



Roll Call Number

18-0732

Agenda Item Number

61

Date April 23, 2018

**HOLD HEARING FOR CONSIDERATION OF LICENSE AGREEMENT FOR  
CONSERVATION WITH THE DES MOINES METROPOLITAN WASTEWATER  
RECLAMATION AUTHORITY (WRA) ON CITY-OWNED PROPERTY LOCATED AT  
3500 EAST DOUGLAS AVENUE FOR THE WRA FOUR MILE CREEK  
STABILIZATION – NORTH OF EUCLID PROJECT**

**WHEREAS**, the Des Moines Metropolitan Wastewater Reclamation Authority (hereinafter “WRA”) has requested a license agreement for conservation across a portion of City-owned property located north of Euclid Avenue within Sargent Park, locally known as 3500 E. Douglas Avenue, District/Parcels 060/01788-000-000, 060/01789-000-000 and 060/09088-013-000, Des Moines, Iowa (hereinafter “Licensed Premises”) for construction of stream corridor improvements for the WRA Four Mile Creek Stabilization – North of Euclid Project (hereinafter “Project”); and

**WHEREAS**, in addition to the License Agreement, the WRA also requires a Temporary Easement for Construction and Construction-Related Activities (“Easement”) across said property for the initial construction of the Project; and

**WHEREAS**, the City’s Real Estate Division has negotiated a License Agreement for Conservation (herein “Agreement”) for the use of the Licensed Premises with the WRA as licensee for the purpose of establishing, constructing, maintaining, and conserving a sustainable and natural stream corridor that supports stream stability, water quality, and ecological functions, particularly including a riparian buffer with permanent vegetative cover and other stream corridor improvements, which Agreement will include, among other terms, a license term commencing upon the execution by City of the License Agreement and terminating on April 23, 2038; and

**WHEREAS**, pursuant to Iowa Code §364.7(3), the WRA shall pay no consideration for said Agreement and Easement; and

**WHEREAS**, the City’s Park and Recreation Department has reviewed the proposed Agreement and Easement for Construction and Construction-Related Activities and determined the City will not be inconvenienced by approval of the proposed Agreement with the WRA.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed License Agreement for Conservation and Temporary Easement for Construction and Construction-Related Activities with the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), as described below, are hereby overruled and the hearing is closed.

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2. The public would not be inconvenienced by reason of a License Agreement for Conservation and a Temporary Easement for Construction and Construction-Related Activities between the City of Des Moines, Iowa, and the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), as on file in the office of the City Clerk, across a portion of City-owned property located within Sargent Park at 3500 East Douglas Avenue, District/Parcels 060/01788-000-000, 060/01789-000-000 and 060/09088-013-000, Des Moines, Iowa, legally described as follows, for the purpose of constructing and maintaining stream corridor improvements for the WRA Four Mile Creek Stabilization – North of Euclid Project, for a twenty-year term (through April 23, 2038) and for no consideration pursuant to Iowa Code §364.7(3), and said License Agreement for Conservation and Temporary Easement for Construction and Construction-Related Activities is hereby approved:

PARCEL 1A – LICENSE AGREEMENT FOR CONSERVATION

A PART OF LOTS 346 AND 347, DOUGLAS ACRES PLAT 3, AN OFFICIAL PLAT AND A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE SOUTH 89° 36' 06" WEST ALONG SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 203.95 FEET; THENCE NORTH 00° 23' 54" WEST, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST DOUGLAS AVENUE AND TO THE POINT OF BEGINNING; THENCE SOUTH 89° 36' 06" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 186.00 FEET; THENCE NORTH 08° 57' 42" EAST, 90.37 FEET; THENCE NORTH 23° 18' 01" WEST, 120.94 FEET; THENCE NORTH 25° 12' 39" WEST, 360.49 FEET; THENCE NORTH 19° 04' 07" WEST, 70.36 FEET; THENCE NORTH 04° 18' 29" EAST, 46.17 FEET; THENCE NORTH 33° 17' 13" EAST, 87.22 FEET; THENCE NORTH 49° 16' 05" EAST, 183.56 FEET; THENCE NORTH 03° 55' 59" EAST, 184.18 FEET; THENCE NORTH 02° 41' 24" WEST, 330.76 FEET; THENCE NORTH 24° 51' 48" EAST, 204.61 FEET TO THE NORTH LINE OF SAID LOT 347; THENCE NORTH 89° 41' 02" EAST ALONG SAID NORTH LINE, 80.00 FEET; THENCE SOUTH 38° 06' 58" EAST, 131.54 FEET; THENCE SOUTH 00° 41' 04" EAST, 251.19 FEET; THENCE SOUTH 05° 32' 11" WEST, 410.97 FEET; THENCE SOUTH 09° 02' 28" WEST, 396.00 FEET; THENCE SOUTH 13° 50' 07" EAST, 253.04 FEET; THENCE SOUTH 00° 02' 58" WEST, 130.16 FEET TO THE POINT OF BEGINNING AND CONTAINING 8.53 ACRES (371,664 S.F.). PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

