

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 13, 2015
	Agenda Item No. 51 Roll Call No. [_____] Communication No. <u>15-363</u> Submitted by: Benjamin R. Page, Park and Recreation Director

AGENDA HEADING:

Hold hearing on Addendum and Amendment to Lease Agreement to Bergman Academy (Tenant) of Greenwood Building (formerly the Science Center of Iowa (SCI) Building) at 100 45th Street in Ashworth Park by utilizing the lower level 9,646-square-feet and adding a 12,000-square-foot classroom addition and a 6,000-square-foot free-standing gymnasium.

SYNOPSIS:

Hold hearing on Addendum and Amendment to Lease Agreement to allow the Tenant the use of the 9,646-square-foot lower level, which the Tenant improved, and began paying the rental rate of \$4.28 per square foot (\$41,284.88 annually) as of August 1, 2012. The Tenant desires to construct at its expense a two-story addition to the Greenwood Building to add eight (8) classrooms to enable the Tenant to offer classes through eighth grade, which will include an elevator to service the existing building and the addition, and to construct a free-standing gymnasium/multipurpose building, with an estimated cost of \$4,775,000 with work to be completed on the classroom addition by no later than August 1, 2016 and the Gym Improvements by no later than August 1, 2025. Due to site elevations and limitations, the Addition and Gym Improvements will require minimal changes to the boundaries of the Leased Premises, with the total area of the Leased premises to remain approximately the same.

FISCAL IMPACT:

Amount: Revenue of \$114,920.70 annual rent, not to be increased for five (5) years, then increased by 1% annually, beginning August 1, 2020 for the life of the lease. The Tenant will receive an annual maintenance credit of \$7,090 and will receive an annual credit for reimbursing the City for the cost of property insurance coverage (approximately \$4,500).

Funding Source: N/A

ADDITIONAL INFORMATION:

On March 24, 2008, by Roll Call No. 08-515, City Council approved a lease with the Tenant for the Greenwood Building for 20 years with two (2) 10-year renewal periods to operate a school. The initial lease started August 1, 2008 and was for the main level, (12,409-square-feet at \$4.80 per square foot) in the amount of \$52,473.20. The lease increased the rent 3% annually, with a \$7,090 deduction annually for the Tenant’s performance of maintenance of the Greenwood Building. The Tenant agreed to pay all utilities and to make significant improvements to the building, including a new HVAC system. The lease provided for an option to lease additional space on the lower level of the building, upon mutual agreement of both parties, at a rate of \$3.80 per square feet with the rate increasing by 3% annually from

the date of approval of the lease, August 1, 2008. Since the initial lease date of August 1, 2008, the Tenant has been a good tenant and has brought in revenue totaling \$569,438 for this once vacant City building.

The Park and Recreation Department was contacted on August 7, 2012 by the Tenant, requesting occupancy of the lower level of the Greenwood Building. The Tenant renovated the lower level (9,646-square-feet) including additional classrooms, a multipurpose classroom, storage room, restrooms and staff work rooms. The additional rental rate for use of the 9,646-square-foot lower level was \$4.28 per square feet, (\$41,284.88) for the year beginning August 1, 2012. The rental rate increases at a rate of 3% annually.

The Tenant began working with the City in the fall of 2013 on a proposal to build an addition to the Greenwood Building to accommodate classrooms and a gymnasium. After reviews by Urban Design Review Board, pre-application review by Community Development Department, Access Advisory Board, presentations to neighborhoods, discussions with the Park and Recreation Board, and City Manager the current proposal was developed.

In consideration of the Tenant's construction of and payment for the Addition and Gym Improvements, the Tenant shall have no additional Lease Payment for the increased square footage added to the Greenwood Building by the addition or for the gymnasium during the Initial term of the Lease Agreement which will be amended to expire December 31, 2044. The Tenant shall pay for the cost of the Landlord's deduction (currently \$100,000) for property insurance coverage for the Leased Premises, including the Greenwood Building and the Addition and Gym Improvements. The Tenant will also reimburse the Landlord for the cost of property insurance coverage, and will receive a credit against its lease payment in the amount of the reimbursement. As additional consideration, the Tenant shall install and pay for all costs of playground equipment with a fair market value of at least \$75,000 in Greenwood Park on the site of the current playground, by no later than August 1, 2016.

