



Date January 10, 2022

**RESOLUTION APPROVING FORM AND AUTHORIZING EXECUTION OF A LEASE WITH EMPLOYERS MUTUAL CASUALTY COMPANY FOR THE LEASE OF REAL ESTATE AND PARK IMPROVEMENTS AT 701 WALNUT STREET FOR USE BY THE PARKS AND RECREATION DEPARTMENT AS A PUBLIC PARK**

**WHEREAS**, it is deemed necessary and advisable that the City of Des Moines, Iowa (“City”), should enter in to a Lease Agreement for the lease of real estate and certain park improvements located at 701 Walnut Street, for use by the Parks and Recreation Department as a public park, said lease to be for an initial period of 10 years, with the option of 2 five-year renewals, as authorized by Sections 364.4(4) and 384.25 of the Iowa Code, as amended; and

**WHEREAS**, pursuant to notice published as required by Sections 364.4 and 384.25 of the Iowa Code, this City Council held a public meeting and hearing upon the proposal to institute proceedings for the authorization of said Lease Agreement for such purpose, and this City Council is therefore now authorized to proceed with the authorization of said Lease Agreement; and

**WHEREAS**, the terms of the Lease Agreement by and between the City and Employers Mutual Casualty Company, pursuant to which the City would lease said real estate, have been negotiated and are set forth as follows:

1. Possession of the premises will be given to the City upon completion of the park improvements by Employers Mutual Casualty Company, expected to be on or about September 15, 2022.
2. The initial lease term shall be ten (10) years.
3. The Leased Premises is described as: That part of Lots 5 and 6 in Block 1, FORT DES MOINES, and Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa being more particularly described as Parcel 2016-117 on the Plat of Survey filed May 17, 2016 in Book 16005, Page 315 in the Polk County Recorder’s Office.
4. The City shall pay an estimated total of \$390,650 for the initial ten year term of the Lease Agreement, as follows:
  - a) \$13,900 for the first five (5) years of the Lease Agreement,
  - b) \$14,230 for years 6-10 of the Lease Agreement; and
  - c) \$250,000 total for maintenance and repairs for the initial 10 year period of the lease term and \$250,000 for 2 five-year renewals, if any.
5. Employers Mutual Casualty Company shall have the right to extend the Lease Agreement for two five-year terms at a lease rate that is subject to approval of the City Council at the time of such renewals.

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**WHEREAS**, a copy of the proposed Lease Agreement is on file in the office of the City Clerk; and

**WHEREAS**, the Lease Agreement shall be payable solely out of the City's General Fund.

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

Section 1. Authority and Purpose. The Lease Agreement authorized by this resolution and related documents between the City of Des Moines, Iowa, and Employers Mutual Casualty Company for the lease of real estate and certain park improvements located at 701 Walnut Street, for use by the Parks and Recreation Department as a public park, said Lease Agreement to be for an initial term of ten years, with the option of 2 five-year renewals, and said Lease Agreement calls for payment in the amount of \$390,650 over the course of the initial term, payable as annual rental amounts of \$13,900 for the first five (5) years of the Lease Agreement and \$14,230 for years 6-10 of the Lease Agreement; and \$250,000 in total for maintenance and repairs for the initial 10 year period and \$250,000 in total (\$25,000 annually) for maintenance and repairs costs during 2 five-year renewals, if any, with rental amounts for Lease renewals, if any, subject to City Council approval at the time of such renewals, shall be issued pursuant to Sections 364.4 and 384.25 of the Code of Iowa, and in compliance with all applicable provisions of the Constitution and laws of the State of Iowa. The Lease Agreement and related documents are hereby authorized to be issued in a form in accordance with the terms of this resolution.

Section 2. Execution. The Mayor is authorized and directed to sign the Lease Agreement, and the City Clerk is authorized and directed to attest to the Mayor's signature, and shall 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.

Section 3. Source of Payment. Rental payments due under the Lease Agreement shall be payable solely out of the City's General Fund and the Finance Director is hereby authorized to pay all future payments due under the Lease Agreement.

Section 4. Administration of Lease Terms, Amendments. The City Manager, or his designee, is authorized to administer the terms of the Lease Agreement and to sign any addendum regarding the beginning date of the Lease and any minor and non-substantial amendments to the Lease Agreement.



**Roll Call Number**

Agenda Item Number

44 (B)

Date January 10, 2022

(Council Communication No. 22- 003 )

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

Ann DiDonato  
Ann DiDonato  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

**CERTIFICATE**

I, P. Kay Cmelik, 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