

★ Roll Call Number

Agenda Item Number

15-1469

3

August 27, 2015

Date.....

CONSENT TO LEASEHOLD MORTGAGE TO COMMUNITY STATE BANK
OF THE LEASE BETWEEN THE CITY AND BERGMAN ACADEMY OF THE LEASED
PROPERTY AT 100 45TH STREET

WHEREAS, on March 24, 2008, by Roll Call No. 08-515, the City Council approved a lease of the Greenwood Building at 100 45th Street (the former Science Center of Iowa Building) to Bergman Academy (f/k/a Iowa Academy), to operate a non-profit school, and to construct significant improvements to such building for an initial term of 20 years with two renewal periods of 10 years, upon mutual agreement of the parties; and

WHEREAS, on July 11, 2015, by Roll Call No. 15-1177, the City Council approved an Addendum and Amendment to Lease Agreement which allows Bergman Academy to construct at its expense a two story addition to the Greenwood Building to add eight (8) classrooms, including an elevator to service the existing building and the addition, and to construct a free-standing gymnasium/multipurpose building, with an estimated cost of Four Million Seven Hundred and Seventy-Five Thousand Dollars (\$4,775,000) and which also extends the initial term of the Lease Agreement until December 31, 2044, for the leased premises as described below:

AREA "A"

A PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M., CITY DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 12; THENCE NORTH 89°46'48" WEST ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 12, A DISTANCE OF 1341.05 FEET TO THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12 AND BEING ON THE WEST LINE OF LINDEN HEIGHTS, AN OFFICIAL PLAT; THENCE NORTH 89°46'48" WEST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 660.00 FEET; THENCE SOUTH 00°13'12" WEST, 40.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°47'22" EAST, 76.81 FEET; THENCE SOUTH 51°55'41" EAST, 73.36 FEET; THENCE NORTH 89°46'48" WEST, 134.73 FEET; THENCE NORTH 00°13'12" EAST, 45.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.11 ACRES (4,760 S.F.).

And

AREA "B"

A PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M., CITY DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 12; THENCE NORTH 89°46'48" WEST ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 12, A DISTANCE OF

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1341.05 FEET TO THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12 AND BEING ON THE WEST LINE OF LINDEN HEIGHTS, AN OFFICIAL PLAT; THENCE NORTH 89°46'48" WEST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 660.00 FEET; THENCE SOUTH 00°13'12" WEST, 340.00 FEET; THENCE SOUTH 89°46'48" EAST, 93.81 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°46'48" EAST, 56.19 FEET; THENCE NORTH 50°41'21" EAST, 133.54 FEET; THENCE SOUTH 14°01'20" WEST, 75.36 FEET; THENCE SOUTH 50°41'21" WEST, 60.46 FEET; THENCE NORTH 74°02'17" WEST, 98.27 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.12 ACRES (5,114 S.F.).

; and

WHEREAS, Article 16 of the Lease Agreement contemplates that Bergman Academy may mortgage its leasehold interest with the City's consent; and

WHEREAS, Bergman Academy requests consent to mortgage its leasehold interest to Community State Bank in the amount of \$2,500,000.00, a copy of such mortgage between Bergman Academy and Liberty Bank is on file in the City Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the above described Mortgage between Bergman Academy and Community State Bank is hereby consented to pursuant to, and to the extent consistent with, the Lease Agreement.

Moved by Hensley 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	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