


COUNCIL COMMUNICATION

	Number:	21-553	Meeting:	December 20, 2021
	Agenda Item:	54	Roll Call:	21-1938
	Submitted by:	Benjamin R. Page, Park and Recreation Director		

AGENDA HEADING:

Directing City Manager to negotiate an amendment of the 28E Agreement for Construction and Funding of Fleur Drive Underpass between Des Moines Water Works (Water Works), Des Moines Water Works Park Foundation (Foundation) and City of Des Moines regarding amount of Foundation funding thereunder.

SYNOPSIS:

Recommend the City Council direct the City Manager to negotiate an amendment of the 28E Agreement between Water Works, Foundation, and the City for construction and funding of Fleur Drive underpass to forgive a portion of the funding owed to the City by the Foundation.

FISCAL IMPACT:

Amount: \$540,000

Funding Source: 2021-2022 Operating Budget, page 83, Finance Department, Local Option Sales and Service Tax (LOSST) - Neighborhood Improvements, Park Enhancements.

ADDITIONAL INFORMATION:

- Providing for connections between Water Works Park, which is under the management, control, and operation of the Board of Water Works Trustees of the City of Des Moines commonly referred to as Water Works, and Gray's Lake Park, which is owned by the City, has been a desired improvement dating back to at least 2005. That effort was referred to as the Fleur Trail Connector and was, at that time, adequately accomplished with the completion of the American Discovery Trail – Segment 4 in 2007. This connection is located on the northern edge of the abandoned railroad right-of-way and goes under Fleur Drive, utilizing the existing viaduct over the railroad tracks.
- Approximately 10 years later, an additional connection was envisioned by Water Works and the Foundation, this time more directly connecting the two (2) parks. On April 23, 2018, by Roll Call No. 18-0724, the City Council approved the resulting 28E Agreement between Water Works, the Foundation and the City which outlines responsibilities for design, construction,

and funding of the Fleur Drive Trail Underpass, designated as “The Ruan Connector” on September 13, 2021, by Roll Call No. 21-1402. In this agreement, parties acknowledged approved costs up to \$3,500,000 could be owed to the City by the Foundation to complete the work.

- Also on September 13, 2021, by Roll Call No. 21-1401, City Council accepted the completed construction of the Ruan Connector and approved final payment to the contractor, Cramer and Associates, Inc. Per the current 28E Agreement, the City had requested payment from the Foundation for the funding owed, totaling \$3,105,212.29, plus the first \$100,000 due annually for three (3) years for maintenance costs.
- As of project acceptance and to date, the City has received \$1,400,000 from the Foundation and the Foundation has advised the City that it does not have sufficient funds to provide the full amount owed to the City under the 28E Agreement.
- The City contributed \$25,000 to the project, leaving a remaining balance due of \$1,680,212.29 for design and construction and \$300,000 for maintenance unpaid.
- Under this proposed action, City Council would direct negotiation to amend the terms of the 28E Agreement to include the following:
 - Forgive \$540,000 currently owed to the City in consideration of past federal funding allocation of \$573,090 that was awarded to the original Fleur Trail Connector and ultimately moved \$451,532.76 to the American Discovery Trail – Segment 4 completed in 2007 and described above.
 - Direct the City Manager to negotiate with the Foundation and Water Works to amend this existing 28E Agreement to acknowledge the increased City contribution and adjust the amount owed to the City from the Foundation to be \$1,140,212.29, plus \$100,000 annually for three (3) years for maintenance costs.
 - State the City Council expectation that the Foundation and Water Works initiate fundraising for replacement of the Bill Riley Trail bridge over the Raccoon River to satisfy the obligations as outlined and agreed to in the separate 28E Agreement between the City and Water Works approved by City Council on December 19, 2016, by Roll Call No. 16-2191, regarding City trails within Water Works Park.
- Payment from the Foundation will be required prior to or at the time of the City Council’s consideration of an amendment to the 2018 28E Agreement.

PREVIOUS COUNCIL ACTION(S):

Date: September 13, 2021

Roll Call Number: [21-1401](#), and [21-1402](#)

Action: Accepting completed construction and approving final payment for the following:

- (F) [Ruan](#) Connector, Cramer and Associates, Inc. Moved by Boesen to adopt. Motion Carried 6-1, Absent: Westergaard.

- 1) [Naming](#) of Fleur Drive Trail Underpass, the “Ruan Connector” and Authorizing City Manager to determine effective date of such naming. Moved by Boesen to adopt. Motion Carried 6-1. Absent: Westergaard.

BOARD/COMMISSION ACTION(S):

Board: Parks and Recreation Board

Date: March 27, 2018

Resolution Number: 18-023

Action: Motion by Potter to approve proposal for a passageway between Gray’s Lake Park and Water Works Park. Second by Boggus. Motion carried 13-0. Two absent, Woodard and Avant.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Anticipated actions include potential consideration and approval of a 28E Amendment that would forgive a portion of the expended and agreed to funding owed to the City by the Foundation.

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