-0064

Agenda Item Number

46

Date January 9, 2023

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH WATERBURY NEIGHBORHOOD ASSOCIATION IN A PORTION OF INGERSOLL AVENUE RIGHT-OF-WAY LOCATED WEST OF POLK BOULEVARD ADJOINING 600 POLK BOULEVARD AND 601 48TH STREET FOR \$1,000

WHEREAS, on June 29, 2018, the City of Des Moines, Iowa approved a one-year license agreement with the Waterbury Neighborhood Association (hereinafter “WNA”) for use of a portion of Ingersoll Avenue right-of-way located west of Polk Boulevard, south of and adjoining 600 Polk Boulevard and 601 48th Street for the purpose of installing and maintaining streetscape improvements, including landscaping, limestone blocks, lighting, benches, and an irrigation system and related equipment (hereinafter “Property”); and

WHEREAS, the license agreement was subsequently renewed for a three-year term, which term expired on May 31, 2022 leading WNA to ask that the license be renewed, this time for a ten-year term; and

WHEREAS, the City’s Real Estate Division has negotiated a License Agreement (“Agreement”) with Waterbury Neighborhood Association, a recognized City of Des Moines neighborhood association, for the continued use and maintenance of a portion of the right-of-way along the north side of Ingersoll Avenue west of Polk Boulevard adjoining 600 Polk Boulevard and 601 48th Street, which Agreement will include, among other terms, the following:

- a ten (10) year term;
- a one-time lump sum payment of One Thousand Dollars (\$1,000.00), which amounts reflect the fair market value of the licensed premises as currently estimated by the City’s Real Estate Division;
- the right of either party to terminate the Agreement prior to the end of the fixed license term, with or without cause, upon sixty (60) days written notice to the other party; and

WHEREAS, there is no known current or future public need or benefit for the Property proposed to be licensed, and the City will not be inconvenienced by the license of said Property; and

WHEREAS, on December 12, 2022, by Roll Call No. 22-1885, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed license of said portion of Ingersoll Avenue right-of-way be set for hearing on January 9, 2023, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to license the Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed license, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed lease of said Property as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the Ingersoll Avenue right-of-way proposed to be licensed, and the public would not be inconvenienced by reason of the license of the portion of Ingersoll Avenue right-of-way located west of Polk Boulevard, south of and adjoining 600 Polk Boulevard and 601 48th Street, Des Moines, Iowa, to Waterbury Neighborhood Association, for a one-time lump sum lease payment of One Thousand Dollars (\$1,000.00) for the ten-year term of the Agreement, subject to a reservation of easements therein, and further subject to all terms and conditions contained in the License Agreement:
3. The Mayor is authorized and directed to sign the Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. Upon proof of payment of the consideration, the City Clerk is authorized and directed to forward the original of the Agreement, 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 for the purpose of causing said documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Agreement, 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 these documents to be recorded.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the License Agreement and copies of the other documents to the grantee.
7. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Mendelbaum to adopt. Second by Gatto

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 TOTAL. Includes signature of J. M. Franklin Cownie, Mayor.

CERTIFICATE

I, Laura Baumgartner, 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, City Clerk