

★ Roll Call Number
18-0792

Agenda Item Number
37B

Date May 7, 2018

SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH DES MOINES PERFORMING ARTS TO ALLOW FOR VEHICLE IMPACT PROTECTION DEVICES WITHIN CITY STREET RIGHT-OF-WAY FOR \$6,000.00

WHEREAS, Des Moines Performing Arts leases real property located at 221 Walnut Street, Des Moines, Iowa and operates Des Moines Civic Center thereon; and

WHEREAS, Des Moines Performing Arts has requested a license agreement under, over and across portions of Third Street and Locust Street to install vehicle impact protection devices within City street right-of-way (herein "Licensed Premises"), as legally described below; and

WHEREAS, the vehicle impact protection devices specifically proposed by Des Moines Performing Art are bollards; and

WHEREAS, the City's Real Estate Division has negotiated a License Agreement (herein "Agreement") for the use of the Licensed Premises with Des Moines Performing Arts as licensee, which agreement will include, among other terms, a license term commencing from the execution of this License Agreement by the CITY until October 24, 2075, which coincides with the date of expiration of Des Moines Performing Arts' existing lease with the City for the adjoining property.

WHEREAS, pursuant to the negotiated Agreement, Des Moines Performing Arts shall pay \$6,000.00 as consideration for the Agreement, which amount reflects the fair market value of the Licensed Premises, as determined by the City's Real Estate Division; and

WHEREAS, said Agreement may be revoked at any time during the license term upon the conditions of 102-614 of the Municipal Code of the City of Des Moines, Iowa and all amendments thereto; and

WHEREAS, said Agreement shall be subject to all of the requirements of Chapter 102, Article VIII of the Municipal Code of the City of Des Moines, Iowa and all amendments thereto; and

WHEREAS, the City will not be inconvenienced by approval of the proposed Agreement with Des Moines Performing Arts.

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

1. The City Council of the City of Des Moines, Iowa proposes to enter into a License Agreement with Des Moines Performing Arts for the installation of vehicle impact

★ Roll Call Number

18-0792

Agenda Item Number

37B

Date May 7, 2018

protection devices in City street right-of-way, as legally described and to the grantee and for the consideration identified below, subject to all of the requirements of Chapter 102, Article VIII of the Municipal Code of the City of Des Moines, Iowa and all amendments thereto:

Area A

An area in the 3rd Street Right of Way lying in a part of Block 32, Fort Des Moines, an official plat and lying west of said Block 32, and more particularly described below:

Commencing at the Southwest Corner of said Block 32; Thence Easterly along the South line of said Block 32, a distance of 9 feet and 0 inches; Thence Northerly along a line parallel with the West line of said Block 32, a distance of 9 feet and 2 inches; Thence Westerly along a line that is parallel with the South line of said Block 32, a distance of 2 feet and 8 inches to the point of Beginning; Thence continuing Westerly along a line that is parallel with said South Block line, a distance of 7 feet and 9 inches; Thence Northerly along a line that is parallel with the West line of said Block 32, a distance of 270 feet and 8 inches; Thence Easterly along a line that is parallel with the North line of said Block 32, a distance of 2 feet and 7 inches; Thence Southerly along a line that is parallel with said West Block line, a distance of 267 feet and 8 inches; Thence Easterly along a line that is parallel with said South Block line, a distance of 5 feet and 2 inches; Thence Southerly along a line that is parallel with said West Block line, a distance of 3 feet and 0 inches to the point of Beginning.

Area B

An area in the Locust Street Right of Way and 3rd Street Right of Way lying in a part of Block 32 and lying North of and adjoining Block 32, Fort Des Moines, an official plat, and more particularly described below:

Commencing at the Northwest Corner of said Block 32; Thence Easterly along the North line of said Block 32, a distance of 9 feet and 0 inches to the point of beginning; Thence Southerly along a line that is parallel with the West line of said Block 32, a distance of 1 feet and 3-1/2 inches; Thence Westerly along a line that is parallel with the South Right of Way line of Locust Street, a distance of 8 feet and 8 inches; Thence Northerly along a line that is parallel with said West Block line, a distance of 2 feet and 7 inches; Thence Easterly along a line that is parallel with said South Right of Way line, a distance of 30 feet and 10 inches; Thence Southerly along a line that is perpendicular with said South Right of Way line to

★ Roll Call Number
18092

Agenda Item Number
37B

Date May 7, 2018

said South Right of Way line; Thence Westerly along said South Right of Way line to the point of Beginning.

Area C

An area in the Locust Street Right of Way lying north of and adjoining Block 32, Fort Des Moines, an official plat, and more particularly described below:

Commencing at the Northwest Corner of said Block 32; Thence Easterly along the North line of said Block 32, a distance of 37 feet and 2 inches to the point of Beginning; Thence Northerly along a line that is perpendicular to the South Right of Way line of Locust Street, a distance of 3 feet and 0 inches; Thence Easterly along a line that is parallel with said South Right of Way line, a distance of 28 feet and 9 inches; Thence Southerly along a line that is perpendicular to said South Right of Way line to said South Right of Way line; Thence Westerly along said South Right of Way line to the point of Beginning.

2. A public hearing will be held on May 21, 2018, at 5:00 p.m. in the City Council Chamber 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of the proposal and the hearing in the form hereto attached, all in accordance with Iowa Code Section 362.3.
4. Non-project related conveyance proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO				✓
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	6			1

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.

T. M. Franklin Cownie
 Mayor

Diane Rauh
 City Clerk