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**Date** October 19, 2020

HEARING AND RESOLUTION TAKING ACTION ON THE PROPOSITION TO AUTHORIZE AND ENTER INTO AN AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF DES MOINES AND KOCH BROTHERS, INC. FOR THE LEASE OF UP TO 44 ADDITIONAL MULTI-FUNCTION DEVICES (PRINTER, COPIER, SCANNER AND FACSIMILE) FOR USE IN CITY OPERATIONS FOR A PERIOD NOT TO EXCEED FIVE YEARS, IN THE AMOUNT NOT TO EXCEED AN ADDITIONAL \$440,608.78 (\$1,150,000.00 TOTAL) AND AUTHORIZING FINANCE DIRECTOR TO ENTER INTO SUCH ADDITIONAL LEASES

WHEREAS, on September 23, 2019, by Roll Call No. 19-1551, the City Council authorized and entered into a lease agreement with Koch Brothers, Inc. for the lease of 81 multi-function devices (printer, copier, scanner, and facsimile) for use in City operations for a five year period, in the amount not to exceed \$709,391.22, (“the Lease”) following a hearing pursuant to the Iowa Code; and

WHEREAS, it is now deemed necessary and advisable that the City of Des Moines, Iowa, should enter into a Lease Agreement Amendment for the rental of up to an additional 44 multi-function devices (printer, copier, scanner and facsimile) (125 total devices) for use in City operations for a period not exceed five years, in an amount not to exceed an additional \$440,608.78 (\$1,150,000.00 total) to be paid in less than sixty monthly installments during the five year term of the Lease (the “Lease Agreement Amendment” or “Amendment”) as authorized by Sections 364.4 and 384.25 of the Code of Iowa for the purpose of providing funds to pay costs of acquiring the devices as hereinafter described; and

WHEREAS, the term of the proposed Amendment will not exceed the economic life of the property to be leased; and

WHEREAS, the Lease and Amendment shall be payable solely and only out of the City’s general fund and various enterprise funds of the City of Des Moines, and will not cause the total annual lease or lease payments due from the general fund in any single future fiscal year for all lease contracts currently enforced to exceed ten percent of the last certified general fund budget amount; and

WHEREAS, a copy of the proposed Amendment is on file in the Office of the City Clerk which provides that the City shall pay less than 60 monthly lease payments during the five year term for such additional multi-function devices; and

WHEREAS, before the proposed Agreement may be authorized, it is necessary to comply with the provisions of the Code of Iowa Sections 364.4 and 384.25 and to publish a notice of the proposal and of the time and place of the meeting at which the City Council proposes to take action for the authorization of the Amendment and to receive oral and/or written objections from any resident or property owner of said City to such action; and



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WHEREAS, pursuant to Sections 364.4 and 384.25 of the Code of Iowa, notice of the hearing on the proposed authorization of a Lease Agreement Amendment between the City of Des Moines and Koch Brothers, Inc. for a period of up to 5 years in the additional amount of not to exceed \$440,608.78 (\$1,150,000.00 total), for an additional 44 multi-function devices (printer, copier, scanner and facsimile) (125 devices total) for use in conjunction with City operations. The Lease Agreement Amendment, on file in the Office of the City Clerk at City Hall, provides that the City shall pay for such additional multi-function devices for less than 60 monthly payments during the five-year term. The Lease Agreement Amendment and Lease Agreement will be payable from the general fund and various enterprise funds of the City; and

WHEREAS, on October 5, 2020 by Roll Call No. 20- 1570, the City Council resolved that the proposition to authorize and enter into the Lease Agreement Amendment be set down for hearing on October 19, 2020 at 5:00 p.m. in the in the MSC Board Room, 2<sup>nd</sup> Floor, Municipal Service Center, 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa; and

WHEREAS, due notice of said proposal and the time and place of said hearing was published in the Des Moines Register on October 8, 2020, as provided by law.

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

1. The public meeting and hearing on the City's proposition to authorize and enter into an Lease Agreement Amendment with Koch Brothers, Inc. for the purpose of leasing up to an additional 44 multi-function devices (printer, copier, scanner and facsimile) (125 total) has been duly held at the time and place provided and in accordance with said notice, oral or written objections from residents or property owners of the City have been received and filed.
2. That the time for receiving oral and written objections from any resident or property owner of the City and the hearing be closed and the proposition to authorize and enter into the Lease Agreement Amendment with Koch Brothers, Inc. and all objections thereto are taken into consideration by the City Council.
3. The City hereby takes action to authorize, approve and enter into the Lease Agreement Amendment with Koch Brothers, Inc. and all incorporated and ancillary documents and the City Manager is hereby authorized and directed to sign the Amendment to Master Lease Agreement.
4. The City Manager or his designee is hereby authorized and directed to administer the terms of the Lease Agreement as amended and to sign all other incorporated and ancillary documents thereto including but not limited to, letters, Acknowledgement of Assignment, ~~orders for up to 44 additional copiers~~ and certificates as may be required. The Finance Director is authorized to sign Delivery and Acceptance Certificates. The City Risk Manager is authorized to sign Evidence of Insurance documents and letters. The City Clerk is authorized to sign Incumbency Certificate of Incumbency. The Finance Director is authorized and

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directed to make all rental payments in accordance with the terms of the Lease Agreement as amended.

5. The Finance Director is authorized to initiate and execute on behalf of the City leases for the lease of up to 44 additional multi-function devices in one or more additional Schedules to the Master Lease Agreement as set out in the Master Lease agreement as amended.

(Council Communication No. 20- 464 )

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

Ann DiDonato  
 Ann DiDonato  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

**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

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk