

Date..... October 26, 2015

HOLD HEARING FOR THE VACATION OF AND APPROVING LEASE OF APPROXIMATELY .75 ACRES IN PROSPECT PARK TO DRAKE UNIVERSITY

WHEREAS, the City of Des Moines operates Prospect Park at 1225 Prospect Road, Des Moines, Iowa; and

WHEREAS, Drake University is desirous of leasing a portion of Prospect Park, as described below, for the purpose of constructing and maintaining at its cost a boathouse and using the boathouse for the Drake Rowing Team on the real estate legally described as:

A PART OF LOTS 13 AND 14 IN THE OFFICIAL PLAT OF GOVERNMENT LOTS 4 AND 5 IN SECTION 27, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 700 FEET OF SAID LOT 14; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID SOUTH 700 FEET OF LOT 14, A DISTANCE OF 274.0 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°00'00" EAST, 173.3 FEET; THENCE SOUTH 71°00'09" EAST, 286.3 FEET; THENCE SOUTH 0°00'00" WEST, 79.5 FEET TO THE NORTH LINE OF THE SOUTH 700 FEET OF SAID LOT 13; THENCE SOUTH 90°00'00" WEST ALONG SAID NORTH LINE AND ALONG THE NORTH LINE OF THE SOUTH 700 FEET OF SAID LOT 14, A DISTANCE OF 272.6 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.79 ACRES (34,452 S.F.)

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

; and

WHEREAS, a Lease Agreement with Drake University has been negotiated in which Drake University agrees to be responsible, at its cost, to construct, at an approximate cost of \$1,100,000, and to maintain a boathouse, including restrooms, locker rooms, storage, break room and team meeting room, in consideration of the City having the option of owning such facility at the end of the lease term plus two days annually rent free uses by the City of the Knapp Center, Drake Football Stadium or another Drake University facility, for an initial period of 20 years, with one 20 year renewal option upon mutual agreement of the parties, beginning on November 9, 2015, a copy of which is on file in the City Clerk's Office; and

WHEREAS, the use of the below described portion of Prospect Park is presently not required for municipal purposes, is not likely to be needed for municipal purposes within the term of the proposed Lease, and the City desires to lease such portion of Prospect Park; and

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WHEREAS, such proposed leased premises is dedicated as parkland; and

WHEREAS, on October 12, 2015, by Roll Call No. 15-\_\_\_\_\_, it was duly resolved by the City Council that the proposed vacation ordinance and lease of the vacated parkland and lease be set down for hearing on October 26, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and lease the above described real estate 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 vacation and 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:

1. Upon due consideration of the facts and circumstances of interested persons, the objections to said proposed vacation of parkland as described above are hereby overruled and the hearing is closed.
2. Upon due consideration of the facts and statements of interested persons, the objections to said proposed Lease Agreement, a copy of which is on file in the City Clerk's Office, which provides for the lease of approximately .75 acres within Prospect Park, described above, to Drake University for a term from November 9, 2015 through December 31, 2035, with an option to renew for an additional 20 years upon mutual agreement of the parties, for the consideration of the construction and maintenance by Drake University of a boathouse with the City having the option of owning such facility at the end of the lease term plus two days annually rent free use by the City of the Knapp Center, Drake Football Stadium or another Drake University facility, are hereby overruled and the hearing is closed.
3. There is no public need for the below above described real property to be vacated and the public would not be inconvenienced by reason of the proposed vacation and lease of such real property.
4. The Council hereby determines that the consideration in the form of public benefit to the City of the construction and maintenance of the boathouse by Drake University at its cost and the two days annually rent free use by the City of the Knapp Center, Drake Football Stadium or another Drake University facility is acceptable to the City and constitutes the fair market value for such lease term for such real estate and the proposed Lease Agreement, a copy of which is on file in the City Clerk's Office, be and is hereby approved.
5. The Mayor is authorized and directed to sign said Lease Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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6. Upon final passage of an ordinance vacating said parkland, 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 said documents to be recorded.

7. Upon execution of said Lease Agreement, the Real Estate Division of the Engineering Department is authorized and directed to forward the original of said 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 this Agreement and send copies to the City Clerk, the Land Records Clerk and to the Drake University.

(Council Communication 15- ) Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Ann DiDonato*  
 Ann DiDonato  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED	APPROVED			

**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.

\_\_\_\_\_ Mayor

\_\_\_\_\_ City Clerk