



**Roll Call Number**

16-1990

**Agenda Item Number**

22

**Date** November 21, 2016

**SET HEARING FOR VACATION OF A PORTION OF COURT AVENUE RIGHT-OF-WAY ADJOINING 420 COURT AVENUE AND APPROVAL OF AN AMENDMENT TO THE LEASE AGREEMENT WITH THE DES MOINES BICYCLE COLLECTIVE FOR PLACEMENT OF A B-CYCLE PROGRAM KIOSK IN THE VACATED RIGHT-OF-WAY FOR \$300**

**WHEREAS**, on November 17, 2014, by Roll Call No. 14-1797, the City Council of the City of Des Moines, Iowa, approved a Lease Agreement with the Des Moines Bicycle Collective, as Lessee, for the placement of and operation of the B-Cycle Program bicycle kiosks in various locations throughout the downtown Des Moines area, which Agreement terminates on November 30, 2019, and is subject to termination by either party, with or without cause, upon thirty (30) calendar days written notice; and

**WHEREAS**, CITY is the titleholder of certain street right-of-way located north of and adjoining 420 Court Avenue, Des Moines, Iowa ("City Right-of-Way"); and

**WHEREAS**, the Des Moines Bicycle Collective wishes to amend the existing Lease Agreement in order to place and maintain an additional B-Cycle Program bicycle kiosk in said City Right-of-Way; and

**WHEREAS**, pursuant to the negotiated Lease Agreement, the Des Moines Bicycle Collective shall pay an upfront, one-time lump sum payment as consideration per B-Cycle Program bicycle kiosk location, which upfront, one-time lump sum payment shall reflect a payment of one hundred dollars (\$100.00) per location, per year of the term of the Lease Agreement; and

**WHEREAS**, pursuant to the negotiated terms of the Lease Agreement, to add the new B-Cycle Program bicycle kiosk in the City Right-of-Way, the Des Moines Bicycle Collective shall pay an upfront, one-time lump sum payment of \$300.00, which amount reflects fair market value of the Leased Premises as determined by the City's Real Estate Division, plus \$113.00 for the cost of publishing and recording the proposed Amendment to Lease Agreement; and

**WHEREAS**, there is no known current or future public need for the City Right-of-Way proposed to be vacated and the lease of the City Right-of-Way for the purposes described herein will not adversely affect the use of adjoining real estate by City for municipal purposes, and the City will not be inconvenienced by approval of the proposed Amendment to Lease Agreement with the Des Moines Bicycle Collective.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of Court Avenue right-of-way located north of and adjoining 420 Court Avenue, Des Moines, Iowa, legally described as follows:

A PART OF THE COURT AVENUE RIGHT OF WAY IN FORT DES MOINES, AN OFFICIAL PLAT, AND LYING NORTH OF BLOCK 20 OF SAID FORT DES MOINES, ALL NOW INCLUDED IN AND



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FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 20; THENCE NORTHEASTERLY ALONG THE NORTH LINE OF SAID BLOCK 20, A DISTANCE 65 FEET; THENCE NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE NORTHEASTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET; THENCE SOUTHEASTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE SOUTHWESTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET TO THE POINT OF BEGINNING;

- 2. The City Council of the City of Des Moines, Iowa, further proposes to consider approval of the Amendment to Lease Agreement with the Des Moines Bicycle Collective for placement of a B-Cycle Program bicycle kiosk in the vacated right-of-way for \$300.00, as legally described below, subject to the reservation of easements therein:

A PART OF THE VACATED COURT AVENUE RIGHT OF WAY IN FORT DES MOINES, AN OFFICIAL PLAT, AND LYING NORTH OF BLOCK 20 OF SAID FORT DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 20; THENCE NORTHEASTERLY ALONG THE NORTH LINE OF SAID BLOCK 20, A DISTANCE 65 FEET; THENCE NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE NORTHEASTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET; THENCE SOUTHEASTERLY AND PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 6 FEET; THENCE SOUTHWESTERLY AND PARALLEL TO SAID NORTH LINE, A DISTANCE OF 37 FEET TO THE POINT OF BEGINNING;

- 3. That the meeting of the City Council at which the adoption of said ordinance and approval of said Amendment to Lease Agreement is to be considered shall be on December 5, 2016, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.
- 4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
- 5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland  
Lisa A. Wieland, Assistant City Attorney

*RAU*

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