

Date April 25, 2011

HOLD HEARING APPROVING LEASE, OPERATION, MANAGEMENT AND MAINTENANCE AGREEMENT WITH THE BLANK PARK ZOO FOUNDATION, INC. FOR A. H. BLANK PARK ZOO AND A. H. BLANK PARK

WHEREAS, on February 16, 2005, by Roll Call No. 05-1376, the City Council approved a 28E Operational Agreement with the Blank Park Zoo Foundation, Inc. ("BPZF") for the BPZF to undertake the operation and management of the A.H. Blank Park Zoo ("Zoo") and A. H. Blank Park ("Park") owned by the City of Des Moines for the benefit of the citizens of the metropolitan area of Des Moines, which expires June 30, 2015 ("the 2005 Agreement"); and

WHEREAS, the BPZF desires to enhance and improve the Zoo and Park by undertaking a private fund raising effort and being responsible for the construction and funding of improvements to the Zoo and Park in the amount of not less than \$16,000,000, pursuant to a conceptual Master Plan for development of the Zoo and Park, which plan has been approved by the City Council by Roll Call No. 11-____, on _____, 2011; and

WHEREAS, the City and the BPZF desire to terminate the 2005 Agreement and enter into a lease and new operation, management and maintenance agreement of the Zoo and Park in order for the BPZF to more fully undertake and implement the goals of such Master Plan, to assume more financial responsibility for the costs associated with maintenance and operation of the Zoo and Park, and to assume full operating responsibility for the Zoo and Park; and

WHEREAS, a Lease, Operation, Management and Maintenance Agreement with BPZF has been negotiated which terminates the 2005 Agreement and in which the BPZF has agreed to construct at its cost at least \$16,600,000.00 in improvements at the Zoo and Park by December 31, 2015 as consideration for rent, for an initial period of 20 years, with two 20 year renewal options at the option of BPZF, beginning on May 1, 2011, a copy of which is on file in the City Clerk's Office ("the Agreement"); and

WHEREAS, approximately 6.25 acres adjacent to the Zoo on the north side, as described below, is included in this lease to be used for occasional temporary uses in support of the Zoo; and

WHEREAS, on April 11, 2011, by Roll Call No. 11-0592, it was duly resolved by the City Council that said proposed lease of the A. H. Blank Park Zoo and A. H. Blank Park, as described below, be set down for hearing on April 25, 2011 at 5:00 pm in the Council Chamber; and

WHEREAS, due notice of said proposal to lease public real property interests was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed lease, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed lease of public real property as described below are hereby overruled and the hearing is closed.

2. There currently is no public need for the property to be leased and the public would not be inconvenienced by reason of the lease of the below described property and it is in the best interest of the City to approve such termination of the 2005 Agreement and approve said Lease, Operation, Management and Maintenance Agreement with BPZF to allow BPZF to operate, manage, maintain and improve the Zoo and Park.

3. The lease of the below described property to Blank Park Zoo Foundation, Inc. for the consideration of \$16,600,000.00 in improvements to be funded by non-City fund and constructed by the BPZF by December 31, 2015, for a period of twenty (20) years with two twenty (20) year renewal options is the fair market value for such lease term(s) and such lease be and is hereby approved:

THAT PART OF THE NORTHEAST ¼ AND THAT PART OF THE SOUTHEAST ¼ OF SECTION 33, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE WEST 632.0 FEET OF THE NORTHEAST ¼ OF SAID SECTION 33, (EXCEPT THE NORTH 1420.0 FEET OF THE NORTHEAST ¼), AND THE SOUTHEAST ¼ OF SAID SECTION 33 (EXCEPT THE SOUTH 40 ACRES OF THE EAST 60 ACRES OF SAID SOUTHEAST ¼), AND FURTHER DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 33; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHEAST ¼, A DISTANCE OF 33.0 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHWEST 9TH STREET; THENCE NORTH ALONG THE EAST RIGHT OF WAY LINE OF SOUTHWEST 9TH STREET 1204.0 FEET TO THE POINT OF BEGINNING; THENCE EAST 599.0 FEET; THENCE SOUTH ALONG A LINE 599.0 FEET EAST OF AND PARALLEL WITH THE EAST RIGHT OF WAY LINE OF SOUTHWEST 9TH STREET TO A POINT APPROXIMATELY 623.00 FEET SOUTH; TO THE NORTHWEST CORNER OF PARCEL "A" AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 8041 PAGE 37; THENCE EAST ON THE NORTH PARCEL LINE OF SAID PARCEL "A" TO THE NORTHEAST CORNER OF SAID PARCEL "A"; THENCE SOUTH ALONG THE EAST PARCEL LINE OF PARCEL "A" TO THE SOUTH LINE OF THE EAST-WEST RODGERS ROAD AS CURRENTLY ESTABLISHED; THENCE WEST TO THE EASTLINE OF THE NORTH-SOUTH CARTER STREET AS CURRENTLY ESTABLISHED; THENCE SOUTH-SOUTHEAST ALONG THE EAST LINE OF CARTER STREET TO A POINT 65 FEET NORTH OF THE SOUTH PARCEL LINE AND 300 FEET WEST OF THE EAST PARCEL LINE; THENCE SOUTHWESTERLY TO A POINT APPROXIMATELY 375 FEET WEST OF THE EAST PARCEL LINE ON THE SOUTH PARCEL LINE TO THE CORNER POST OF THE EXISTING NORTHERN BLANK GOLF COURSE FENCE; THENCE FOLLOWING SAID FENCE TO THE WEST-SOUTHWEST TO A POINT 500 FEET EAST OF THE EAST RIGHT-OF-WAY LINE OF SE 9TH STREET; THENCE SOUTHWESTERLY 320.0 FEET TO A POINT 290.0 FEET SOUTH OF MASON AVENUE RIGHT OF WAY LINE EXTENDED; THENCE WESTERLY 320.0 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHWEST 9TH STREET; THENCE NORTH ALONG THE EAST RIGHT OF WAY LINE OF SOUTHWEST 9TH STREET 1,970.0 FEET TO THE POINT OF BEGINNING, EXCEPT THE AREAS AND BUILDINGS IDENTIFIED AS: BLDG 138, BLDG 308, BLDG 309, BLDG 135, AND A 10 FOOT WIDE AREA ADJOINING EACH SIDE OF SAID BUILDINGS FOR MAINTENANCE AND INGRESS-EGRESS TO SAID BUILDINGS FROM ANY EXISTING ROADS, AND THE AREA EAST OF THE EASTSIDE OF BUTTNER STREET, SOUTH OF THE NORTH PROPERTY LINE OF PARCEL "A" AS DESCRIBED ABOVE; AND, NORTH OF THE NORTHSIDE OF RODGERS ROAD, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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4. The Mayor is authorized and directed to sign said lease agreement as identified above, and up to two twenty (20) year renewal agreements, if any, after the initial term of this lease, and the City Clerk is authorized and directed to attest to the City Manager's signature.

6. That the City Clerk is authorized and directed to forward the original of the Lease, Operation, Management and Maintenance 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.

7. Upon execution of said lease agreement, the Real Estate Division is authorized and directed to forward the original of the said lease 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 said documents to be recorded.

8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division shall file the original of the Lease and Management Agreement and send copies to the City Clerk, the Land Records Clerk and to the Blank Park Zoo Foundation, Inc.

(Council Communication 11-254

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, 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.

City Clerk