



Date December 20, 2021

HOLD HEARING FOR APPROVAL OF A LEASE AGREEMENT WITH POWER BOAT CLUB ON THE RIVER, INCORPORATED FOR A PORTION OF EXCESS CITY PROPERTY LOCATED ON THE NORTH BANK OF THE DES MOINES RIVER LOCALLY KNOWN AS DISTRICT/PARCEL 070/02223-003-000

WHEREAS, the Des Moines Power Boat Club, Inc. has leased the below described portion of Birdland Park from the City since at least 1948 for use as storage for its club member's boats; and

WHEREAS, on April 16, 2001, by Roll Call No. 01-1139 the City Council approved a 5 year lease agreement with the Des Moines Power Boat Club, Inc. for use of land at Birdland Park along the north bank of the Des Moines River, more specifically described below (hereinafter "Leased Premises"); and

WHEREAS, on May 22, 2006, by Roll Call No. 06-1034, the City Council of the City of Des Moines, Iowa voted to approve the vacation of the Leased Premises and a five year lease agreement with Des Moines Power Boat Club, Inc.; and

WHEREAS, on June 19, 2006, by Roll Call No. 06-1229, the City Council of the City of Des Moines, Iowa voted to approve the third reading and pass Ordinance No. 14,570 vacating said Leased Premises; and

WHEREAS, the Des Moines Power Boat Club, Inc. and the City of Des Moines entered into subsequent lease agreements for use of the Leased Premises in 2012, 2015, 2018 and 2019 with the current lease set to expire on December 31, 2021; and

WHEREAS, the City of Des Moines and Power Boat Club on the River, Incorporated (name changed in 2018) have negotiated the terms of a new Lease Agreement ("Agreement") which will include, among other terms, the following:

- A fixed ten (10) year lease term (Initial Term) with the right to renew the Lease Agreement for two additional five (5) year terms;
- The City of Des Moines retains the right to terminate the Agreement with a 30-day notice if such termination becomes necessary due to what the CITY deems to be the best interest of the Public.
- Rental fee for the Initial Term shall be paid according to the following schedule:
 - Year one = \$3,700.00
 - Year two = \$3,750.00
 - Year three = \$3,800.00
 - Year four = \$3,850.00
 - Year five = \$3,900.00
 - Year six = \$4,000.00
 - Year seven = \$4,100.00
 - Year eight = \$4,200.00

Date December 20, 2021

- Year nine = \$4,300.00
- Year ten = \$4,400.00
- Rental fee to be revalued at the end of the Initial Term and following the receipt of notice of intent to renew from Power Boat Club on the River, Incorporated;

which amounts reflect the fair market value of the Leased Premises as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the Property proposed to be leased, and the City will not be inconvenienced by the lease of said Property; and

WHEREAS, on December 6, 2021, by Roll Call No. 21-1819, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed lease of said portion of vacated parkland be set for hearing on December 20, 2021, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to lease the Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed lease, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed lease of said Property as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the vacated parkland proposed to be leased, and the public would not be inconvenienced by reason of the lease of the vacated parkland located along the north bank of the Des Moines River, Des Moines, Iowa, legally described as follows, to Power Boat Club on the River, Incorporated, for Forty Thousand Dollars (\$40,000.00) for the initial ten-year term of the agreement, subject to a reservation of easements therein, and further subject to all terms and conditions contained in the Lease Agreement:

Part of the Northeast ¼ of Section 34, Township 79 North, Range 24 West of the 5th P.M., more particularly described as follows: Commencing at a point of reference at the northeast corner of the Northeast ¼ of said section 34; thence South 0° (degrees) 18' (minutes) 26" (seconds) East along the East line of said Northeast ¼, 341.65 feet; thence south 89° 41' 34" west, 746.40 feet to the point of beginning; thence south 4° 20' 49" West, 139.04 feet to the North Bank of the Des Moines River; thence North 77° 16' 58" West along said North Bank, 365.94 feet; thence North 24° 54' 20" East, 132.84 feet; thence South 78° 40' 25" East, 317.75 feet to the point of beginning,

 **Roll Call Number**

Agenda Item Number

76

Date December 20, 2021

all now included in and forming a part of the City of Des Moines, Polk County, Iowa and containing 1.05 acres.

