Legislation Text

File #: 23-170, **Version:** 1

STRATEGIC PRIORITY: Quality of Life, Arts & Culture

AGENDA DATE: February 8, 2023

COUNCIL DISTRICT(S): 14

DEPARTMENT: Park & Recreation Department

EXECUTIVE: John D. Jenkins

SUBJECT

Authorize a development, operation, and maintenance agreement with MQMF Dallas Carlisle Street LLC, a Delaware Limited Liability Company ("MQMF"), for certain landscape, pedestrian sidewalk and other improvements, including drainage, on a portion of the Katy Trail for the purpose of connecting and providing public access to the Katy Trail from an adjacent property located at 3215 Carlisle Street ("Adjacent Property") to that portion of the Katy Trail, that will bind MQMF, its successors, and assigns for as long as the landscape and other improvements serve the purpose for the benefit of Dallas residents - Financing: No cost consideration to the City

BACKGROUND

MQMF owns property located at 3215 Carlisle Street, adjacent to the Katy Trail, which it desires to develop to provide public access to the Katy Trail from Bowen Street and a second point of trail access (Exhibit A). The City finds it is in the public's interest to encourage Katy Trail access opportunities to its residents and desires to have MQMF, at its cost, (i) develop the Adjacent Property and a portion of the Katy Trail with landscaping, pedestrian sidewalk, and other improvements, including drainage, and (ii) operate and maintain all the improvements on the Katy Trail area as a public trail access and connection to the Adjacent Property, including to a publicly dedicated paseo area also to be developed by MQMF, during the Term of the Agreement, for the use and enjoyment of all City of Dallas residents.

This action will authorize an agreement with MQMF for the development, operation, and maintenance of the improvements on a portion of the Katy Trail ("Licensed Area") and will be subject to the following terms:

1. The agreement will bind MQMF, its successors, and assigns of said improvements on the Licensed Area as well as the Adjacent Property located at 3215 Carlisle Street until the improvements no longer serve their purpose.

2. MQMF will submit the design of the improvements in the Licensed Area to the Park and Recreation Department for review and approval prior to commencement of construction.

3. MQMF will manage and fund the design and construction through its own consultants and contractors will be responsible for all permits, platting, zoning, and other approvals.

4. MQMF will, at its sole cost and expense, be responsible for all day-to-day and major maintenance, including replacements of the improvements on the Licensed Area. Maintenance will be required as a condition of the agreement as long as the improvements remain on the Licensed Area and serve their purpose. The standards for maintenance will be equal to or better than that outlined in the Katy Trail Operations and Maintenance Agreement, including but not limited to:

    a. Trimming and pruning of trees and shrubs, root feeding, tree and plant replacement (if necessary) in accordance with the International Society of Arboriculture accepted standards of tree care
    b. Graffiti removal
    c. Year-round litter pick up and removal
    d. Irrigation maintenance, repairs, and all utility costs
    e. Seasonal/perennial plantings
    f. Year-round mowing, trimming, and edging
    g. Weeding of the horticulture beds
    h. Pesticide and fertilization application
    i. Repair and upkeep of any security lighting and premise furniture
    j. Migratory bird control on an as-needed basis
    k. Cost of all utilities related to the trail improvements

5. By right, the City may place a lien on the fee simple title of the Adjacent Property located at 3215 Carlisle Street if maintenance or replacements are not performed in accordance with the agreement and the City takes on maintenance or replacements of the Licensed Area.

6. The City may terminate the agreement without cause with ninety days' notice. The Director may suspend or terminate the agreement with ten days-notice should it find that the public interest, safety, health, comfort and/or welfare require such action.

7. The City may take action against the Adjacent Property owner, being bound to the terms of the agreement, for any deficiency such as lien against its title.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 8, 2022, the Park and Recreation Board authorized a development, operation, and maintenance agreement with MQMF Dallas Carlisle Street LLC for the development, operation, and maintenance of trail improvements and public access to the Katy Trail.

FISCAL INFORMATION

No cost consideration to the City.

MAP

Attached

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