



**Roll Call Number**

21-0627

**Agenda Item Number**

27 ✓

**Date** April 19, 2021

**RESOLUTION RELEASING COVENANTS ON PROVISION OF SERVICES AND USE TO THE CITY, ASSOCIATED DEFAULT PAYMENT AND REVERSION RIGHTS AND OTHER COVENANTS FOR THE SOUTH SUBURBAN YMCA PROPERTY**

WHEREAS, by Roll Call No. 96-1587 dated April 22, 1996, the City Council approved the Ground Lease Agreement between the City and the Young Men’s Christian Association of Greater Des Moines (“YMCA”) for the lease of approximately 11.22 acres consisting of Lot 2, Somerset II, an Official Plat (“Property”) adjacent to the Regional Police Training Academy in the vicinity of SE 5<sup>th</sup> Street and Army Post Road; and

WHEREAS, pursuant to the terms of the Ground Lease Agreement, the YMCA constructed the South Suburban YMCA facility on the Property which provided services, programs and use of the facility for testing and training of City police and fire personnel; and

WHEREAS, the Ground Lease Agreement set forth a lease term extending to November 6, 2005 and as consideration set forth nominal monetary rent, but required that the YMCA provide to the City, on a continuing basis and free of charge, services, programs and use of the facility to advance the educational training requirements of the City; and

WHEREAS, the Ground Lease Agreement provided the YMCA with an option to purchase the Property at the end of the Lease term by payment to the City of \$1,000 cash and execution of a thirty-two (32) year agreement (“Agreement”) containing covenants whereby the YMCA shall continue to provide the services, programs and use of the facility, free of charge, to advance the educational training requirements of the City and containing terms for payment and reversion interest rights to the City in the event of failure and default by YMCA to provide such services, programs and use of the facility; and

WHEREAS, by Roll Call No. 07-1765 dated September 10, 2007, the City Council honored YMCA’s option to purchase the Property under the terms of the Ground Lease Agreement and the City Council approved the Agreement and Special Warranty Deed (“Deed”) conveying the Property to the YMCA subject to referenced covenants, default payment and reversion interest rights; and

WHEREAS, usage of the South Suburban YMCA facility has declined and its continued operation will present fiscal challenges for the YMCA and accordingly the YMCA has entertained proposals for the sale of the facility with its potential reuse of the facility through a lease back arrangement;



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WHEREAS, the sale of the South Suburban YMCA facility will enable the YMCA to strengthen its fiscal condition to enable continued operations of the Wellmark YMCA facility and the John R. Grubb YMCA facility serving residents of the City;

WHEREAS, there is no longer a need for City services, programs and use of the South Suburban YMCA facility for testing and training of City police and fire personnel and release and termination of covenants limiting use to only an educational complex, setting requirements for provision of such services, programs and use to the City, providing associated default payment and reversion rights to the City, setting obligations determined to no longer have a benefit to the administration and purposes of the City and setting limitations on encumbrances and assignment contained in the Deed and Agreement is necessary and appropriate to enable the sale of the facility Property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the release and termination of the South Suburban YMCA Property covenants limiting use to only an educational complex, setting requirements for provision of facility services, programs and use to the City, providing associated default payment and reversion rights to the City, setting obligations determined by the City Manager to no longer have a benefit to the administration and purposes of the City, setting limitations on encumbrances and assignment and other associated covenants not needed by the City contained in the Agreement and Deed is deemed necessary and appropriate and is hereby approved.



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BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed to execute all documents necessary to memorialize the release and termination of such Property covenants and associated default payment and reversion rights contained in the Agreement and Deed as prepared and/or reviewed by the Legal Department following review, approval and direction by the City Manager and the City Clerk is directed to attest to the Mayor's signature and deliver such signed documents to the YMCA.

Moved by Gatto to adopt.

FORM APPROVED:

/s/ Lawrence R. McDowell
Lawrence R. McDowell
Deputy City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL (7 yeas).

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.

MOTION CARRIED APPROVED
J.M. Franklin Cownie Mayor

P. Kay Cmelik City Clerk