



Roll Call Number

22-0062

Agenda Item Number

44 (B)

Date January 10, 2022

RESOLUTION APPROVING FORM AND AUTHORIZING EXECUTION OF A LEASE WITH EMPLOYERS MUTUAL CASUALTY COMPANY FOR THE LEASE OF REAL ESTATE AND PARK IMPROVEMENTS AT 701 WALNUT STREET FOR USE BY THE PARKS AND RECREATION DEPARTMENT AS A PUBLIC PARK

WHEREAS, it is deemed necessary and advisable that the City of Des Moines, Iowa (“City”), should enter in to a Lease Agreement for the lease of real estate and certain park improvements located at 701 Walnut Street, for use by the Parks and Recreation Department as a public park, said lease to be for an initial period of 10 years, with the option of 2 five-year renewals, as authorized by Sections 364.4(4) and 384.25 of the Iowa Code, as amended; and

WHEREAS, pursuant to notice published as required by Sections 364.4 and 384.25 of the Iowa Code, this City Council held a public meeting and hearing upon the proposal to institute proceedings for the authorization of said Lease Agreement for such purpose, and this City Council is therefore now authorized to proceed with the authorization of said Lease Agreement; and

WHEREAS, the terms of the Lease Agreement by and between the City and Employers Mutual Casualty Company, pursuant to which the City would lease said real estate, have been negotiated and are set forth as follows:

1. Possession of the premises will be given to the City upon completion of the park improvements by Employers Mutual Casualty Company, expected to be on or about September 15, 2022.
2. The initial lease term shall be ten (10) years.
3. The Leased Premises is described as: That part of Lots 5 and 6 in Block 1, FORT DES MOINES, and Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa being more particularly described as Parcel 2016-117 on the Plat of Survey filed May 17, 2016 in Book 16005, Page 315 in the Polk County Recorder’s Office.
4. The City shall pay an estimated total of \$390,650 for the initial ten year term of the Lease Agreement, as follows:
 - a) \$13,900 for the first five (5) years of the Lease Agreement,
 - b) \$14,230 for years 6-10 of the Lease Agreement; and
 - c) \$250,000 total for maintenance and repairs for the initial 10 year period of the lease term and \$250,000 for 2 five-year renewals, if any.
5. Employers Mutual Casualty Company shall have the right to extend the Lease Agreement for two five-year terms at a lease rate that is subject to approval of the City Council at the time of such renewals.



Roll Call Number

22-0062

Agenda Item Number

44(B)

Date January 10, 2022

WHEREAS, a copy of the proposed Lease Agreement is on file in the office of the City Clerk; and

WHEREAS, the Lease Agreement shall be payable solely out of the City's General Fund.

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

Section 1. Authority and Purpose. The Lease Agreement authorized by this resolution and related documents between the City of Des Moines, Iowa, and Employers Mutual Casualty Company for the lease of real estate and certain park improvements located at 701 Walnut Street, for use by the Parks and Recreation Department as a public park, said Lease Agreement to be for an initial term of ten years, with the option of 2 five-year renewals, and said Lease Agreement calls for payment in the amount of \$390,650 over the course of the initial term, payable as annual rental amounts of \$13,900 for the first five (5) years of the Lease Agreement and \$14,230 for years 6-10 of the Lease Agreement; and \$250,000 in total for maintenance and repairs for the initial 10 year period and \$250,000 in total (\$25,000 annually) for maintenance and repairs costs during 2 five-year renewals, if any, with rental amounts for Lease renewals, if any, subject to City Council approval at the time of such renewals, shall be issued pursuant to Sections 364.4 and 384.25 of the Code of Iowa, and in compliance with all applicable provisions of the Constitution and laws of the State of Iowa. The Lease Agreement and related documents are hereby authorized to be issued in a form in accordance with the terms of this resolution.

Section 2. Execution. The Mayor is authorized and directed to sign the Lease Agreement, and the City Clerk is authorized and directed to attest to the Mayor's signature, and shall forward the original of the Lease Agreement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department.

