

★ Roll Call Number

12-0201

Agenda Item Number

28

Date February 13, 2012

SETTING DATE OF HEARING ON AMENDMENT TO LEASE OF 1601 HARRIETT STREET TO ADD AN ADDITIONAL 8.28 ACRES TO 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 City's Public Works Department presently operates a yard waste collection program for its residential customers within the City; 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, pursuant to the Chapter 28E Agreement, Section II thereof, the MWA is authorized to contract with its member municipalities, including the City of Des Moines, for the provision of solid waste disposal, or collection and disposal services; 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

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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, the City and MWA intended that the leased area be increased 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, as described below, and discovered that the incorrect Exhibit A showing the area to be leased was attached to the agreement; and

WHEREAS, the MWA and City desire to correct such scrivener's error by amending the Service Agreement to substitute the corrected Exhibit A showing the 30.01 acres as the leased premises.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

- 1. The City of Des Moines, Iowa proposes to amend the lease to add an additional 8.28 adjacent acres to the east and west of the original 21.73 acres, for a total of 30.01 acres of real estate at 1601 Harriett Street, Des Moines, Iowa, as described below, to the Metro Waste Authority for a consideration of forty thousand dollars (\$40,000) annually for a period of twenty (20) years:

Current leased premises:

A PART OF THE WEST 1/2 OF SECTION 11, TOWNSHIP 78 NORTH, RANGE 24 WEST, OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11.; THENCE S00°50'21"W 60.93' ALONG THE WEST LINE OF SECTION 11; THENCE S89°26'31"E 1175.72' TO THE POINT OF BEGINNING; THENCE N00°04'19"E 103.41'; THENCE N15°59'59"W 231.25'; THENCE N58°55'06"E 444.83'; THENCE 88°51'50"E 192.18'; THENCE N44°36'36"E 146.47'; THENCE N86°22'34"E 295.85'; THENCE S37°41'11"E 153.42'; THENCE S88°01'49"E 638.64'; THENCE S00°28'47"E 555.08'; THENCE N89°25'56"W 1644.40' TO THE POINT OF BEGINNING, CONTAINING 21.73 ACRES MORE OR LESS.

Amended leased premises:

ALL OF LOTS 89 THROUGH 94, A PART OF LOTS 32 THROUGH 36, A PART OF LOTS 79 THROUGH 88, AND A PART OF HARRIET STREET, ALL BEING IN T. M. WALKER'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND A PART OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND A PART OF THE NORTH 1/2 OF THE SOUTHEAST 1/4, ALL IN SECTION 11, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 11; THENCE SOUTH 0°50'26" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 11, A DISTANCE OF 60.93 FEET; THENCE SOUTH 89°26'25" EAST, 1027.93 FEET TO THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 84.37 FEET, WHOSE ARC LENGTH IS 117.95 FEET AND WHOSE CHORD BEARS NORTH 48°28'32" WEST, 108.58 FEET; THENCE NORTH 8°25'27" WEST, 221.23 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 187.06 FEET, WHOSE ARC LENGTH IS 207.66 FEET AND WHOSE CHORD BEARS NORTH 40°10'24" WEST, 197.16 FEET; THENCE SOUTH 70°10'18" EAST, 345.56 FEET; THENCE NORTH 58°55'11" EAST, 444.83 FEET; THENCE NORTH 88°51'55" EAST, 192.18 FEET; THENCE NORTH 44°36'41" EAST, 146.47 FEET; THENCE NORTH 86°22'39" EAST, 295.85 FEET; THENCE SOUTH 37°41'06" EAST, 153.42 FEET; THENCE SOUTH 88°01'44" EAST, 638.64 FEET; THENCE SOUTH 68°59'04" EAST, 603.10 FEET; THENCE SOUTH 44°32'05" EAST, 135.76 FEET; THENCE SOUTH 0°28'42" EAST, 248.52 FEET; THENCE NORTH 89°25'51" WEST, 2300.07 FEET; THENCE NORTH 89°26'25" WEST, 147.79 FEET TO THE POINT OF BEGINNING AND CONTAINING 30.01 ACRES (1,307,364 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

2. A public hearing shall be held on February 27, 2012 at 5:00 pm in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

3. The City Clerk is authorized and directed to publish notice of the proposal and hearing in the form hereto attached not less than four or more than twenty days from the date of the hearing.

(Council Communication 12-047) Moved by Hensley to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

T. M. Franklin Mayor

CERTIFICATE

I, DIANE RAUH, 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.

Diane Rauh City Clerk