



Roll Call Number

21-1755

Agenda Item Number

39

Date November 15, 2021

HOLD HEARING FOR AMENDMENT OF LEASE OF THE DES MOINES BOTANICAL CENTER TO THE GREATER DES MOINES BOTANICAL GARDEN AND APPROVAL OF MASTER PLAN

WHEREAS, the City of Des Moines owns the City of Des Moines Botanical Center, including adjacent greenhouses, located at 909 Robert D. Ray Drive, Des Moines, Iowa 50316-2897 (“Botanical Center”), and approximately 13.498 acres of grounds adjacent to the Botanical Center and between the Botanical Center and the Des Moines River, including the park drive known as Robert D. Ray Drive; and

WHEREAS, on May 9, 2011, by Roll Call No. 11-0822, the City Council approved the Lease and Operation, Management and Maintenance Agreement pursuant to which the City leased the Botanical Center and related grounds to the Greater Des Moines Botanical Garden corporation (“Corporation”) and the Corporation agreed to be responsible to construct, at its cost, \$7,500,000 in improvements, including expanded gardens on the grounds of the Botanical Center, by June 1, 2015, and to create and fund an endowment of \$2,000,000 for operational expenses at the Botanical Center and grounds, and to fund \$500,000 for construction-related costs and operating costs during and immediately after construction as consideration for rent, for an initial period of 25 years, with two 25 year renewal options at the option of the Corporation (“the Lease Agreement”); and

WHEREAS, per the Lease Agreement, such improvements must be constructed in accordance with a Master Plan approved by the City Council; and

WHEREAS, on June 11, 2012, by Roll Call No. 12-0935, the City Council approved the conceptual Master Plan developed by the Corporation for construction of improvements in the Botanical Center and its grounds (“the 2011 Master Plan”); and

WHEREAS, the Lease Agreement commenced on January 1, 2013; and

WHEREAS, the Corporation desires to invest an additional \$17,000,000-\$23,000,000 during the period between 2019-2030 for the construction, at its cost, of additional improvements which constitute Material Changes to the approved Master Plan (“the Master Plan Refresh”) and to provide additional maintenance and operational responsibilities; and

WHEREAS, the parties desire to expand the Leased Premises to include the Robert D. Ray Asian Garden, as described below, and the Corporation desires to be responsible for, including the costs, of non-capitol maintenance of the Robert D. Ray Asian Garden; and



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WHEREAS, in consideration of the expanded operational and maintenance costs to be borne by the Corporation, City has agreed to continue its support of BRAVO payments to the Corporation and to increase the amount of its operational support funding; and

WHEREAS, City staff and GDMBG have negotiated an amendment to the Lease Agreement incorporating the above described terms, a copy of which is on file in the City Clerk's Office; and

WHEREAS, it is proposed that the below described area of parkland on which the Robert D. Ray Asian Garden is located be made a part of the Lease Agreement:

A PART OF LOT 5, BLOCK D, RIVER HILLS PLAT 3, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF IOWA INTERSTATE 235 AND THE WEST RIGHT OF WAY LINE OF ROBERT D RAY DRIVE; THENCE SOUTHERLY ALONG SAID WEST RIGHT OF WAY LINE TO THE EASTERLY EXTENSION OF THE NORTH LINE OF THE CENTER STREET BRIDGE, ALSO KNOWN AS THE IOWA WOMEN ACHIEVEMENT BRIDGE; THENCE WEST ALONG SAID EASTERLY EXTENSION TO THE EAST RIVER BANK OF THE DES MOINES RIVER; THENCE NORTHERLY ALONG SAID EAST RIVER BANK TO SAID SOUTH RIGHT OF WAY LINE OF IOWA INTERSTATE 235; THENCE EAST ALONG SAID SOUTH RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

WHEREAS, on November 1, 2021, by Roll Call No. 21-1662, it was duly resolved by the City Council that said proposed lease amendment be set down for hearing on November 15, 2021 at 5:00 pm in the Council Chamber; and

WHEREAS, due notice of said proposal to amend the Lease was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed amendment of Lease as described below are hereby overruled and the hearing is closed.

2. There currently is no public need for or benefit from the below described real property to be added to the Lease Property and the public would not be inconvenienced by reason of the proposed addition of the Robert D. Ray Asian Garden real property:

A PART OF LOT 5, BLOCK D, RIVER HILLS PLAT 3, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY,



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IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF IOWA INTERSTATE 235 AND THE WEST RIGHT OF WAY LINE OF ROBERT D RAY DRIVE; THENCE SOUTHERLY ALONG SAID WEST RIGHT OF WAY LINE TO THE EASTERLY EXTENSION OF THE NORTH LINE OF THE CENTER STREET BRIDGE, ALSO KNOWN AS THE IOWA WOMEN ACHIEVEMENT BRIDGE; THENCE WEST ALONG SAID EASTERLY EXTENSION TO THE EAST RIVER BANK OF THE DES MOINES RIVER; THENCE NORTHERLY ALONG SAID EAST RIVER BANK TO SAID SOUTH RIGHT OF WAY LINE OF IOWA INTERSTATE 235; THENCE EAST ALONG SAID SOUTH RIGHT OF WAY LINE TO THE POINT OF BEGINNING.

3. The proposed lease amendment with Greater Des Moines Botanical Garden for the consideration of the Greater Des Moines Botanical Garden agreeing to invest a minimum of \$20,000,000 for capital improvements in the Leased Premises during the period from 2019-2030, to replace the HVAC system, to maintain the Asian Garden, excluding capitol repairs, and to increase the endowment fund for operating and maintenance costs from \$2,000,000 to \$3,000,000 by no later than December 31, 2025. The proposed Lease amendment requires the City to support BRAVO funding for operation of the Botanical Garden in the annual amount of \$245,000. Such consideration constitutes fair market value for such lease amendment term(s) and such amendment be and is hereby approved.
4. The Mayor is authorized and directed to sign said lease amendment as identified above and the City Clerk is authorized and directed to attest to the City Manager's signature.
5. Upon execution by the Mayor, the City Clerk is authorized and directed to forward the original of the amendment, 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. Upon execution of said lease amendment, the Real Estate Division of the Engineering Department is authorized and directed to forward the original of the said lease amendment, 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 said documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division shall file the original of the amendment and send copies to the City Clerk, the Land Records Clerk, The Parks and Recreation Department, and to the Greater Des Moines Botanical Garden.

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BE IT FURTHER RESOLVED that the Master Plan Refresh shown as Exhibit B in the lease amendment is hereby approved by the City Council.

(Council Communication No. 21- 494)

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>J. M. Franklin Cowane</u> Mayor				

CERTIFICATE

I, P. Kay Cmelik, 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.

P. Kay Cmelik

City Clerk