Section 3. Source of Payment. Rental payments due under the Lease Agreement shall be payable solely out of the City's General Fund and the Finance Director is hereby authorized to pay all future payments due under the Lease Agreement.

Section 4. Administration of Lease Terms, Amendments. The City Manager, or his designee, is authorized to administer the terms of the Lease Agreement and to sign any addendum regarding the beginning date of the Lease and any minor and non-substantial amendments to the Lease Agreement.



Roll Call Number

22-0062

Agenda Item Number

44 (B)

Date January 10, 2022

(Council Communication No. 22- 003)

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
SHEUMAKER		✓		
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6	1		

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.

J. M. Frankhu Cownie
Mayor

P. Kay Cmelik
City Clerk

CITY OF DES MOINES
And
EMPLOYERS MUTUAL CASUALTY COMPANY
LEASE AGREEMENT
FOR
USE OF 701 WALNUT STREET AS PARKLAND

THIS LEASE AGREEMENT (the "Lease") made this 10th day of January, 2022, by and between EMPLOYERS MUTUAL CASUALTY COMPANY, an Iowa corporation, located at 717 Mulberry Street, Des Moines, Iowa 50309 ("EMC") and CITY OF DES MOINES, IOWA, an Iowa municipal corporation, located at 400 Robert D. Ray Drive, Des Moines, Iowa 50309 (the "City").

WHEREAS, EMC owns the property located at 701 Walnut Street in Des Moines, Iowa more specifically identified as:

That part of Lots 5 and 6 in Block 1, FORT DES MOINES, and Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa being more particularly described as Parcel 2016-117 on the Plat of Survey filed May 17, 2016 in Book 16005, Page 315 in the Polk County Recorder's Office.

which includes certain improvements constructed by EMC and that may for the term of this Lease be for the enjoyment and recreation of the general public (the "Property"); and

WHEREAS, the City Parks and Recreation Department is charged with the responsibility of providing safe parks, trails and related facilities within the City of Des Moines; and

WHEREAS, EMC desires to benefit the residents of Des Moines by funding and providing for the construction and installation of improvements to the Leased Premises as shown on the attached **Exhibit A** and leasing this property to the City to be maintained and operated as a public park for a limited duration; and

WHEREAS, the City is desirous of entering into such lease agreement.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

1. Leased Premises: EMC agrees to lease to the City and the City agrees to lease from EMC that portion of the Property (the "Leased Premises") shown on **Exhibit A**, including the improvements located on the Leased Premises as shown on **Exhibit A** (the "Improvements") subject to the terms of this Lease. EMC warrants that it has

merchantable fee simple title to the Leased Premises and the Improvements. The Leased Premises does not include the exterior wall on the north side of the Property.

2. Maintenance of Improvements: Upon commencement of the term in Section 3, the City will maintain and inspect the Improvements and site furnishings in its sole discretion and in a manner at the standard used in other comparable City parks, subject to funding approved by the City Council. Notwithstanding the foregoing, and subject to the below described annual expense cap on the City's responsibility for repairs and replacements, and further subject to the City's duties described in **Exhibit B**, the City shall provide maintenance, inspections, and repairs and replacements of the Improvements and site furnishings. The City's responsibility to perform and pay for repairs and replacements is capped at a cost of \$25,000 per City fiscal year (July 1 through June 30). For partial fiscal years, the financial cap will be prorated based on the number of days remaining in such partial year. When the City's expenses for repair and replacements exceeds \$25,000, it will promptly notify EMC, after which point EMC will be responsible to perform and pay for all repairs and replacements for the remaining portion of the City fiscal year. Further, and notwithstanding the City's duties set forth above or in **Exhibit B**, EMC may, at its own expense, maintain, inspect and perform repairs and replacements to any Improvements or the Leased Premises as it deems appropriate, in its sole discretion, subject to the Parks and Recreation Director approval of the work which EMC proposes to be performed and the schedule for such work. The City agrees that such approval will not be unreasonably withheld.