The playground equipment, location, and dates of installation are subject to the prior written approval of the Park and Recreation Director.

In constructing the Addition and Gym Improvements, the Tenant agrees to comply with the requirements of the Landlord's "Tree Preservation Principles for City Property, Public Improvements Projects and Utilities" and Chapter 42, Article X (Tree Removal Mitigation) of the Municipal Code of the City of Des Moines, Iowa. In addition, all tree selections must receive the prior written approval of the Des Moines Municipal Arborist.

Ownership of the Addition and Gym Improvements shall vest in the Landlord upon termination or expiration of this Agreement. However, upon termination by the Tenant or expiration of this Agreement, the Landlord shall have the option to require the Tenant, to remove the Addition and Gym Improvements and shall restore the Leased Property to a condition substantially similar to the surrounding parkland and return to the same grade as the contiguous area. Landlord and Tenant will share the cost 50/50 for the removal of the Addition and Gym Improvements. If the Landlord terminates the Lease, the Tenant will not be responsible for the cost of the Addition and Gym Improvements removal.

If during the term of this Agreement the Leased Premises, the Greenwood Building, the Addition or Gym Improvements are damaged or destroyed by fire or other casualty, the Tenant shall be solely responsible for the costs of reconstruction, repair, or restoration up to the amount of the Landlord's deductible. If damage is estimated to exceed the Landlord's deductible, no reconstruction, repair, or

restoration shall occur unless the Landlord and the Tenant mutually agree to such action. In the event that the Landlord elects not to reconstruct, repair, or restore the Leased Premises or any part thereof, the insurance proceeds shall be split between the Landlord and the Tenant as follows: The insurance proceeds shall first be applied to the costs of removing the buildings and other improvements on the Leased Premises and to restore the Leased Property to a condition substantially similar to the surrounding parkland, including the planting of trees as deemed appropriate by the Des Moines Municipal Arborist, and return to the same grade as the contiguous area. Such restoration shall include the removal of all debris and material associated with said removal. Any proceeds remaining after the deduction of such costs shall be paid to the Tenant.

Upon expiration of the Lease Agreement, if the Landlord desires to lease the Leased Premises, the Tenant shall have the right to meet the terms of any third-party offer for 30 days. If the Tenant does not elect to enter into a new lease, the Landlord will be under no obligation to offer such lease to the Tenant.

PREVIOUS COUNCIL ACTION(S):

Date: June 22, 2015

Roll Call Number: [15-1014](#)

Action: [On](#) vacation of parkland in Ashworth Park and Addendum and Amendment of Lease to Bergman Academy of Greenwood Building at 100 45th Street in Ashworth Park, (7-13-15). ([Council Communication No. 15-351](#)) Moved by Gatto to adopt. Motion Carried 7-0.

Date: March 24, 2008

Roll Call Number: [08-0515](#), [08-0516](#), and [08-0517](#)

Action: [On](#) vacation of parkland at the former Science Center Site and lease of the building to The Academy. ([Council Communication No. 08-157](#)) Moved by Hensley to adopt. Motion Carried 6-1. Absent: Meyer.

- (A) [First](#) consideration of ordinance above. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Meyer.
- (B) Final consideration of ordinance above. Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#14,751](#). Motion Carried 6-1. Absent: Meyer.

Date: March 10, 2008

Roll Call Number: [08-0384](#)

Action: [On](#) vacation of parkland at the former Science Center Site and lease of the building to The Academy, (3-24-08). ([Council Communication No. 08-129](#)) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Park and Recreation Board

Date: February 2, 2015

Resolution Number: 15-003

Action: Approve building improvements and site plan concepts from the Bergman Academy to allow the tenant to construct a two-story 12,000-square-foot classroom addition and a 6,000-square-foot free standing gymnasium.

Board: Park and Recreation Board

Date: February 24, 2008

Resolution Number: 08-022

Action: Receive and File update on former Science Center in Greenwood Park.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.