

ORDINANCE NO. 14,279

AN ORDINANCE establishing the Highland Park Self-Supported Municipal Improvement District pursuant to the provisions of Chapter 386, Code of Iowa, and providing for the establishment of a capital improvement and operation fund and the levy of an annual tax in connection therewith.

WHEREAS, the City of Des Moines is authorized by Chapter 386, Code of Iowa (the "Act") to create a self-supported municipal improvement district in the City, to provide for the existence and operation of such district, to provide for improvements or self-liquidating improvements for such district, and to levy taxes with respect to such district, all as more specifically defined in the Act; and,

WHEREAS, a petition (the "Petition") has been filed with the City Clerk pursuant to the Act petitioning the City Council to create the Highland Park Self-Supported Municipal Improvement District (the "Proposed District"), to establish a capital improvement and operation fund with respect to the Proposed District, and to levy an annual tax for such fund, all for the purpose of causing the acquisition, construction, installation, operation and maintenance of improved sidewalks, curbs and cross-walks, landscaping, planters, decorative lighting, utility relocation, traffic signals, and related pedestrian improvements (which improvements are herein referred to as the "Improvements"); and,

WHEREAS, the Petition is in all ways in complete compliance with the provisions of the Act; and,

WHEREAS, on June 23, 2003, by Roll Call No. 03-1413, the City Council received the Petition and referred it to the City Plan and Zoning Commission for review in accordance with the Act; and,

WHEREAS, on July 28, 2003, by Roll Call No. 03-1735 the City Council received the report of the City Plan and Zoning Commission on the merits and feasibility of the Proposed District and Improvements; and,

WHEREAS, on July 28, 2003, by Roll Call No. 03-1734, the City Council scheduled a public hearing for August 25, 2003, at 5:30 P.M., at which it proposed to take action for the establishment of the Proposed District and authorization of the Improvements, and did direct that notice of such hearing be given in accordance with the Act; and,

WHEREAS, notice of the hearing was published in the Des Moines Register on August 8, 2003, and a copy of such notice was mailed by certified mail on August 4, 2003, to all the owners of record of real property located within the Proposed District as shown by the records of the Polk County Auditor, in satisfaction of the notice requirements of the Act; and,

WHEREAS, at the aforementioned time and place, the City Council did meet and hear all owners of property in the Proposed District and residents of the City desiring to express their

views with respect to the establishment of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements; and,

WHEREAS, by Resolution and Roll Call No. 03-2019 adopted August 25, 2003, the City Council closed the public hearing on the creation of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements and found that the Petition, the Proposed District and Improvements satisfied the applicable requirements imposed by the Act; and,

WHEREAS, more than thirty days has now passed since the public hearing on the creation of the Proposed District was closed, and no petition has been filed with the City Clerk opposing the creation of the Proposed District; NOW THEREFORE,

BE IT ORDAINED, by the City Council of the City of Des Moines, Iowa:

Section 1. That in accordance with Iowa Code Chapter 386 and the recitations set out in the Preamble hereof, there is hereby established and created in the City of Des Moines, a self-supported municipal improvement district as defined in the Act, the name of which shall be the "Highland Park Self-Supported Municipal Improvement District" (herein the "District"):

Sec. 2. The District shall consist of all the property within the following described area:

Beginning at a point on the East right-of-way line of 2nd Avenue and a point of intersection with the easterly extension of a straight line being 83.2 feet South of the North line of Lot 1, Block 26, Highland Park, an Official Plat; thence West along the easterly extension of a line 83.2 feet South of and parallel with the easterly extension of the North line of said Lot 1 to a point being 46.0 feet West of the East line of Lot 2, Block 26, of said Highland Park; thence North 10.8 feet and being 46.0 feet West of and parallel with the East line of said Lot 2 to a point being 72.4 feet South of the North line of said Lot 1; thence West along a line 72.4 feet South of and parallel with the North line of said Lot 1, to the East line of said Lot 2; thence South along the West line of said Lot 2 to the intersection of the easterly extension of the South line of Lot 21, Block 26, of said Highland Park; thence West along the easterly extension of the South line of said Lot 21 and the South line of said Lot 21 to a point 83.0 feet East of the West line of said Lot 21; thence North along a line being 83.0 feet East of and parallel with the West line of said Lot 21 to the North line of said Lot 21; thence West along the North line of said Lot 21 to the Northwest corner of said Lot 21 and being the East right-of-way line of 3rd Street; thence South along the West line of said Lot 21 to the intersection of the easterly extension of the South line of Lot 2, Block 25, of said Highland Park; thence West along the easterly extension of the South line of said Lot 2 and along the South line