Notwithstanding the foregoing, and without limiting the City's obligations elsewhere in this Lease, the City shall, in its sole discretion, in a manner or standard that is used in other comparable City parks, take all measures deemed necessary or prudent to protect the health, welfare and safety of the public, including, without limitation, to make immediate repairs, removal of any Improvement not timely repaired by EMC, to close the Leased Premises or a section thereof to the public, or to secure an Improvement or site furnishings to limit public access while waiting for repair, replacement or removal. In the event that any Improvement or site furnishing is removed by the City, the City agrees that such removed Improvement or site furnishings, to the extent reasonably practical, will be stored for EMC to have the opportunity to retrieve. In such cases, EMC shall hold the City harmless for such removal, transit and storage which may result in any damage to such removed Improvement or site furnishing, provided the City acted with reasonable care.

3. Term: This Lease shall not become effective unless and until the zoning of the Leased Premises permits the use of a public park. The term of the Lease shall begin after completion of the Improvements, which is expected to be on or about September 15, 2022, with the specific date to be determined pursuant to an addendum to this Lease executed by the City Manager and EMC (the "Commencement Date"), and shall continue for a ten (10) year period (the "Initial Term"). Failure to complete the Improvements by September 15, 2022 will not constitute a breach of this Lease, provided EMC is taking commercially reasonable steps towards completion and all Improvements shall be completed by May 15, 2023. After this Initial Term, this Lease shall automatically renew for an additional five (5) years (the "First Renewal Term"), subject to City Council

approval, unless twelve (12) months prior to the end of the Initial Term, EMC gives written notice to the City that it elects to terminate the Lease. After the First Renewal Term, the Lease shall automatically renew for five (5) additional years (the "Second Renewal Term"), subject to City Council approval, unless twelve (12) months prior to the end of the First Renewal Term, EMC gives written notice to the City that it elects to terminate the Lease.

4. Rental: The Initial Term annual rent for the Leased Premises shall be paid upon completion of the park in the amounts and on the dates set forth in **Exhibit C** attached hereto. The annual rent for the First Renewal Term and Second Renewal Term will be set forth in an amendment to this Lease. The parties agree to work in good faith to establish the annual rent for the First Renewal Term and Second Renewal Term at least twelve (12) months before the termination of the then applicable term
5. Use of Premises: EMC shall provide, and the City will maintain, a park entry sign located near the southeastern entrance of the Leased Premises, as depicted, and which sign shall conform to the design set forth, in **Exhibit D**, designating the Leased Premises as a park bearing the name requested by EMC and approved by the City Council by resolution per Section 15 below. The City will refer to the Leased Premises as such named park. Additionally, the City agrees to maintain a park donor and/or contributors sign installed at a mutually agreed to location within the Leased Premises. The park donor sign shall be provided by EMC and shall conform to an aesthetic standard and design as mutually agreed to in writing by EMC and the Parks and Recreation Director, which such agreement may occur after this Lease. Nothing herein shall require the City to provide or maintain additional signage on the Leased Premises, however, the City shall have the right to install and exhibit signage consistent with signage in the City parks. The City may use the Leased Premises solely for the purposes of a public park and open space, including the right to permit City, public and private events to be held at the Leased Premises. The City's ordinances and rules pertaining to parks shall apply to the use of the Leased Premises upon it and during the term of this Lease.
6. Artwork: No artwork is anticipated to be installed on the Leased Premises. If artwork is installed at a later time, its approval and installation shall be subject to all City requirements pursuant to a separate agreement. Public artwork that may be adjacent to the Park or otherwise not within the boundaries of the Park shall be the sole responsibility of EMC and shall not be subject to City approval or installation requirements.
7. EMC's Ownership of the Improvements: EMC shall own the Improvements and site furnishings installed at the Leased Premises. The Improvements must be constructed and installed in substantial conformity with **Exhibit A**; provided, however, the parties expressly acknowledge that **Exhibit A** is a work in progress and depicts only a two-dimensional rendering of the Improvements. If the final rendering of the Improvements materially differs from the attached **Exhibit A**, the parties will work in good faith to amend this Lease to include an updated exhibit.
8. Notice of Needed Repair and Replacement: In the event that a party (the "Notifying Party") becomes aware, in its reasonable determination, that any of the Improvements or