3. The Mayor is authorized and directed to sign the Lease Agreement as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to 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 for the purpose of causing said documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to 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 Polk County Recorder's Office for the purpose of causing these documents to be recorded.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Lease Agreement and copies of the other documents to the grantee.
7. Proceeds from the lease of this property are used to support the Park and Recreation operating budget expenses: Org-PK001200.

Moved by _____ to adopt.

APPROVED AS TO FORM:

(Council Communication No. 21-552)

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

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

MOTION CARRIED APPROVED

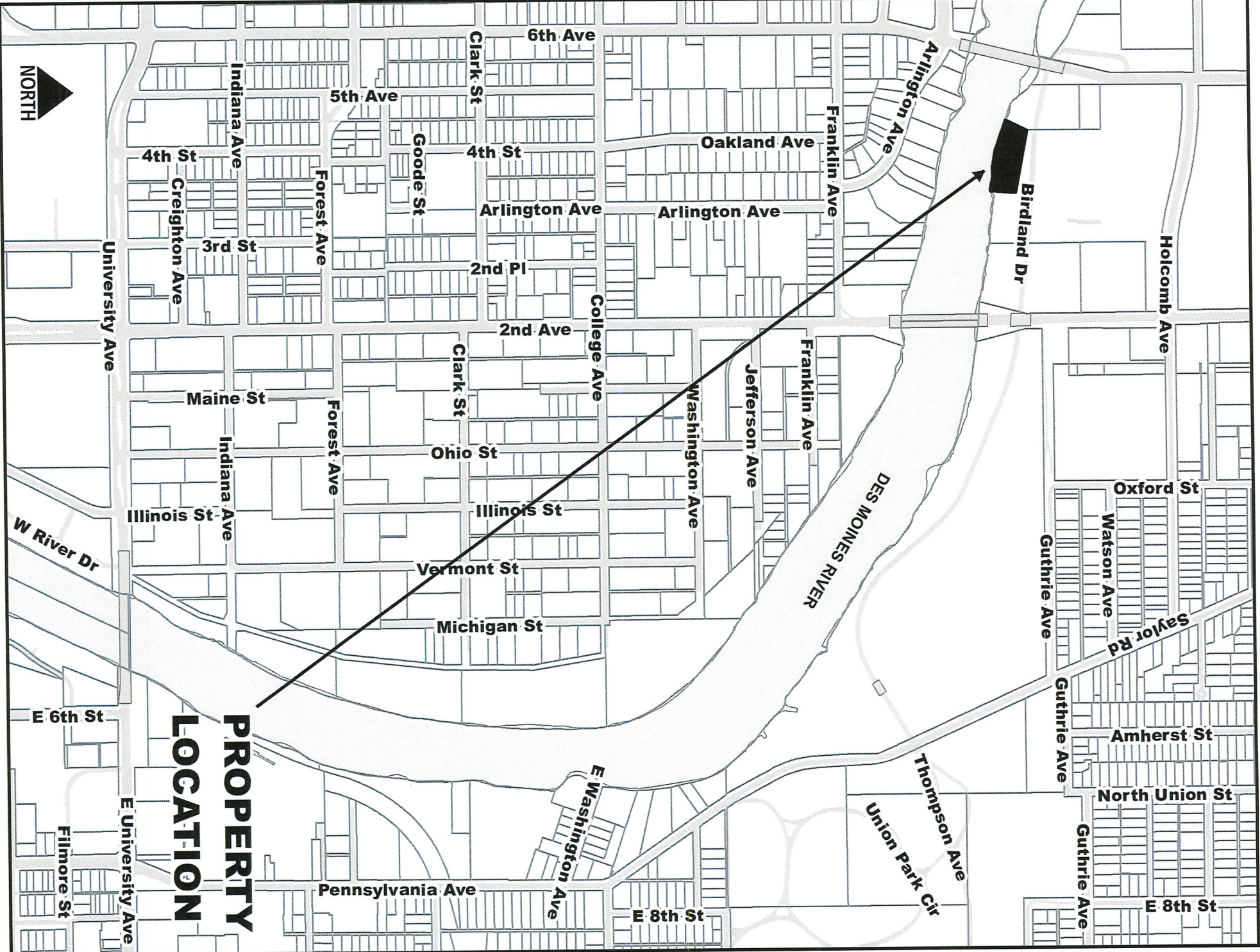
Mayor

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.

City Clerk



76