

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	December 22, 2014
	Agenda Item No.	26ABC
	Roll Call No.	<u>14-1938, 14-1939, 14-1940</u>
	Communication No.	<u>14-597</u>
	Submitted by:	Scott E. Sanders, City Manager

AGENDA HEADING:

Approval of Second Amendment to Urban Renewal Development Agreement with the Greater Des Moines Botanical Garden, formerly known as the Greater Des Moines Botanical Center (Botanical Garden).

Approval of Second Amendment of Lease and Operation, Management and Maintenance Agreement with Greater Des Moines Botanical Garden for Botanical Center and Adjacent Grounds.

Resolution declaring an official intent under Treasury Regulation 1.150-2 to issue debt to reimburse the City of Des Moines for certain original expenditures paid in connection with an additional Economic Development Grant to the Greater Des Moines Botanical Garden.

SYNOPSIS:

Approving the Second Amendment Urban Renewal Development Agreement for the Botanical Garden with Greater Des Moines Botanical Corporation (GDMBC) and approving the second Amendment to the Botanical Garden Lease and Operation, Management and Maintenance Agreement with the Botanical Garden which now has the responsibility of all operations, management, capital improvements and maintenance of the Botanical Garden. Due to the age and condition of the Botanical Garden glass dome, all of the approximately 650 geodesic panels and associated hardware must now be replaced at an estimated cost of \$1,500,000. The GDMBC has requested an additional economic development grant in the amount of \$150,000 to assist in the replacement of the Botanical Garden glass dome.

FISCAL IMPACT:

Subject to City Council approval, the proposed second amendment of the Urban Renewal Development Agreement, an economic grant of \$150,000 would be funded from general obligation bonds upon certification that the GDMBC has obtained a total of at least \$15,000,000 of committed non-City funding for construction and installation of Botanical Garden Improvements and the enhanced operation, management and maintenance costs for the Botanical Garden, and the GDMBC has completed improvements to the Botanical Garden consisting of complete replacement of the geodesic dome panels and associated hardware and the City has determined that such improvements have been completed in accordance with the terms of the Lease, as amended.

Amount: Economic Development Grant: \$150,000 (general obligation bonds)

Funding Source: From general obligation bonds to be issued.

ADDITIONAL INFORMATION:

On October 22, 2014, the GDMBC Board provided a written request to amend the Urban Renewal Development Agreement and amend the Botanical Garden Lease and Operation, Management and Maintenance Agreement with the GDMBC. Reasons for the request include the following;

- The original GDMBC fundraising commitment with the City was \$10,000,000, however the GDMBC raised \$12,000,000 as part of phase one (1).
- The GDMBC initiated a Phase II Capital Campaign with a goal of \$6,200,000, of which \$3,277,443.18 has been raised to date, which is not required by their agreement with the City.
- The 650 geodesic domes, battens and associated hardware are in very bad condition and need replacement at a cost of \$1,500,000.

Subject to City Council approval, the proposed second Amendment to the Botanical Garden Lease Agreement adds the detail of the dome replacement project into the existing lease agreement along with a July 1, 2015 deadline for completion of the project. It is estimated that the project should be completed by early spring of 2015.

Additionally, Section V.A.4 of the Botanical Garden Lease Agreement will be amended to allow the City the right, at its option, to use the Botanical Garden for either two (2) consecutive Friday and Saturday nights during one (1) of the last two (2) weekends in February of each year or for two (2) dates for income generating special events each year on mutually agreeable dates. The City shall receive the revenues derived from the special events.

Also, subject to City Council approval, the proposed second Amendment to the Urban Renewal Development Agreement provides a one-time economic development grant in the amount of \$150,000 subject to the GDMBC submitting verification that is acceptable to the City of the \$15,000,000 of committed non-City fundraising and that the City has determined that the \$1,500,000 dome replacement project has been completed in accordance with the terms of the lease, as amended.

These agreements provide assurance of the City's financial commitment and relieve the City of capital and operating investments by shifting that responsibility to the GDMBC over the 25-year agreement. The City benefits by the elimination of long-term fiscal liability for the Botanical Garden while the Botanical Garden will receive infrastructure improvements beyond the scope of City funding.

PREVIOUS COUNCIL ACTION(S):

Date: July 29, 2013

Roll Call Number: [13-1206](#)

Action: [First](#) Amendment to Urban Renewal Development Agreement with the Greater Des Moines Botanical Center with respect to scheduled payments of the economic development grant. ([Council Communication No. 13-383](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 9, 2011

Roll Call Number: [11-0822](#), [11-0823](#), [11-0824](#), and [11-0825](#)

Action: [On](#) vacation as parkland and right-of-way and Long-term Lease, Operation, Management and Maintenance Agreement of Des Moines Botanical Center and adjacent grounds to Greater Des Moines Botanical Garden. Moved by Mahaffey to adopt. Motion Carried 6-1. Nays: Moore.

- (A) [First](#) consideration of ordinance above. Moved by Mahaffey that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Nays: Moore.
- (B) [Final](#) consideration of ordinance above (waiver requested by Greater Des Moines Botanical Garden), requires six votes. Moved by Mahaffey that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#15,014](#). Motion Carried 6-1. Nays: Moore.
- (C) [Approving](#) Urban Renewal Development Agreement. ([Council Communication No. 11-266](#)) Moved by Mahaffey to adopt. Motion Carried 6-1. Nays: Moore.

Date: May 10, 2010

Roll Call Number: [10-685](#)

Action: [Guiding](#) principles for negotiation of a long term lease and management agreement for the Botanical Center and grounds. ([Council Communication No. 10-259](#)) Moved by Meyer to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: April 7, 2011

Resolution Number: 11-2011-1.04

Action: Plan and Zoning Commission voted 8-1-3 to recommend APPROVAL of a request from Friends of the Des Moines Botanical Center represented by Fred Weitz for the permanent closure of the park road adjacent to the Des Moines Botanical Center to through access from a point immediately north of 1-235 to East 6th Avenue, subject to development in accordance with proposed master plan and encouraging those in negotiation (the City and the Friends of the Des Moines Botanical Center) to extend every reasonable effort to maintain access to the north trail head for pedestrian and vehicular traffic.

Board: Park and Recreation Board

Date: December 28, 2010

Resolution Number: 10-105

Action: Approval of Botanical Center lease.

Board: Park and Recreation Board

Date: November 23, 2010

Resolution Number: 10-098

Action: Receive and file Botanical Center lease.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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