furnishings need repair or replacement and that such repair or replacement is the responsibility of the other party (the "Responsible Party"), it shall provide written notice to the Responsible Party of such need. The Responsible Party shall notify the Notifying Party within five (5) days that it intends to repair or replace the Improvement or furnishing and shall complete the work within ten (10) days from the date of notice or, if repair or replacement cannot reasonably be completed in such period, provide a plan to complete such repair or replacement as soon as practicable. If the Responsible Party either fails to notify or fails to complete the work within the relevant period, the Notifying Party may repair, replace or remove the Improvement or furnishing within its sole discretion and submit an invoice to the Responsible Party for incurred expenses, which shall be paid within thirty (30) days. All repair work must conform to the City's usual standards for repair and safety of improvements and site furnishings. If EMC decides to replace an Improvement with a different Improvement, it must first receive written approval of the Parks and Recreation Director, which may be given electronically, including via e-mail, which shall not be unreasonably denied, taking into consideration the aesthetic appearance of the replacement to the park features and furnishing and public safety concerns.

9. Park Security: The City will provide security at the Leased Premises consistent with security provided at similar parks and in conformance with its usual practices for park security. Notwithstanding the foregoing, EMC may provide additional security at its own expense and will have the right to monitor and secure the Leased Premises consistent with EMC's other commercial properties. By providing any additional security, EMC does not create any obligation or duty to provide ongoing or similar security in the future, and nor does EMC waive any obligations of the City to provide security. EMC may install security cameras on or around the Leased Premises to monitor the Leased Premises. To the extent EMC provides additional security under this Section, EMC agrees to take commercially reasonable efforts to not interfere with specific direction of the Police Department, the Fire Department, and emergency orders of the Mayor or City Manager; provided, the foregoing does not impose any duties or obligations on EMC to implement or enforce any such directions or orders. Consistent with the manner in which EMC contacts the City Police Department for incidents occurring on any of its Des Moines properties, EMC will likewise contact the Police Department if its security officers observe or learn of incidents within the Leased Premises that EMC reasonably believes warrant Police Department notification.
10. Right to Enter Leased Premises: In the event that EMC desires to enter the Leased Premises to exercise any rights it may have under this Lease or as owner of the Leased Premises, its staff, agents, and contractors may enter the Leased Premises during any hours it deems appropriate, including times before, during, and after when the park is open to the public unless otherwise directed by the City.
11. Acceptance of Leased Premises: In entering this Lease, the City shall be deemed to accept the Leased Premises "as is". The parties agree that neither EMC nor the City will have responsibility to maintain, repair or replace the Improvements, except as otherwise described in this Lease.

12. Sidewalks: EMC is responsible to keep and maintain the sidewalks adjacent to the Leased Premises, in good, sanitary and neat order, condition and repair, and to provide snow removal from the sidewalks, as shown in **Exhibit E**. Liability for adjacent rights of way shall continue to be EMC's as the owner of the Leased Premises.
13. Rights Reserved by EMC: Subject to availability, EMC may use the entire or part of the Lease Premises for its exclusive use up to twelve (12) times per year in four (4) hour increments. To exercise its right to exclusive use, EMC must notify the City fifteen (15) days in advance of the scheduled event. Such notice must include the date, time, purpose of the event, and the portions of the Leased Premises EMC will occupy.

The City shall waive park fees or waive applicable rental fees for these events.

In addition, EMC may utilize the Leased Premises by following the then-existing system by the Des Moines Parks and Recreation Department for reserving and using a public park.

14. Indemnification; Liability: The City, and not EMC, is solely liable for, and agrees to defend, hold harmless, and indemnify EMC from and against, all third party claims, causes of action, lawsuits, and any other action of any kind, and any costs, damages, losses, and expenses (including attorneys' fees) to the extent they are arising out of or relating to the operation of the Leased Premises or the City's obligations under this Lease, including, without limitation, personal injury, bodily injury, death, and property damage related thereto.

