



Roll Call Number

12.0926

Agenda Item Number

54

Date June 11, 2012

**HOLD HEARING FOR APPROVAL OF PROPOSED LEASE OF CITY-OWNED
PROPERTY IN THE UPPER LEVEL OF THE 5th AND KEO WAY PARKING GARAGE
TO DES MOINES DAYCARE, L.L.C. FOR \$41,064 FOR FIRST YEAR AND \$61,596
FOR SUBSEQUENT YEARS (INITIAL LEASE TERM)**

WHEREAS, the City of Des Moines owns the 5th and Keo Way parking garage, of which a portion on the top floor of the north end of said ramp, as more particularly described below ("Leased Premises"), was previously operated by Drake University by agreement with the City as a Head Start child care program; and

WHEREAS, Des Moines Daycare, L.L.C. (Registered Agent: Jason Springer, 3111 Douglas Avenue, Des Moines, IA 50310) has proposed to enter into a Lease Agreement with the City for the purpose of operating the Des Moines Daycare Center within the Leased Premises; and

WHEREAS, City staff and Des Moines Daycare, L.L.C. have negotiated said Lease Agreement, on file in the office of the City Clerk, for an initial term of five years, with lessee's option to renew for two additional five-year terms, subject to various lease provisions including but not limited to termination options for the City and lessee; rental payments of \$41,064 for the first year and \$61,596 per year thereafter during the initial lease term with a ten percent (10%) increase for each additional renewal term, which amount represents fair market rent as currently determined by the City's Real Estate Division; that the City shall make available to lessee 12 spaces in the 5th & Keo Way parking garage as part of the Leased Premises; and that the City shall be responsible for the cost and performance of any major mechanical or structural repairs or replacements within the Leased Premises, and lessee shall be responsible for purchasing, repairing, and replacing any appliances and for the cost and scheduling of annual maintenance reviews and for snow removal from the outdoor areas and roof of the Leased Premises; and

WHEREAS, the City of Des Moines has no immediate or short term municipal purpose or use for the Leased Premises, and it is in the best interest of the City to enter into a Lease Agreement with Des Moines Daycare, L.L.C.; and

WHEREAS, on May 21, 2012, by Roll Call No. 12-0782, it was duly resolved by the City Council that the proposed lease of the City-owned Property be set down for hearing on June 11, 2012, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to lease the Property was given as provided by law, setting forth the time and place for hearing on said proposal; and

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WHEREAS, in accordance with said notice, those interested in said proposed lease, 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed lease, as described herein, are hereby overruled and the hearing is closed.
2. That the Lease Agreement, on file in the office of the City Clerk, with Des Moines Daycare, L.L.C. for an initial term of five years, with lessee's option to renew for two additional five-year terms, subject to various lease provisions including but not limited to termination options for the City and lessee, and rental payments of \$41,064 for the first year and \$61,596 per year thereafter during the initial lease term with a ten percent (10%) increase for each additional renewal term, is hereby approved for the Leased Premises described as follows:

20,530 square feet on the top floor of the north end of the 5th & Keo Way parking garage, which area is legally described as follows:

AIRSPACE SITUATED ABOVE A PORTION OF LOTS 10, 15 THRU 21,
AND A PORTION OF THE EAST/WEST ALLEY LYING SOUTH OF AND
ADJOINING SAID LOTS 14 THRU 21, AND ALL OF LOTS D AND 11, ALL
IN THE NEW YMCA PLAT, AN OFFICIAL PLAT, ALL NOW INCLUDED IN
AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY,
IOWA.
3. That the Mayor be and is hereby authorized and directed to sign the Lease Agreement and the City Clerk is hereby authorized and directed to attest to the Mayor's signature.
4. That the Real Estate Division Manager of the Engineering Department is hereby authorized, directed, and designated to act on behalf of the City to administer and enforce the terms of the Lease Agreement, including but not limited to lease renewal and lease termination if necessary and in accordance with the provisions of said Agreement, and the Real Estate Division Manager is further authorized and directed to approve and execute any non-substantive amendments to the Lease Agreement following approval as to form by the City Legal Department, and is further directed to return any substantive amendments to this Council for approval.
5. The proceeds from the lease of this property shall be deposited into the following account: 2012-13 Operating Budget, Page 70, T & T – Parking Administration, EN051, ENG100701.



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12,0936

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(Council Communication No. 12-308)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

RSN

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | 1 | | | |
| COLEMAN | 1 | | | |
| GRIESS | 1 | | | |
| HENSLEY | 1 | | | |
| MAHAFFEY | 1 | | | |
| MEYER | 1 | | | |
| MOORE | 1 | | | |
| TOTAL | 7 | | | |

MOTION CARRIED

APPROVED

T. M. Franklin 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.

Diane Rauh City Clerk