

★ Roll Call Number

13-0729

Agenda Item Number

34

Date May 6, 2013

**APPROVING MAINTENANCE AGREEMENT BETWEEN CITY OF DES MOINES AND
DES MOINES REGIONAL TRANSIT AUTHORITY (DART) FOR PROPERTY
LYING SOUTH OF AND INCLUDING VACATED VINE STREET
BETWEEN 7TH STREET AND 6TH AVENUE**

WHEREAS, the City of Des Moines is the owner of real property ("Maintained Premises") lying south of and including a portion of vacated Vine Street between 7th Street and 6th Avenue; and

WHEREAS, Des Moines Regional Transit Authority (DART) has installed landscaping within the Maintained Premises pursuant to a temporary right-of-entry granted by City to DART on November 19, 2011, and a short-term lease agreement entered into by City and DART on September 20, 2012, associated with planned redevelopment of real property locally known as 620 Cherry Street for the DART Central Station; and

WHEREAS, City granted the temporary right-of-entry and short-term lease to DART in reliance upon DART's stated intention to enter into a long-term lease with City for the Maintained Premises, however DART has now requested and City staff have agreed that a Maintenance Agreement be negotiated in lieu of a long-term lease; and

WHEREAS, pursuant to the Maintenance Agreement, in exchange for and in consideration of the permission granted to DART for installation of the landscaping within the Maintained Premises as requested by DART, DART, at its sole cost and expense which is not anticipated to exceed \$25,000 annually, is required to maintain said landscaping for an initial term of twenty (20) years with successive five-year renewal terms, subject to a 90-day termination option by either party at any time and for any reason; and

WHEREAS, approval of the proposed Maintenance Agreement between the City and DART, now on file with the City Clerk's office, is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The proposed Maintenance Agreement between the City of Des Moines and DART for property located south of and including a portion of vacated Vine Street between 7th Street and 6th Avenue, be and is hereby approved.
2. The Mayor is authorized and directed to sign the Maintenance Agreement and the City Clerk is authorized and directed to attest the Mayor's signature.
3. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Maintenance Agreement; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreement, following approval of the

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City's Legal Department as to form; and, if needed, to proceed with and execute documents pertaining to the termination of the Agreement, following approval of the City's Legal Department as to form.

4. The City Clerk is authorized and directed to forward the original of said Maintenance Agreement to the Real Estate Division of the Engineering Department, and upon receipt, the Real Estate Division Manager shall mail a fully executed copy of the document to DART.

Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

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

T. M. Franklin Council 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