EMC, and not the City, is solely liable for, and agrees to defend, hold harmless, and indemnify the City from and against, all third party claims, causes of action, lawsuits, and any other action of any kind, and any costs, damages, losses, and expenses (including attorneys' fees) to the extent they are arising out of or relating to the design defects or flaws arising under the design of the Improvements, the initial construction or installation of the Improvements, and for repair or replacement performed by EMC or its contractors on the Leased Premises, including, without limitation, personal injury, bodily injury, death, and property damage related thereto.

15. Naming Rights. The Leased Premises shall be designated "EMC Downtown Park" during the term of this Lease, as recommended by EMC and which is approved by resolution of the City Council. Naming rights to Improvements are subject to compliance with the City's Policy for Naming of Streets, Facilities and Park Land in the City of Des Moines. Signage indicating the Improvements name and donor and contributors recognition signage will be displayed at the Park and such signage location, size, and wording must receive the approval of the City Parks and Recreation Department Director prior to installation. EMC is solely responsible for the costs of Improvements naming and donor and contributors signage. Naming recognition is subject to future change/reconsideration by the City in the event that the naming becomes damaging to the City's reputation, or contradictory to applicable law, as determined by the City, in conformance with the City's Policy for Naming of Streets, Facilities and Park Land in the City of Des Moines, as it may be amended from time to time.

16. Taxes: EMC is responsible for timely paying all taxes due on the Premises. This obligation does not impair EMC's right to properly challenge or appeal any appraisal or taxes due.
17. Covenant of Quiet Enjoyment: The City, upon commencement of the Lease, shall enjoy the peace and quiet use of the Leased Premises without any unreasonable disturbance from EMC, its agents or employees, except as otherwise stated in this Lease.
18. Compliance with Law: The City, at its sole expense, shall comply with all laws, orders and regulations of governmental authorities, and with any direction of any public officer, pursuant to law, which shall impose any duty upon EMC or the City with respect to the Leased Premises while being used as a public park and open space available to the public. The City, at its sole expense, shall obtain all licenses or permits which may be required for maintenance of a public park. The City shall not use or knowingly permit any part of the Leased Premises to be used in any unsightly manner or permit any nuisance thereon.
19. Termination of Lease and Defaults: This Lease shall terminate upon expiration of the term or any extension pursuant to Section 3. Upon default by either party in the performance of any of its obligations in accordance with the terms and provisions of this Lease, this Lease may, at the option of either party, be canceled and forfeited; provided, however, before any such cancellation and forfeiture, the party asserting default on the part of the other party shall give the other party written notice specifying the default, or defaults, and stating that this Lease will be canceled and forfeited 30 days after the giving of such notice, unless such default, or defaults, are remedied within such grace period.
20. Surrender of Premises at Termination: The City agrees that upon the termination of this Lease, the City shall surrender and deliver the Leased Premises with the Improvements, if any. Nothing herein requires the City to deliver any of the Improvements which are not already in existence at the termination of this Lease.
21. Mechanic's Liens: Neither the City nor anyone claiming by, through, or under the City, shall have the right to file or place any mechanic's lien or other lien of any kind of character whatsoever, upon the Leased Premises or upon any building or improvement thereon, or upon the leasehold interest of the City therein, and notice is hereby given that no contractor, subcontractor, or anyone else who may furnish any material, service or labor for any building, improvements, alteration, repairs or any part thereof, shall at any time be or become entitled to any lien against the Leased Premises.
22. Notices: Notices as provided for in this Lease Agreement to the City shall be deemed sufficient if sent by certified mail with return receipt to Parks and Recreation Director, City of Des Moines, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309. Notices as provided for in this Lease Agreement to EMC shall be deemed sufficient if sent by certified mail with return receipt to Employers Mutual Company, 717 Mulberry Street, Des Moines, Iowa 50309.

