



Roll Call Number

19-0223

Agenda Item Number

36

Date February 11, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A LICENSE AGREEMENT FOR AN OVERHEAD CANOPY OVER 5TH AVENUE RIGHT-OF-WAY AND A LICENSE AGREEMENT FOR A POCKET PARK ON CITY PROPERTY ADJOINING 555 5TH AVENUE TO LT ASSOCIATES, L.P. FOR \$1,000.00

WHEREAS, LT Associates, L.P., owner of the air rights and the improvements located on 555 5th Avenue, has offered to the City of Des Moines ("City") \$500.00 for the purchase of a license to enter upon a 169 square foot portion of 5th Avenue right-of-way located west of and adjoining 555 5th Avenue (hereinafter "Property"), in order to maintain an overhead canopy, which price reflects the fair market value of the City Property as determined by the City's Real Estate Division; and

WHEREAS, LT Associates, L.P. has further offered to the City of Des Moines ("City") \$500.00 for the purchase of a License to enter upon a 275 square foot portion of excess City property located west of and adjoining 555 5th Avenue (hereinafter "Property"), in order to maintain a small pocket park, which price reflects the fair market value of the City Property as determined by the City's Real Estate Division; and

WHEREAS, said Licenses shall be for a term of twenty years; and

WHEREAS, the LICENSEE's use of the City right-of-way shall not unreasonably obstruct the right of travel which the general public has on any public property and shall not unreasonably interfere with or impede the flow of pedestrian traffic; and

WHEREAS, the City will not be inconvenienced by the conveyance of a license to use said Property; and

WHEREAS, on January 28, 2019, by Roll Call No. 19-0128, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on February 11, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to convey the license 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 conveyance, 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of a License Agreement for a building canopy over and upon a 169 square foot portion



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of 5th Avenue right-of-way located west of and adjoining 555 5th Avenue, and a License Agreement for a pocket park over and upon a 275 square foot portion of excess City property located west of and adjoining 555 5th Avenue, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

2. The public would not be inconvenienced by reason of the conveyance of a License Agreement for an overhead canopy over and upon a 169 square foot portion of 5th Avenue right-of-way located west of and adjoining 555 5th Avenue, and a License Agreement for a pocket park over and upon a 275 square foot portion of excess City property located west of and adjoining 555 5th Avenue, Des Moines, Iowa, legally described as follows, to LT Associates, L.P. for \$1,000.00, and said conveyance is hereby approved:

CANOPY

A PARCEL OF LAND IN THE 5TH AVENUE RIGHT-OF-WAY ADJACENT TO THE WEST LINE OF LOT 9, THE NEW Y.M.C.A. PLAT, AN OFFICIAL PLAT RECORDED IN BOOK J, PAGE 19, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SW CORNER OF SAID LOT 9; THENCE N09°05'44"W, 45.27 FEET ALONG THE WEST LINE OF SAID LOT 9 AND THE EAST RIGHT-OF-WAY LINE OF SAID 5TH AVENUE TO THE POINT OF BEGINNING; THENCE CONTINUING N09°05'44"W, 37.50 FEET ALONG SAID LINE TO A POINT; THENCE S80°54'16"W, 4.50 FEET TO A POINT; THENCE S09°05'44"E, 37.50 FEET TO A POINT; THENCE N80°54'16"E, 4.50 FEET TO THE POINT OF BEGINNING. AREA CONTAINS 169 SQUARE FEET.

POCKET PARK

A PARCEL OF LAND IN LOT 9, THE NEW Y.M.C.A. PLAT, AN OFFICIAL PLAT RECORDED IN BOOK J, PAGE 19, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE SW CORNER OF SAID LOT 9; THENCE N09°05'44"W, 65.77 FEET ALONG THE WEST LINE OF SAID LOT 9 AND THE EAST RIGHT-OF-WAY LINE OF 5TH AVENUE TO THE POINT OF BEGINNING; THENCE CONTINUING N09°05'44"W, 19.50 FEET ALONG SAID LINE TO A POINT; THENCE N80°41'18"E, 14.08 FEET TO A POINT ON THE WEST SIDE OF THE EXISTING LIGUTTI TOWER BUILDING; THENCE S09°18'42"E, 19.50 FEET ALONG SAID BUILDING LINE TO A POINT; THENCE S80°41'18"W, 14.15 FEET ALONG THE NORTH SIDE OF THE ELEVATOR TOWER OF SAID BUILDING TO THE POINT OF BEGINNING. AREA CONTAINS 275 SQUARE FEET.

3. The Mayor is authorized and directed to sign the License Agreement for a building canopy and the License Agreement for a pocket park for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.



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- 4. The Real Estate Division Manager is authorized to sign any minor and non-substantial amendments to the License Agreements.
- 5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the License Agreements, 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 for the purpose of causing said documents to be recorded.
- 6. The Real Estate Division Manager is authorized and directed to forward the original of the License Agreements, 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 these documents to be recorded.
- 7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the License Agreements and copies of the other documents to the grantee.
- 8. Proceeds from this conveyance will be used to support general operating budget expenses: Org – EG064090.

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	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.

J. M. Franklin Cownie
Mayor

Diane Rauh
City Clerk