

★ Roll Call Number

17-0189

Agenda Item Number

23

Date February 6, 2017

**SET HEARING FOR APPROVAL OF THE SECOND AMENDMENT TO LEASE AGREEMENT
WITH SRE BULLDOG HOTEL OWNER, LLC**

WHEREAS, on April 16, 1979, by Roll Call No. 1579, the City Council of the City of Des Moines approved a Lease of Air Rights (hereinafter "Agreement"), with City Center Development, an Iowa limited partnership, for the lease of air rights allowing for encroachment by the Des Moines Marriot Downtown hotel into and above a portion of 7th Street, Locust Street and Grand Avenue right-of-way, and over portions of the intervening alley right-of-way; and

WHEREAS, On December 1, 1980, by Roll Call No. 5846, the City Council of the City of Des Moines approved an Amendment to the Lease of Air Rights to remove from said Agreement that portion of the leasehold area being converted to a public skywalk corridor, and to reduce the annual rental amount proportionately; and

WHEREAS, On December 19, 2016, by Roll Call No. 16-2121, the City Council of the City of Des Moines consented to the assignment and assumption of the Lease of Air Rights from City Center Development, L.P. to SRE Bulldog Hotel Owner, LLC, a Delaware limited liability company; and

WHEREAS, said Assignment of and Assumption of Air Rights Lease Agreement was recorded in the office of the Polk County Recorder on December 21, 2016, in Book 16317, Page 935; and

WHEREAS, the City of Des Moines and SRE Bulldog Hotel Owner, LLC wish to further amend certain terms of the Agreement by amending the legal description of the Leased Premises, re-establishing an annual rental amount and payment due date, clarifying terms for future assignments, transfers or subleases, replacing the address found in Paragraph 21 of the Agreement for Notices for the Lessee, and designating the Real Estate Division Manager of the City of Des Moines to administer the requirements of the Agreement on the City's behalf.

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

1. The City Council of the City of Des Moines, Iowa, proposes to consider approval of the Second Amendment to Lease Agreement with SRE Bulldog Hotel Owner, LLC.
2. That the meeting of the City Council at which approval of said Second Amendment to Lease Agreement is to be considered shall be on February 20, 2017, 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.
3. 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.

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4. There are no proceeds associated with this Second Amendment to Lease Agreement.

Moved by Wensley to adopt.

APPROVED AS TO FORM:

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

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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