23. No Right of the City to Assign and Sublease: The City shall have no right to assign this lease or sublet all or any portion of the Leased Premises without written consent of EMC.
24. Construction: This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Iowa.
25. Lease Subject to Rezoning Approval and Maintenance of Zoning District: The Leased Premises must be rezoned to allow the park use provided for in this Lease. This Lease is subject to, and shall not be effective until, publication of an ordinance approved by the Des Moines City Council rezoning the Leased Premises to a zoning district that allows the park use as a permitted use pursuant to Des Moines Municipal Code Chapter 134. EMC and City shall use the Leased Premises in accordance with the rezoning ordinance, including any conditions set forth therein, and shall refrain from requesting or initiating rezoning of the Leased Premises to any zoning district that does not permit park use for the duration of this Lease and its renewals if applicable. Upon the termination or expiration of this Lease for any reason, EMC may seek to have the Leased Premises rezoned for commercial use and the City will not object to such rezoning.
26. Water and Utilities. The City is solely responsible for paying, at its expense, all invoices for utilities consumed at the park, including electrical and water service, as used in a manner consistent with similar City parks, including, at a minimum, operation of the lighting fixtures and drinking fountains in the Leased Premises. This City payment obligation is subject to separate utility meters being for use at the park being installed by EMC during EMC's construction of such utility services to the Leased Premises prior to the Commencement Date.
27. Skywalk. The Leased Premises does not include any portion of the skywalk system, and nothing in this Lease shall be deemed to affect the skywalk system or any portion thereof, such as vertical access facilities, skywalk corridors, skywalk bridges, or nodal areas. Nor shall this Lease be deemed a part of, or an amendment to, a variance of, or an exception to, any skywalk agreements by and between the City, EMC, and any other parties, the skywalk map, or the skywalk ordinance.

IN WITNESS WHEREOF, we have hereunto set our hands and seals the day and year first above written.

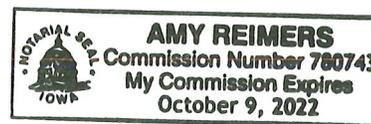
EMPLOYERS MUTUAL COMPANY

Todd Strother
by: Todd Strother
its: Executive Vice President

STATE OF IOWA }
 } ss:
COUNTY OF POLK

This instrument was acknowledged before me on December 15th, 2021, by Todd Strother as EXP of Employers Mutual Casualty Company, an Iowa corporation, on behalf of whom the instrument was executed.

Amy Reimers
Notary Public in the State of Iowa



CITY OF DES MOINES, IOWA

T.M. Franklin Cownie
T. M. Franklin Cownie, Mayor

Attest:

P. Kay Cmelik
P. Kay Cmelik
City Clerk

Form Approved:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

STATE OF IOWA }
 } ss:
COUNTY OF POLK

On this 10th day of Jan, 2022, before me, the undersigned, a Notary Public, personally appeared T. M. FRANKLIN COWNIE and P. KAY CMELIK, to me personally known, who, being by me duly sworn, did state that they are the MAYOR and CITY CLERK, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution adopted under Roll Call No. 22-0062, dated January 10, 22 and that T. M. Franklin Cownie and P. Kay Cmelik acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Sandi L. Deery
Notary Public in the State of Iowa



