

★ **Roll Call Number**

Agenda Item Number

63

Date December 16, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS ON SECOND AMENDMENT TO SERVICE AGREEMENT AND LEASE WITH METRO WASTE AUTHORITY FOR OPERATION OF A PROGRAM FOR THE COLLECTION AND PROCESSING OF YARD WASTE MATERIALS

WHEREAS, the Des Moines Metropolitan Area Solid Waste Agency, now known as the Metro Waste Authority (hereinafter "MWA"), was created pursuant to the Amended and Substituted Intergovernmental Agreement Creating the Des Moines Metropolitan Area Solid Waste Agency (hereafter the "Chapter 28E Agreement"), executed by the City in December of 1969 and found of record in the office of the Polk County Recorder at Book 4081, Page 542; and

WHEREAS, the MWA exists for the purpose of serving the needs of its member municipalities in matters involving the collection and disposal of solid waste, as may be agreed upon by and between the MWA and its member entities; and

WHEREAS, the MWA has established a unified yard waste bag collection and processing program for all of its member entities in the Des Moines metropolitan area; and

WHEREAS, by Roll Call No. 01-763, dated March 12, 2001, the City Council approved the execution of a Service Agreement with MWA, pursuant to which MWA agreed to operate a yard waste collection service within Des Moines with the City of Des Moines acting as its contract agent for collection of yard waste; Des Moines agreed to lease the real property at 1601 Harriett Street, Des Moines, Iowa, consisting of approximately 21.73 acres ("the Harriet Street site") to MWA; and MWA agreed to purchase the City's equipment at said site and to thereafter operate a yard waste processing facility at said site, all for a term of three years ending March 31, 2004; and

WHEREAS, by Roll Call No. 04-609, dated March 22, 2004, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriet Street site, all for a term of three years ending March 31, 2007; and

WHEREAS, by Roll Call No. 07-882, dated May 7, 2007, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriet Street site, all for a term of three years ending March 31, 2010; and

WHEREAS, by Roll Call No. 10-453, dated March 22, 2010, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriet Street site, for a term of twenty years ending March 31, 2020 for a \$40,000 per year as rental; and

WHEREAS, by Roll Call No. 12-0352, dated February 27, 2012, the City Council approved the execution of an amendment to the lease and Service Agreement with MWA to increase the Harriet Street

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site by an additional 8.28 adjacent acres to the east and west of the original 21.73 acres, for a total of 30.01 acres; and

WHEREAS, the City and MWA agree that the intent of the lease and Service Agreement was to establish a 20-year lease term commencing on April 1, 2010 and ending at midnight on March 31, 2030; and

WHEREAS, the City and MWA desire to correct such scrivener's error by amending the Service Agreement to establish a 20-year lease term commencing on April 1, 2010 and ending at midnight on March 31, 2030; and

WHEREAS, on December 2, 2019 by Roll Call No. 19-1918, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Service Agreement and lease be set down for hearing on December 16, 2019, 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 amend the Service Agreement and lease with MWA 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 proposal, 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 second amendment to the Service Agreement with MWA for lease and operation of a yard waste processing facility at 1601 Harriett Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.
2. There is currently no municipal need for the City property to be leased, and the public would not be inconvenienced by reason of the lease the real property at 1601 Harriett Street, Des Moines, Iowa, to Metro Waste Authority for a 20-year lease term commencing on April 1, 2010 and ending at midnight on March 31, 2030.
3. The Second Amendment to Service Agreement by and between the City of Des Moines, Iowa and the Metro Waste Authority establishing a 20-year lease term commencing on April 1, 2010 and ending at midnight on March 31, 2030 for lease and operation of approximately 30.01 acres of City of Des Moines property at 1601 Harriett Street, Des Moines, Iowa be and is hereby approved.

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4. The Mayor is authorized and directed to sign the Second Amendment to Service Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of the Second Amendment to Service Agreement by and between the City of Des Moines, Iowa and the Metro Waste Authority, 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 for the purpose of causing said documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Second Amendment to Service Agreement by and between the City of Des Moines, Iowa and the Metro Waste Authority, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall deliver copies of the Second Amendment to Service Agreement by and between the City of Des Moines, Iowa and the Metro Waste Authority to the MWA.
7. There are no proceeds associated with this Second Amendment to Service Agreement and lease.

(Council Communication No. 19-539)

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			
Mayor				

CERTIFICATE

I, P. Kay Cmelik, 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.

_____ City Clerk