

Date..... July 23, 2012

HOLD HEARING AND APPROVING AMENDMENT TO LEASE AGREEMENT WITH SOUTH DES MOINES LITTLE LEAGUE FOR THE JAMES W. COWNIE BASEBALL PARK AND AUTHORIZING THE CITY MANGER TO EXECUTE THE SAME

WHEREAS, on March 28, 2005, by Roll Call No. 05-737, the City Council approved an agreement with Polk County and the Greater Des Moines Community Foundation to provide design services, financing and construction of baseball park improvements ("the 28E Agreement"); and

WHEREAS, a condition of the 28E Agreement requires the City of Des Moines to enter into a Lease Agreement with South Des Moines Little League ("SDMLL") for use of the ballpark; and

WHEREAS, on July 10, 2006, by Roll Call 06-1395 the City of Des Moines accepted the ball park improvements at Soldiers Field and naming the ballpark the James W. Cownie Baseball Park, located at 2050 SE 22<sup>nd</sup> Street, Des Moines, Iowa ("Baseball Ballpark"); and

WHEREAS, on April 9, 2007, by Roll Call No. 07-689, the City Council entered into a lease agreement with the SDMLL for exclusive use of the Baseball Park from March 15 through June 30 until December 31, 2026; and

WHEREAS, the City and SDMLL desire to amend the lease agreement to allow SDMLL exclusive rights to use the Baseball Ballpark during the entire year, to increase lease payments to \$60,000 per year, and to assume more financial responsibility for the costs associated with maintenance and operations of the Baseball Ballpark; and

WHEREAS, City staff has negotiated an Amendment to Lease Agreement which provides for an annual rental of \$60,000, with SDMLL having the right to negotiate a lower rate in the event that SDMLL determines it is unable to pay such amount, subject to the new rental amount being no less than fair market value and in an amount to cover the City's operation costs of the facility, and the SDMLL shall pay for utilities, excluding water, a copy of which is on file in the City Clerk's Office; and

WHEREAS, it is in the best interest of the City to approve such Amendment to Lease Agreement to allow the SDMLL to continue to program and use the James W. Cownie Baseball Park; and

WHEREAS, on July 9, 2012, by Roll Call 12-1088, it was duly resolved by the City Council that the proposed Amendment to Lease Agreement, be set down for hearing on July 9, 2012 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 Amendment to Lease Agreement, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

Date July 23, 2012

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed Amendment to Lease Agreement 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 James W. Cownie Baseball Park, located at 2050 SE 22<sup>nd</sup> Street, Des Moines, Iowa; and

3. The Amendment to Lease Agreement to change the exclusive use of the Baseball Park from March 15 through June 30 of each year to an annual use and to change the consideration from an annual rental of \$35,000 to \$60,000, with SDMLL having the right to negotiate a lower rate in the event that SDMLL determines it is unable to pay such amount, subject to the new rental amount being no less than fair market value and in an amount to cover the City's operation costs of the facility, and the SDMLL shall pay for utilities, excluding water, a copy of which is on file in the City Clerk's Office, be and is hereby approved.

4. The City Manager is authorized and directed to sign said Amendment to Lease Agreement on behalf of the City, and the City Clerk is authorized and directed to attest to the City Manager's signature.

(Council Communication 12-404)

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