EXHIBIT A LEASED PREMISES AND IMPROVEMENTS



EXHIBIT B
MAINTENANCE, REPAIR, AND REPLACEMENT RESPONSIBILITIES

ACTIVITY*	RESPONSIBLE ENTITY**	INTERVAL	
		April - October	November - March
Artwork and artful elements - maintenance, repair	EMC	As Needed	As Needed
Decomposed granite - rake, refill/repair****	City	Weekly	As Needed
Drains - clean out, maintenance, repair	City	As Needed	As Needed
Electrical - maintenance, repairs	City	As Needed	As Needed
Graffiti - removal***	City	As Needed	As Needed
Irrigation - set-up, back-flow inspection, routine maintenance in summer, shutdown, repair/replace	City	As Needed	N/A
Landscape plantings - general care of shrubs, perennials, groundcover, annuals, replace	City	Weekly	As Needed
Light bulbs - replacement (except streetlights)	EMC	As Needed	As Needed
Litter/trash – removal	City	Daily	Daily
Natural disasters - clean-up, signage, barricades	City	As Needed	As Needed
Pavers - maintenance, replace/repair****	City	As Needed	As Needed
Play surfacing - maintenance, repair/replace	City	As Needed	As Needed
Plumbing - repairs	City	As Needed	As Needed
Pressure washing - paved surfaces, synthetic turf, vertical elements***	City	Monthly	N/A
Signage - maintenance, repair/replace	City	As Needed	As Needed
Site furnishings/fixtures - cleaning, painting***, repair/replace***	City	Weekly, As Needed	As Needed
Snow removal – park/interior pathways and hard surface paving, see Exhibit D	City	As Needed	As Needed
Snow removal - right of way/exterior sidewalks, see Exhibit D	EMC	As Needed	As Needed
Trees – inspection, maintenance, care	City	Weekly	As Needed
Turf - mowing, spraying weeds	City	Weekly	N/A
Window/glass – cleaning	EMC/SSMID	Weekly	As Needed
Stormwater Facilities (excluding underground facilities) – maintenance, repair, and replace (consistent with City Code Section 106-136(h), including maintaining records of inspection)	City	As Needed	As Needed

NOTES:

1. Repairs and replacements: Per the Lease the City's responsibility for repairs and replacements is capped at a cost of \$25,000 per City fiscal year. EMC is responsible for repairs and replacements when the City's annual costs have exceeded this \$25,000 cap.

2. Skywalk stairs and elevated corridor are not included in the leased premises or any responsibilities of the Parks and Recreation Department's maintenance obligations and are solely the responsibility of EMC.

* EMC and City shall each designate a primary point of contact, and their back-up, for coordination of Activities. These contacts shall be confirmed annually by March 1st.

** Where City is designated as responsible entity, EMC may choose to perform the Activity at a greater interval than the City following courtesy coordination between primary points of contact.

*** This Activity will only be completed by the City following approval of City's approach by EMC.

**** Materials associated with this Activity may be provided by EMC if the City cannot obtain a match or an approved equal.

