

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	May 18, 2009
	<b>Agenda Item No.</b> 50 <b>Roll Call No.</b> <u>09-</u> <b>Communication No.</b> <u>09-307</u> <b>Submitted by: Donald M. Tripp</b> <b>Park and Recreation Director</b>	

**AGENDA HEADING:**

Approval of a second Amendment to the 28E Agreement between Kiwanis Riverview Nature Island, Inc., and the City of Des Moines.

**SYNOPSIS:**

Recommend approval of an Amendment to the existing 28E Agreement between Kiwanis Riverview Nature Island, Inc. (“KNI”), Ed Linebach, President of the Board, 1012 Oak Park Avenue, Des Moines, Iowa, and the City of Des Moines that extends the current Agreement for an additional eighteen months through December 31, 2010. This extension provides the City and KNI sufficient time to review and revise as needed the responsibilities and duties for planning, designing, maintaining and improving the various facilities at Kiwanis Riverview Nature Island as described in the existing 28E.

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

The City of Des Moines is the owner of KNI, also known as Riverview Park, and the residence in McHenry Park at 1012 Oak Park Avenue, adjoining KNI.

KNI is located along the Des Moines River at the end of Corning Avenue, approximately three blocks west of Sixth Avenue. The park has a colorful history having been utilized as a zoological garden, a zoo, and an amusement park since the late 1800’s.

Since the amusement park was abandoned in 1979, it has been owned by the City of Des Moines. As the result of a land conversion that occurred in nearby McHenry Park, a commitment was made to open KNI in the future as a public park. In 1992, area residents and the Des Moines Kiwanis Club approached the City to discuss a joint project to improve the KNI site. On August 7, 1992, by Roll Call No. 92-3035, the City Council entered into a 28E Agreement with KNI, Inc, to develop, maintain, and manage KNI. Four subsequent amendments to this original 28E furthered this effort by providing for joint cost sharing in the development of a master plan, the acquisition and demolition of nearby Clarkson School, the design, construction and structural maintenance of a pedestrian bridge, and use of a City-owned home in McHenry Park as a project headquarters.

In June of 2003 a new 28E Agreement was approved between KNI and the City in which the cost of the old lease was reduced to \$1/year, and all maintenance except structural repair of the bridge and gazebo were assumed by KNI, Inc. In June of 2006 an amendment to the 2003 Agreement extended the contract for an additional three years to June 1, 2009.

Generally, under the terms and conditions of the current 28E Agreement and amendments the Kiwanis are responsible for and provide all maintenance of the Kiwanis Nature Island except structural repairs to the pedestrian bridge and gazebo. Maintenance includes mowing, trimming of trees and bushes and all required yard care. Turf areas are to be kept in a clean and neat condition in a manner comparable to other park areas maintained by the City. Kiwanis shall be responsible for all trash pickup collection and removal. The City retains ownership rights to the property and all improvements.

In June of 2008, the landscape and the few structures at KNI suffered extensive damage because of a levee break by the Des Moines River adjacent to the property. A year later work remains to restore KNI to its pre-flood state. To permanently repair the levee and thus protect the nearby neighborhood, a new levee is planned that will bisect KNI, potentially changing its master plan implementation and opportunities for providing a variety of environmental and recreational programs. In order to provide KNI, Inc. and the City of Des Moines sufficient time to evaluate and revise needed changes to the master plan and the facilities maintenance agreement for the park, an eighteen month extension of the current 28E Agreement is recommended.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: May 22, 2006

Roll Call Number: 06-1020

Action: Amendment to Kiwanis Riverview Nature Island 28E Agreement extending the term to June 2009. Moved by Vlassis to adopt. Motion Carried 7-0.

Date: June 4, 2003

Roll Cal Number: 03-1241

Action: Approving 28E Agreement with Kiwanis Nature Island Inc. for maintenance of Kiwanis Nature Island and use and control of house, garage and storage shed at 1012 Oak Park Avenue for a term of three years. (Council Communication No. 03-243). Moved by Brooks to adopt. Motion Carried 5-2.

Date: May 5, 1997

Roll Call Number: 97-1684

Action: Fourth Amendment to the Kiwanis Nature Island Intergovernmental 28E Agreement, regarding that upon completion, the City will accept ownership of the bridge and provide structural maintenance and Kiwanis will assume responsibility for operation and management of the bridge. (Council Communication No. 97-249). Moved by McPherson to adopt. Motion Carried 6-0.

Date: February 26, 1996

Roll Call Number: 96-776

Action: Third Amendment to Intergovernmental 28E Agreement with Kiwanis Nature Island, Inc. for development of Riverview Park authorizing reimbursement for engineering services and setting the monthly rental for 1012 Oak Park Avenue at \$75 effective January 1, 1996. (Council Communication No. 96-088) Moved by Vlassis to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

City staff will work with KNI Inc. over the next eighteen months to evaluate master plan revisions and review and revise any needed changes to the existing facilities maintenance agreement.

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