



Roll Call Number

23-1371

Agenda Item Number

69

Date October 2, 2023

HOLD HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH 113 SW 8TH STREET, LLC FOR USE OF A PORTION OF VINE STREET RIGHT-OF-WAY LOCATED BETWEEN SOUTHWEST 7TH STREET AND SOUTHWEST 8TH STREET AND NORTH OF AND ADJOINING 113 SW 8TH STREET

WHEREAS, The City of Des Moines (“CITY”) is the titleholder of certain Vine Street right-of-way located between Southwest 7th Street and Southwest 8th Street and adjoining 113 Southwest 8th Street (“Licensed Premises”), legally described as follows:

THE SOUTH 8.75 FEET OF THE PLATTED VINE STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING BLOCK 5 OF FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.06 ACRES (2,454 SQUARE FEET)

; and

WHEREAS, 113 SW 8th Street, LLC, an Iowa limited liability company, wishes to license the Licensed Premises for the purpose of installing and maintaining a solid panel fence and associated landscaping to provide a buffer between the 113 Southwest 8th Street and nearby railroad tracks; and

WHEREAS, the CITY has negotiated a License Agreement (“Agreement”) with 113 SW 8th Street, LLC, to allow for the fence and associated landscaping, which Agreement will include, among other terms, the following:

- An initial fixed ten-year term at a rate of \$3,100.00 per year;
- An option to renew the license for one additional ten-year term at a rate of \$4,125.00 per year;
- The right of either party to terminate the Agreement prior to the end of the fixed license term, with or without cause, upon thirty (30) days written notice to the other party; and; and

WHEREAS, there is no known current or future public need or benefit for the Property proposed to be licensed, and the City will not be inconvenienced by the license of said Property; and

WHEREAS, on September 11, 2023, by Roll Call No. _____, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed license of said portion of Vine Street right-of-way between Southwest 7th Street and Southwest 8th Street adjoining 113 Southwest 8th Street be set for hearing on October 2, 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.

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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 license of said Property, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be licensed, and the public would not be inconvenienced by reason of the license of Vine Street right-of-way located between Southwest 7th Street and Southwest 8th Street and adjoining 113 Southwest 8th Street, Des Moines, Iowa, to 113 Southwest 8th Street, LLC for an initial ten-year license term, 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. 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 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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Moved by Mandelbaum to adopt. Second by Boesen.

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, VOSS, WESTERGAARD, and TOTAL (6 yeas).

MOTION CARRIED APPROVED
J.M. Franklin Cownie 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.

Laura Baumgartner
Laura Baumgartner, City Clerk