



Roll Call Number

23-0537

Agenda Item Number

61

Date April 10, 2023

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH THE DES MOINES AREA REGIONAL TRANSIT AUTHORITY (DART) FOR BUS BENCHES IN STREET RIGHT-OF-WAY

WHEREAS, the City of Des Moines (City) contract with Creative Outdoor Advertising of America (COA) for bus benches, bench pads and related advertising services in the City right-of-way ended on September 30, 2022; and

WHEREAS, Des Moines Area Regional Transit Authority (DART) would like to continue to provide bus stop amenities by initially installing ten (10) replacement benches at some of the locations as the COA benches are removed; and

WHEREAS, the Manager’s Office for the City has negotiated a License Agreement (Agreement) with DART for the placement of bus benches, and at certain locations, trash receptacles and concrete pads in the City right-of-way, which Agreement will include, among other terms, the following:

- a twenty (20) year term;
- a one-time lump sum payment of One Hundred Dollars (\$100.00), which amount reflects that the proposed use is mutually beneficial to the City and to DART;
- the right of either party to terminate the Agreement prior to the end of the fixed license term upon three hundred sixty-five (365) days written notice to the other party;
- acknowledgement and acceptance by both City and DART of the mutual indemnification obligations provided for in Attachment 1 of the Agreement, “Real Estate License – Major, Insurance and Indemnification Requirements;” and

WHEREAS, DART benches are currently planned to be placed at the following locations with DART reserving the right to add bench locations to the Agreement based on ridership, feasibility, and available funding:

- University Avenue and 2nd Avenue, Westbound
- 6th Avenue and Holcomb Avenue, Southbound
- E. 14th Street and Walker Street, Southbound
- Hubbell Avenue and E. 38th Street, Eastbound
- E. 30th Street and Walker Street, Southbound
- E. Army Post Road and Se 5th Street, Westbound
- E 33rd Street and E. University Avenue, Southbound
- Indianola Avenue and SE 14th Street, Southbound
- Woodland Avenue and 12th Street (far side), Westbound
- Locust Street and 9th Street, Eastbound; and

WHEREAS, the City will not be inconvenienced by the license of said Property; and



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WHEREAS, on March 27, by Roll Call No. 23-0395, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed License Agreement be set for hearing on April 10, 2023, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to license the Property 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 license, 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 lease of said Property as described herein, are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of the grant of a license to Des Moines Area Regional Transit Authority (DART) for the placement of bus benches and in some locations, trash receptacles and concrete pads in the City of Des Moines right-of-way for a one-time lump sum payment of One Hundred Dollars (\$100.00) for a twenty (20) year term, which amount reflects that the proposed use is mutually beneficial to the City and to DART, subject to a reservation of easements therein, and further subject to all terms and conditions contained in the License Agreement:
3. The Mayor is authorized and directed to sign the License Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. Upon proof of payment of the consideration, the City Clerk is authorized and directed to forward the original of the License Agreement, 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.
5. The Real Estate Division Manager is authorized and directed to forward the original of the License Agreement, 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.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the License Agreement and copies of the other documents to the grantee.



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7. Non-project related land sale proceeds are used to support general operating budget expenses: Org - EG064090.

(Council Communication No. 23-180)

Moved by Mandelbaum to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes signature of J. M. Frankel, Mayor.

CERTIFICATE
I, Laura Baumgartner, 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 of Laura Baumgartner, City Clerk