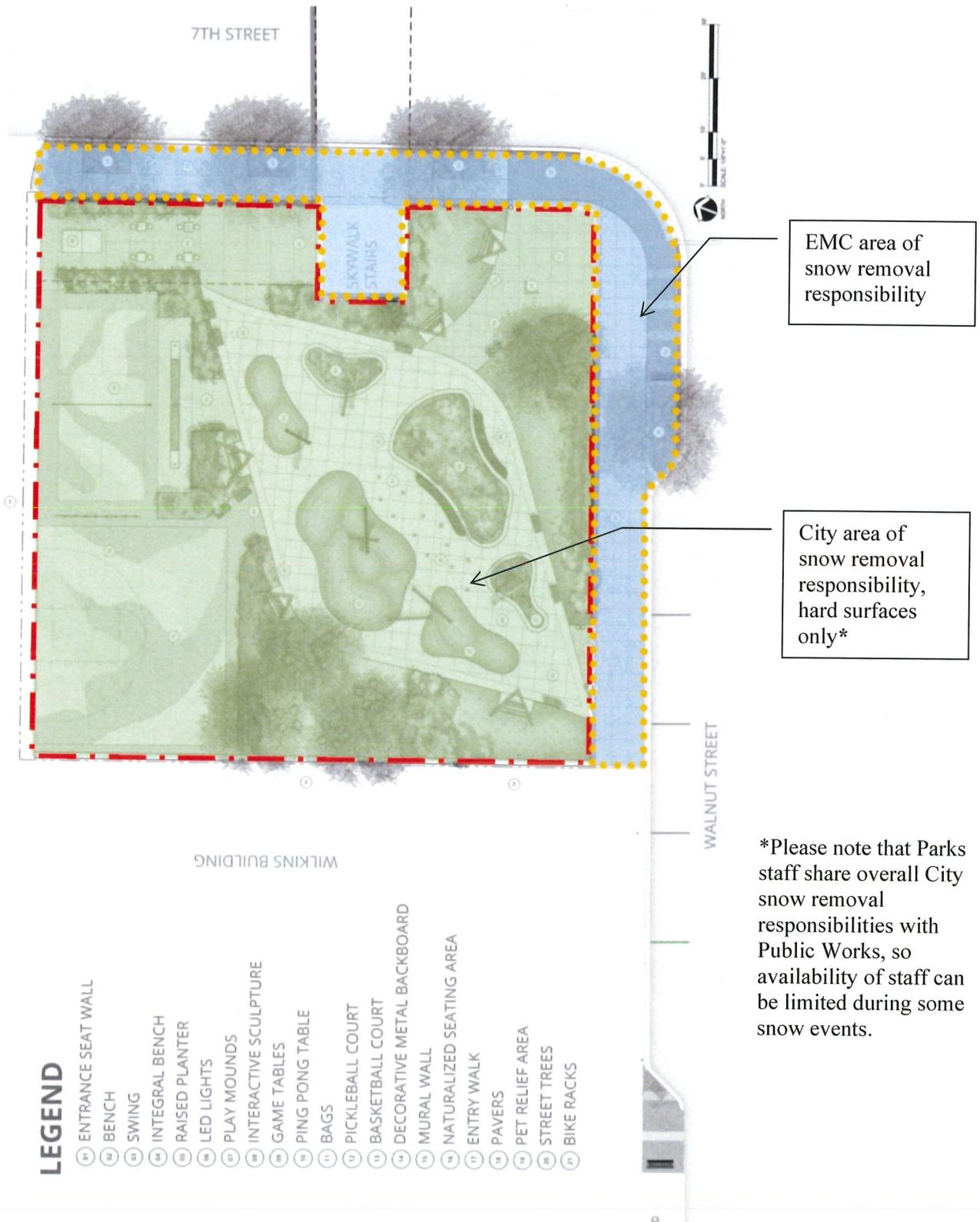
EXHIBIT C
ANNUAL RENT

Lease Year	Fall Lease Pmt Due Each 10/31	Spring Lease Pmt Due Each 4/30	Total Annual Rent
1	\$ 6,950	\$ 6,950	\$ 13,900
2	\$ 6,950	\$ 6,950	\$ 13,900
3	\$ 6,950	\$ 6,950	\$ 13,900
4	\$ 6,950	\$ 6,950	\$ 13,900
5	\$ 6,950	\$ 6,950	\$ 13,900
6	\$ 7,115	\$ 7,115	\$ 14,230
7	\$ 7,115	\$ 7,115	\$ 14,230
8	\$ 7,115	\$ 7,115	\$ 14,230
9	\$ 7,115	\$ 7,115	\$ 14,230
10	\$ 7,115	\$ 7,115	\$ 14,230

EXHIBIT D
PARK ENTRY SIGN



EXHIBIT E SNOW REMOVAL RESPONSIBILITIES



LEGEND

- ① ENTRANCE SEAT WALL
- ② BENCH
- ③ SWING
- ④ INTEGRAL BENCH
- ⑤ RAISED PLANTER
- ⑥ LED LIGHTS
- ⑦ PLAY MOUNDS
- ⑧ INTERACTIVE SCULPTURE
- ⑨ GAME TABLES
- ⑩ PING PONG TABLE
- ⑪ BAGS
- ⑫ PICKLEBALL COURT
- ⑬ BASKETBALL COURT
- ⑭ DECORATIVE METAL BACKBOARD
- ⑮ MURAL WALL
- ⑯ NATURALIZED SEATING AREA
- ⑰ ENTRY WALK
- ⑱ PAVERS
- ⑲ PET RELIEF AREA
- ⑳ STREET TREES
- ㉑ BIKE RACKS