

24-0692

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Date May 6, 2024

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH CAPITAL CITY PRIDE-DES MOINES FOR USE OF A PORTION OF STREET RIGHT-OF-WAY AT EAST GRAND AVENUE AND EAST 5TH STREET FOR A TEMPORARY ART INSTALLATION

WHEREAS, the City of Des Moines (“CITY”) is the titleholder of certain street right-of-way (“Licensed Premises”) located at East Grand Avenue and East 5th Street; and

WHEREAS, Capital City Pride-Des Moines, an Iowa non-profit corporation, wishes to license the Licensed Premises for the purpose of installing and displaying a temporary art project consisting of painted sidewalks tentatively titled “Pride Sidewalks, which concept has been approved by the Public Art Foundation of Greater Des Moines; and

WHEREAS, the CITY has negotiated a Temporary License Agreement (“Agreement”) with Capital City Pride-Des Moines to allow for installation and display of the temporary art project, which Agreement will include, among other terms, the following:

- A fixed term from May 7, 2024 until September 30, 2025;
- The right of either party to terminate the Agreement prior to the end of the fixed license term, with or without cause, upon thirty (30) 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 April 15, 2024, by Roll Call No. 24-0581, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed license of said street right-of-way be set for hearing on May 6, 2024, at 5:00 p.m., in the City Council Chambers, 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.

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 license of said Property, as described herein, are hereby overruled and the hearing is closed.

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2. There is no public need or benefit for the street right-of-way proposed to be licensed, and the public would not be inconvenienced by reason of the license of a portion of street right-of way at the intersection of East 5th Street and East Grand Avenue, Des Moines, Iowa, legally described as follows, to Capital City Pride-Des Moines, subject to reservation of easements therein, and further subject to all terms and contained in the License Agreement.

A1 – Northwest corner of intersection

A PART OF THE EAST 5TH STREET RIGHT OF WAY AND THE EAST GRAND AVENUE RIGHT OF WAY LYING EAST OF AND SOUTH OF BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, - **EXCEPT** FOR THE EXISTING PLANTER AREA AND ADA RAMP AREA -, AND AS SHOWN ON THE ATTACHED EXHIBIT A1.

A2 – Northeast corner of intersection

A PART OF THE EAST 5TH STREET RIGHT OF WAY AND THE EAST GRAND AVENUE RIGHT OF WAY LYING WEST OF AND SOUTH OF BLOCK 17, EAST FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, - **EXCEPT** FOR THE ADA RAMP AREAS-, AND AS SHOWN ON THE ATTACHED EXHIBIT A2.

A3 – Southeast corner of intersection

A PART OF THE EAST 5TH STREET RIGHT OF WAY AND THE EAST GRAND AVENUE RIGHT OF WAY LYING WEST OF AND NORTH OF BLOCK 18, EAST FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, - **EXCEPT** FOR THE EXISTING PLANTER AREA AND ADA RAMP AREAS -, AND AS SHOWN ON THE ATTACHED EXHIBIT A3.

A4 – Southwest corner of intersection

A PART OF THE EAST 5TH STREET RIGHT OF WAY AND THE EAST GRAND AVENUE RIGHT OF WAY LYING EAST OF AND NORTH OF BLOCK 9, EAST FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, - **EXCEPT** FOR THE EXISTING PLANTER AREA AND ADA RAMP AREA -, AND AS SHOWN ON THE ATTACHED EXHIBIT A4.

3. The Mayor is authorized and directed to sign the License Agreement as 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, 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.

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5. The Real Estate Division Manager shall mail the original of the License Agreement and copies of the other documents to the Licensee.
6. There will be no proceeds associated with the conveyance of this License Agreement.

(Council Communication No. 24-199)

Moved by Mandelbaum to adopt. Second by Simonson.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

MOTION CARRIED APPROVED
Connie Boesen 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