

★ **Roll Call Number**

Agenda Item Number

47

.....
Date October 20, 2014

**HOLD HEARING FOR APPROVAL OF A PROPOSED LEASE OF CITY-OWNED
PROPERTY LOCATED NEAR 6TH AVENUE AND MULBERRY STREET TO POLK
COUNTY IOWA**

WHEREAS, the City of Des Moines (City) is the titleholder of certain real estate consisting of a parking lot and the adjoining north 13 feet of vacated Plum Street, all located north of the former Polk County Jail at 6th and Cherry Streets, Des Moines, Iowa (Leased Premises); and

WHEREAS, On October 8, 2001, by Roll Call No. 01-3074, the City Council approved a two-year lease agreement with Polk County, Iowa for the Leased Premises; and

WHEREAS, On July 29, 2008, the City of Des Moines and Polk County, Iowa entered into a new, three-year lease agreement for the Leased Premises, which lease agreement terminated on May 1, 2011; and

WHEREAS, On October 4, 2011, the City of Des Moines and Polk County, Iowa again entered into a three-year lease agreement for the Leased Premises, which lease agreement terminated on July 31, 2014; and

WHEREAS, Polk County, Iowa wishes to continue to use the Leased Premises for the public purpose of providing a secured parking lot for Polk County and State Court employees, and has asked to enter into a new ninety-nine (99) year lease agreement with the City of Des Moines; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement with Polk County Iowa as lessee, which Agreement will include, among other terms, a license term commencing upon execution by City of the Lease Agreement and terminating on July 31, 2113, and subject to termination for default upon thirty (30) days notice by the City to Polk County, and subject to termination by either party, with or without cause, upon three-hundred sixty-five (365) calendar days written notice; and

WHEREAS, pursuant to the negotiated Lease Agreement, Polk County shall use the Leased Premises solely for the public purpose as set forth therein, and for no other purpose, in accordance with Iowa Code Section 364.7 (2013), and further agrees to provide the following throughout the entire term of the Agreement: (a) mowing of all grassed areas and trimming and maintenance of all landscaping within the Leased Premises; (b) clearing of snow, ice and other debris from and adjacent to the Leased Premises, including the parking lot and adjacent sidewalks; and (c) maintaining, securing and policing the Leased Premises to prevent all uses not expressly authorized by this Agreement; and

WHEREAS, on October 6, 2014, by Roll Call No. 14-1562, it was duly resolved by the City Council that consideration of the proposed Lease Agreement be set down for hearing on October 20, 2014, at 5:00 p.m., in the City Council Chambers; and

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Date October 20, 2014

WHEREAS, in accordance with City Council direction, those interested in the proposed lease agreement, both for and against, have been given an opportunity to be heard 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed Lease Agreement with Polk County, Iowa, as described below, are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of a Lease Agreement between the City of Des Moines and Polk County, Iowa, as on file in the office of the City Clerk, across City-owned real property consisting of a parking lot and the adjoining north 13 feet of vacated Plum Street, all located north of the former Polk County Jail at 6th and Cherry Streets, Des Moines, Iowa, legally described as follows, for the public purpose of providing a secured parking lot for Polk County and State Court employees, for a ninety-nine year term (through July 31, 2113), and said Agreement is hereby approved:

THE SOUTH 2/3 OF LOT 7, BLOCK 10, AND THE NORTH 13 FEET OF VACATED PLUM STREET LYING SOUTH OF AND ADJOINING SAID SOUTH 2/3 OF LOT 7, ALL IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The Mayor is authorized and directed to sign the Lease Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the Lease 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 the documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the 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 the documents to be recorded.
6. There are no proceeds associated with this lease.

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Moved by _____ to adopt.

APPROVED AS TO FORM:

Cori Kuhn Coleman, Assistant City Attorney

132

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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