of said Lot 2 and along the westerly extension of the South line of said Lot 2 to the Southeast corner of Lot 21, Block 25 of said Highland Park; thence North along the East line of said Lot 21 to a point 105.0 feet South of the Northeast corner of Lot 22, of said Block 25; thence West along a line 105.0 feet South of and parallel with the North line of said Lot 22, to the West line of said Lot 21 and being the East right-of-way line of 4th Street; thence South along the West line of said Lot 21, to the Southwest corner of said Lot 21; thence West along the westerly extension of the South line of said Lot 21 to the Northeast corner of Lot 3, Block 24, of said Highland Park; thence West along the North line of said Lot 3 to the Northwest corner of said Lot 3; thence South along the West line of said Lot 3 to a point being 25.0 feet South of the Northwest corner of said Lot 3; thence West along a straight line and it's westerly extension to the East line of Lot 20 of said Block 24; thence continuing West along a line 25.0 feet South of and parallel with the North line of said Lot 20, to the West line of said Lot 20, and being the East right-of-way line of 5th Avenue; thence South along the West line of said Lot 20 to the Southwest corner of said Lot 20; thence West along the westerly extension of the South line of said Lot 20 to the Southeast corner of Lot 3, Block 23, of said Highland Park; thence West along the South line of said Lot 3 and it's westerly extension to the Southwest corner of Lot 20 of said Block 23 and being the East right-of-way line of 6th Avenue; thence South along the East right-of-way line of 6th Avenue and it's southerly extension to the South right-of-way line of Ovid Avenue; thence West along the westerly extension of the South right-of-way line of Ovid Avenue to the North right-of-way line of Ovid Avenue and being the Southeast corner of Lot 26, Block 4, Oak Park, an Official Plat; thence West along the South line of said Lot 26 to the Southwest corner of said Lot 26, thence North along the West line of said Lot 26 and it's northerly extension to the Southeast corner of Lot 2, Block 4, of said Oak Park; thence West along the South line of said Lot 2 and the South line of Lot 3, Block 4 of said Oak Park, to the Southwest corner of said Lot 3; thence North along the West line of said Lot 3 and it's northerly extension to the Southeast corner of Lot 23, Block 3, of said Oak Park; thence North along the East line of said Lot 23 and it's northerly extension to the Southeast corner of Lot 4, Block 3, of said Oak Park and along the East line of said Lot 4 to the Northeast corner of said Lot 4, and being the South right-of-way line of Euclid Avenue; thence West along the North line of Lot 4, 5 and the East 40.0 feet of Lot 6, Block 3, of said Oak Park; thence North along the northerly extension of a line being 40.0 feet West of and parallel with the southerly extension of the East line of Lot 21, Block 2 of said Oak Park; thence continuing North along a line

40.0 feet West of and Parallel with the East line of said Lot 21 and its northerly extension to the South line of Lot 6, of said Block 2; thence East along the South line of Lots 6, 5 and 4, Block 2 of said Oak Park, to the Southeast corner of said Lot 4; thence North along the East line of said Lot 4 and it's northerly extension to the North right-of-way line of Clinton Avenue and being the Southwest Corner of Lot 24, Block 1 of said Oak Park; thence East along the South line of said Lot 24 to the Southeast corner of said Lot 24; thence North along the East line of said Lot 24 and it's northerly extension and along the East line of Lot 3 of said Block 1; to the South right-of-way line of Douglas Avenue; thence East along the North line of said Lot 3 to a point 32.0 feet West of the Northeast corner of said Lot 3; thence North along a line to the North right-of-way line of Douglas Avenue and being the Southeast corner of Lot 8, Allen Built Addition, an Official Plat; thence North along the East line of said Lot 8 to the Northeast corner of said Lot 8, thence West along the North line of said Lot 8 to the Southwest corner of Lot 5 of said Allen Built Addition; thence North along the West Line of Lots 5, 4, 3, 2, and 1 of said Allen Built addition and along the northerly extension of said Lot 1, and being 140.0 feet East of the West right-of-way line of 6th Avenue and 8.0 feet West of and parallel with the West Line of Lots 1, 2, 3 and 4, Block 12, North Oak Park , an Official Plat, and it's northerly extension to the North right of-way line of Seneca Avenue, being 140.0 feet West of the Southeast corner of Lot 6, Block 1, of said North Oak Park, thence East along the westerly extension of the South line of said Lot 6 and along the South line of said Lot 6 and it's easterly extension to the center line of 6th Avenue; thence North along the center line of 6th Avenue to the intersection of the westerly extension of the South line of Lot 13, Block 8, of said Highland Park; thence East along the westerly extension of the South line of said Lot 13 and the South line of said Lot 13 and along the easterly extension of the South line of said Lot 13 to the Southwest corner of Lot 12 of said Block 8; thence South along a line to the South right of way line of Seneca Avenue and being the Northwest corner of Lot 1, Block 9 of said Highland Park;

thence South along the West line of Lots 1 through 12, Block 9 of said Highland Park, to the Southwest corner of said Lot 12 and being the North right-of-way line of Douglas Avenue; thence East along the South line of said Lot 12 and it's easterly extension to the Southwest corner of Lot 13, Block 10 of said Highland Park; thence South along a line to the Northwest corner of Lot 24, Block 21 of said Highland Park, thence South along the West line of Lot 24 through 21, Block 21 of said Highland Park to the Southwest corner of said Lot 21, thence West along the easterly extension of

the South line of Lot 4, Block 22 of said Highland Park and West along the South line of said Lot 4 to the Northwest corner of Lot 5 of said Block 22; thence South along the West line of Lots 5 through 10,