PARCEL 1B – LICENSE AGREEMENT FOR CONSERVATION

A PART OF PARCEL "E" AS FILED IN BOOK 9564, PAGE 914 OF THE POLK COUNTY RECORDER'S OFFICE, BEING IN THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 29; THENCE SOUTH 89°36'06" WEST ALONG SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 271.47 FEET; THENCE SOUTH 00°23'54" EAST, 20.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL "E" AND TO THE POINT OF BEGINNING; THENCE SOUTH 12°44'30" WEST ALONG THE EAST LINE OF SAID PARCEL "E", 226.14 FEET; THENCE SOUTH 36°32'32" WEST CONTINUING ALONG SAID EAST LINE, 228.29 FEET; THENCE SOUTH 32°04'32" WEST CONTINUING ALONG SAID EAST LINE, 140.87 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST EUCLID AVENUE; THENCE SOUTH 89°44'06" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 184.20 FEET TO THE WEST LINE OF SAID PARCEL "E"; THENCE NORTH 32°21'12" EAST ALONG SAID WEST LINE, 296.56 FEET; THENCE NORTH 42°04'08" EAST, 152.78 FEET; THENCE NORTH 29°02'44" EAST, 55.56 FEET; THENCE NORTH 22°53'51" EAST, 35.97 FEET; THENCE NORTH 11°44'15" EAST, 30.35 FEET; THENCE NORTH 05°48'26" EAST, 48.16 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF EAST DOUGLAS AVENUE; THENCE NORTH 89°36'06" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 131.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.02 ACRES (88,010 S.F.). PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD

PARCEL 1A – TEMPORARY EASEMENT FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES - AREA "A"

A PART OF LOTS 346 AND 347, DOUGLAS ACRES PLAT 3, AN OFFICIAL PLAT AND A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE NORTH 00° 09' 40" EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 1550.64 FEET TO THE NORTHEAST CORNER OF SAID LOT 347; THENCE SOUTH 89° 41' 54" WEST ALONG THE NORTH LINE OF LOT 347, A DISTANCE OF 331.17 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 24° 51' 48" WEST, 204.61 FEET; THENCE SOUTH 02° 41' 24" EAST, 98.11 FEET; THENCE NORTH 82° 03' 06" WEST, 184.05 FEET; THENCE NORTH 59° 10' 26" WEST, 48.16 FEET; THENCE NORTH 89° 42' 53" EAST, 9.68 FEET; THENCE NORTH 18° 40' 31" EAST, 10.57 FEET; THENCE NORTH 89° 42' 54" EAST, 118.20 FEET; THENCE NORTH 67° 04' 15" EAST, 54.22 FEET; THENCE NORTH 22° 31' 38" EAST, 218.17 FEET TO SAID NORTH LINE OF SAID LOT 347; THENCE NORTH 89° 41' 02" EAST ALONG SAID NORTH LINE, 40.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.41 ACRES (18,002 S.F.).

AND



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AREA "B"

A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE SOUTH 89° 36' 06" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 422.32 FEET; THENCE NORTH 00° 23' 54" WEST, 220.58 FEET TO THE POINT OF BEGINNING; THENCE NORTH 43° 25' 48" WEST, 163.06 FEET; THENCE NORTH 12° 31' 43" WEST, 147.88 FEET; THENCE NORTH 26° 31' 34" WEST, 57.28 FEET; THENCE NORTH 54° 37' 27" WEST, 199.40 FEET; THENCE NORTH 18° 12' 29" WEST, 164.72 FEET; THENCE NORTH 75° 05' 06" WEST, 95.35 FEET; THENCE NORTH 14° 54' 53" EAST, 20.00 FEET; THENCE SOUTH 75° 05' 06" EAST, 87.80 FEET; THENCE NORTH 09° 05' 46" EAST, 89.95 FEET; THENCE SOUTH 77° 55' 00" EAST, 100.00 FEET; THENCE SOUTH 06° 56' 02" EAST, 209.10 FEET; THENCE NORTH 85° 36' 46" EAST, 99.87 FEET; THENCE SOUTH 33° 17' 13" WEST, 43.61 FEET; THENCE SOUTH 04° 18' 29" WEST, 46.17 FEET; THENCE SOUTH 19° 04' 07" EAST, 70.36 FEET; THENCE SOUTH 25° 12' 39" EAST, 360.49 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.20 ACRES (52,434 S.F.).

