

★ Roll Call Number

23-0395

Agenda Item Number

30

Date March 27, 2023

SET HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH LICENSE AGREEMENT WITH THE DES MOINES AREA REGIONAL TRANSIT AUTHORITY (DART) FOR BUS BENCHES IN STREET RIGHT-OF-WAY

WHEREAS, the City of Des Moines (City) contract with Creative Outdoor Advertising of America (COA) for bus benches, bench pads and related advertising services in the City right-of-way ended on September 30, 2022; and

WHEREAS, Des Moines Area Regional Transit Authority (DART) would like to continue to provide bus stop amenities by initially installing ten (10) replacement benches at some of the locations as the COA benches are removed; and

WHEREAS, the Manager's Office for the City has negotiated a License Agreement (Agreement) with DART for the placement of bus benches, and in certain locations, concrete pads and trash receptacles in the City right-of-way, which Agreement will include, among other terms, the following:

- a twenty (20) year term;
- a one-time lump sum payment of One Hundred Dollars (\$100.00), which amount reflects that the proposed use is mutually beneficial to the City and to DART;
- the right of either party to terminate the Agreement prior to the end of the fixed license term upon three hundred sixty-five (365) days written notice to the other party;
- acknowledgement and acceptance by both City and DART of the mutual indemnification obligations provided for in Attachment 1 of the Agreement, "Real Estate License – Major, Insurance and Indemnification Requirements"; and

WHEREAS, DART benches are currently planned to be placed at the following locations with DART reserving the right to add bench locations to the Agreement based on ridership, feasibility, and available funding:

- University Avenue and 2nd Avenue, Westbound
- 6th Avenue and Holcomb Avenue, Southbound
- E. 14th Street and Walker Street, Southbound
- IHubbell Avenue and E. 38th Street, Eastbound
- E. 30th Street and Walker Street, Southbound
- E. Army Post Road and Se 5th Street, Westbound
- E 33rd Street and E. University Avenue, Southbound
- Indianola Avenue and SE 14th Street, Southbound
- Woodland Avenue and 12th Street (far side), Westbound
- Locust Street and 9th Street, Eastbound

WHEREAS, the City will not be inconvenienced by the license of said Property.

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

1. The City Council of the City of Des Moines, Iowa, proposes to approve a license agreement with Des Moines Area Regional Transit Authority to allow the placement of bus benches, and in certain locations, concrete pads and trash receptacles in portions of City right-of-way throughout the City of Des Moines, subject to all terms and conditions contained in the Agreement.

2. A public hearing shall be held on April 10, 2023, at 5:00 p.m. in the City Council Chamber, City Hall, 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. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

Please check the posted agenda in advance of the April 10, 2023 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. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt. Second by Boesen.

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 |

J. M. Franklin Cowan
 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