Block 22 of said Highland Park to the Southwest corner of said Lot 10; thence East along the South line of said Lot 10 to the Southeast corner of said Lot 10, being the West right-of-way line of 5th Avenue; thence North along the West right-of-way line of 5th Avenue to the Northeast corner of said Lot 9; thence East along the westerly extension of the South line of Lot 17, Block 21 of said Highland Park and East along the South line of said Lot 17 and it's easterly extension of the South line of said Lot 17 to the Northwest corner of Lot 9, of said Block 21; thence South along the West Line of Lots 9, 10 and 11 of said Block 21 to the Southwest corner of said Lot 11; thence East along the South line of said Lot 11 to the Southeast corner of said Lot 11 and being the West right-of-way line of 4th Street; thence North along the East line of said Lots 11, 10 and 9 to the Northeast corner of said Lot 9; thence East along the westerly extension of the South line of Lot 17, Block 20 of said Highland Park, to the Southwest corner of said Lot 17; thence continuing East along the South line of said Lot 17 to the Southeast corner of said Lot 17; thence North along the East line of Lots 17 and 18 of said Block 20 to the Northeast corner of said Lot 18; thence East along the westerly extension of the South line of Lot 6 of said Block 20 and East along the South line of said Lot 6 and it's easterly extension to the East right-of-way line of 3rd Street and being the Northwest corner of Lot 18, Block 19 of said Highland Park; thence South along the West line of Lots 18 through 15 of said Block 19 to the Southwest corner of said Lot 15; thence East along the South line of said Lot 15 and it's easterly extension to the Southwest corner of Lot 10 of said Block 19; thence East along the South line of said Lot 10 and it's easterly extension to the East right-of-way line of 2nd Avenue; thence South along the East right-of-way line of 2nd Avenue and it's southerly extension to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. Said tract contains approximately 23.7 Acres

Sec. 3. It is hereby found and determined that each property within the District is zoned for commercial use and that the owners of each property within the District will directly benefit from the acquisition, construction, installation, operation and maintenance of the Improvements.

Sec. 4. Pursuant to the provisions of the Act, there is hereby established and created a self-supported municipal improvement district capital improvement and operation fund with respect to the District to be known as the "Highland Park Self-Supported Municipal Improvement

District Capital Improvement and Operation Fund" (herein the "Capital Improvement and Operation Fund"), for which the City may certify taxes (the "Capital Improvement and Operation Tax") against the property as defined in the Act within the District (the "Property") each year, in addition to all other taxes, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2004 and continuing for fifteen (15) years thereafter. The City may renew the levy of the Capital Improvement and Operation Tax for subsequent five (5) year periods unless a petition containing the signatures of at least forty percent of all owners of property within the District or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the District, is filed with the City Clerk at least 6 months prior to the expiration of the current period. The City shall not renew the levy of the Capital Improvement and Operation Tax if such a petition is timely received.

Sec. 5. The City may use the proceeds of the Capital Improvement and Operation Tax for the purposes of paying (or reimbursing the City with respect thereto) all or part of the costs incurred in connection with the acquisition, construction, installation, operation and maintenance of the Improvements, any administration expenses (as defined in and authorized by the Act) of the District, including legal and engineering fees, and any other expenses reasonably incurred in fulfilling the purposes of the District, all as may be determined from time to time by the City Council.

Sec. 6. The Capital Improvement and Operation Tax to be levied annually upon the Property as aforesaid, shall not exceed the amount per thousand dollars (\$1,000) of taxable value of the Property in any one year specified by the table below, in addition to all other taxes.

Fiscal Years Max. levy per thousand dollars

of Levy taxable value _____

2004/05 to 2008/09 1.75

2009/10 to 2013/14 2.00

2014/15 and later 2.25

Sec. 7. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which shall be given effect without such invalid part or parts.

Sec. 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 6. The City Clerk is hereby authorized and directed to cause a certified copy of this ordinance to be recorded in the office of the Polk County Recorder, and a copy thereof to be filed with the Polk County Auditor.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

Preston Daniels, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 03-2403), passed by the City Council of said City at a meeting held October 20, 2003 signed by the Mayor on October 20, 2003 and published as provided by law in the Business Record on November 3, 2003 Authorized by Publication Order No. 3886.

Diane Rauh, City Clerk