AND

AREA "C"

A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE SOUTH 89° 36' 06" WEST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 161.23 FEET; THENCE NORTH 00° 23' 54" WEST, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST DOUGLAS AVENUE AND TO THE POINT OF BEGINNING; THENCE SOUTH 89° 36' 06" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 42.72 FEET; THENCE NORTH 00° 02' 58" EAST, 130.16 FEET; THENCE NORTH 13° 50' 07" WEST, 253.04 FEET; THENCE NORTH 09° 02' 28" EAST, 166.57 FEET; THENCE SOUTH 89° 57' 02" EAST, 113.37 FEET; THENCE SOUTH 00° 02' 58" WEST, 287.16 FEET; THENCE SOUTH 16° 52' 22" WEST, 124.25 FEET; THENCE SOUTH 00° 02' 58" WEST, 133.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.17 ACRES (50,850 S.F.). PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

PARCEL 1B – TEMPORARY EASEMENT FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES - AREA "A"



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A PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 29; THENCE SOUTH 89° 36' 06" WEST ALONG SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 271.47 FEET; THENCE SOUTH 00° 23' 54" EAST, 20.00 FEET TO THE NORTHEAST CORNER OF PARCEL "E" AS FILED IN BOOK 9564, PAGE 914 OF THE POLK COUNTY RECORDER'S OFFICE AND TO THE POINT OF BEGINNING; THENCE NORTH 89° 36' 06" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF EAST DOUGLAS AVENUE, 96.12 FEET; THENCE SOUTH 30° 04' 18" WEST, 152.81 FEET; THENCE SOUTH 15° 24' 22" WEST, 45.70 FEET; THENCE SOUTH 89° 35' 28" WEST, 47.20 FEET TO THE EAST LINE OF SAID PARCEL "E"; THENCE NORTH 12° 44' 30" EAST ALONG SAID EAST LINE, 180.41 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.27 ACRES (11,705 S.F.).

AND

AREA "B"

A PART OF PARCEL "E" AS FILED IN BOOK 9564, PAGE 914 OF THE POLK COUNTY RECORDER'S OFFICE AND A PART OF THE NORTHWEST 1/4 OF NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 79 NORTH, RANGE 23 WEST, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 29; THENCE SOUTH 89° 36' 06" WEST ALONG THE NORTH LINE SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 403.19 FEET; THENCE SOUTH 00° 23' 54" EAST, 20.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF EAST DOUGLAS AVENUE AND TO THE POINT OF BEGINNING; THENCE SOUTH 05° 48' 26" WEST, 48.16 FEET; THENCE SOUTH 11° 44' 15" WEST, 30.35 FEET; THENCE SOUTH 22° 53' 51" WEST, 35.97 FEET; THENCE SOUTH 29° 02' 44" WEST, 55.56 FEET; THENCE SOUTH 42° 04' 08" WEST, 152.78 FEET TO THE WEST LINE OF SAID PARCEL "E"; THENCE NORTH 32° 21' 12" EAST ALONG SAID WEST LINE, 73.35 FEET; THENCE NORTH 06° 19' 30" WEST CONTINUING ALONG SAID WEST LINE, 211.12 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE NORTH 89° 36' 06" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 138.40 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.47 ACRES (20,488 S.F.). PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.



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3. The Mayor is authorized and directed to sign the License Agreement for Conservation and the Temporary Easement for Construction and Construction-Related Activities 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 for Conservation and the Temporary Easement for Construction and Construction-Related Activities, 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 is authorized and directed to forward the original of the License Agreement for Conservation, 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 the documents to be recorded.
6. There are no proceeds associated with this transaction

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

[Signature]  
Lisa A. Wieland, Assistant City Attorney

ASW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

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.

[Signature]  
T. M. Franklin  
Mayor

[Signature]  
Diane Rauh  
City Clerk