

Date February 8, 2021

HOLD HEARING ON THIRD AMENDMENT TO LEASE AGREEMENT WITH SOUTH DES MOINES LITTLE LEAGUE FOR THE JAMES W. COWNIE BASEBALL PARK

WHEREAS, on April 9, 2007, by Roll Call No. 07-689, the City Council approved the Lease Agreement by and between the South Des Moines Little League, on July 23, 2012, by Roll Call No. 12-1198, the City Council approved an Amendment to said Lease, and on March 6, 2017, by Roll Call No. 17- 0404, the City Council approved a Second Amendment to said Lease, for lease of James W. Cownie Baseball Park for the purpose of youth baseball or softball programs and play and other related purposes (“the Lease”); and

WHEREAS, under the Lease, South Des Moines Little League (SDMLL) is required to pay \$70,000 annually as rental payment for lease of the Leased Premise; and

WHEREAS, pursuant to Section 1 of the Lease, the lease payment shall be reviewed by the parties and renegotiated every five (5) years beginning with the lease payment due on May 15, 2016, and, pursuant to Section 1.c(5), if the new lease payment amount is not agreed upon by both parties by December 31, 2015, and every five (5) years thereafter, the Lease shall automatically terminate on such December 31 without further action of either party being necessary; and

WHEREAS, SDMLL has notified the Parks and Recreation Department that it has ceased operation and desires to terminate the Lease and will not make any lease payments for the term of lease beginning on January 1, 2021; and

WHEREAS, SDMLL has further notified the Parks and Recreation Department that it does not have the financial resources to make the current Lease payment due for calendar year 2020 of \$70,000 and, after liquidation of its assets, is able to make lease payments of only \$35,000 to cover the rental payments due for 2020, due to the substantially decreased use of the James W. Cownie Baseball Park in 2020 due to the COVID -19 pandemic resulting in substantially reduced income from team and league fees, rental of the Baseball Park, and concession fees; and

WHEREAS, the City staff have negotiated a Third Amendment to the Lease Agreement with SDMLL in which termination of the Lease will be effective December 31, 2020, and to accept the reduced rental payment of \$35,000 a copy of which is on file in the City Clerk’s Office; and

WHEREAS, on January 25, 2021, by Roll Call No. 21-00916, it was duly resolved by the City Council that the proposed Third Lease Amendment be set down for hearing on January 25, 2021, at 5:00 p.m., in the MSC Board Room, 2nd Floor, Richard A. Clark Municipal Service Center; and

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WHEREAS, due notice of said proposal to adopt a Second Amendment to Lease for such real property 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:

1. Upon due consideration of the facts and circumstances of interested persons, the objections to said proposed Third Amendment of Lease Agreement, a copy of which is on file in the City Clerk's Office, of the above described real estate, and which decreases the annual rental of \$70,000 to \$35,000 for calendar year 2020, and terminates the Lease on December 31, 2020, are hereby overruled and the hearing is closed.

2. There is no public need for the above described real estate and the public would not be inconvenienced by reason of the proposed lease of such real property.

3. The Council hereby determines that the consideration in the Third Amendment to Lease Agreement constitutes the fair market value for such lease terms and the proposed Third Amendment to Lease Agreement, a copy of which is on file in the City Clerk's Office, be and is hereby approved.

4. The Mayor is authorized and directed to sign said Third Amendment to Lease Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Clerk is authorized and directed to forward the original of the Third Amendment to 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.

6. Upon execution of said Third Amendment, the Real Estate Division of the Engineering Department is authorized and directed to forward the original of said Amendment, 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.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division shall file the original of this Third Amendment and send copies to the City Clerk, the Land Records Clerk and to the South Des Moines Little League.

★ Roll Call Number

Agenda Item Number

52

Date February 8, 2021

(Council Communication 21- 063)

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				
MOORE				
WESTERGAARD				
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