



Roll Call Number

Agenda Item Number

57

Date June 26, 2023

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH SHERMAN HILL ASSOCIATION, INC. FOR THE REPLACEMENT OF THE EXISTING STREET LIGHT SYSTEM WITH A DECORATIVE LIGHT SYSTEM WITHIN THE STREET RIGHT-OF-WAY BORDER AREA IN PARTS OF THE SHERMAN HILL NEIGHBORHOOD

WHEREAS, The City of Des Moines (“CITY”) is the titleholder of certain real estate (“Licensed Premises”) located within the street right-of-way border area in the Sherman Hill neighborhood, excluding Ingersoll Avenue and Martin Luther King, Jr. Parkway; and

WHEREAS, Sherman Hill Association, Inc., an Iowa non-profit corporation, and a recognized City of Des Moines neighborhood association, wishes to license the Licensed Premises for the purpose of replacing the existing street light system with a decorative lighting system; and

WHEREAS, the CITY has negotiated a License Agreement (“Agreement”) with Sherman Hill Association, Inc., to allow for the replacement of the existing MidAmerican Energy standard lighting system with a decorative lighting system, which Agreement will include, among other terms, the following:

- An initial four-year term;
- An option to renew the license congruently with the Sherman Hill Self-Supported Municipal Improvement District (SHSSMID), as established in the City’s Ordinance No. 15,618;
- The right of the CITY to (1) terminate for failure to meet the terms of the Agreement, as determined by the CITY or (2) terminate for assignment or sublease without the CITY’s consent,
- The right of either party to terminate in accordance with the SHSSMID; 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 June 12, 2023, by Roll Call No. 23-0827, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed license of said portion of street right-of-way border area in the Sherman Hill neighborhood be set for hearing on June 26, 2023, at 5:00 p.m. in the City Council Chamber, 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:

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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.
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 the portion of street right-of-way border area in the Sherman Hill neighborhood, excluding Ingersoll Avenue and Martin Luther King, Jr. Parkway, Des Moines, Iowa, to Sherman Hill Association, Inc., for an initial four-year license term, subject to a reservation of easements therein, and further subject to all terms and conditions contained in the License Agreement and in the Operating Agreement governing the Sherman Hill Self-Supported Municipal Improvement District.
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.
5. The Real Estate Division Manager shall mail the original of the License Agreement and copies of the other documents to the grantee.

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ 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, City Clerk

