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**Date** January 23, 2023

**HOLD HEARING ON SECOND AMENDMENT TO LEASE OF THE A.H. BLANK PARK ZOO TO THE BLANK PARK ZOO FOUNDATION, INC. AND APPROVAL OF SAME**

**WHEREAS**, the City of Des Moines owns the facility denoted as the A.H. Blank Park Zoo, located at 7401 SW 9<sup>th</sup> Street, Des Moines, Iowa, 50315 (“Zoo”) and the adjacent A.H. Blank Park (“Park”), which facilities are operated by the Blank Park Zoo Foundation, Inc. (“Foundation”); and

**WHEREAS**, on April 25, 2011, by Roll Call No. 11-0712, the City Council approved the A.H. Blank Park Zoo Lease and Operation, Management and Maintenance Agreement pursuant to which the City will lease the Zoo and the Park (collectively, “Leased Premises”) for the benefit of the general public of the City of Des Moines and the Greater Des Moines metropolitan area, and the Foundation agreed to be responsible to more fully undertake and implement the goals of the SuperBlock Master Plan relating to the Zoo and to enhance and improve the Park and Zoo by being responsible for construction of additional improvements and assuming full operating responsibility for the Zoo and Park, for an initial lease term of 20 years with two 20-year renewal periods at the option of the Foundation, with legal description of the Leased Premises on file in the office of the City Clerk and incorporated by reference herein; and

**WHEREAS**, the Lease Agreement has been amended one time thereafter; and

**WHEREAS**, in March of 2021, the United States Government adopted the American Rescue Plan Act (ARPA) in response to the continuing intertwined public health and economic crisis created by COVID-19 and established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide state, local, and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery; and

**WHEREAS**, the City of Des Moines was allocated and has received funds in the amount of \$94,824,614.00 from SLFRF and pursuant to the Final Rule of the United States Department of Treasury, allocations and expenditure of the funds must meet specific purposes and occur within specific time limitations; and

**WHEREAS**, on July 18, 2022, by Roll Call No. 22-1150, the City Council approved the expenditure of \$1,000,000.00 for contributions to the Foundation for use at the Zoo and Park, as allowed by the Final Rule of the U.S. Department of Treasury for use of ARPA (SLFRF) funds as a provision of government services; and

**WHEREAS**, the City intends to use said funds as to provide \$1,000,000.00 of additional funding to the Foundation for operational support for the Zoo and Park; and

**WHEREAS**, City staff and the Foundation have negotiated a Second Amendment to the Lease Agreement, in substantially the form on file in the City Clerk’s office, providing an upfront, lump-sum payment of \$1,000,000.00 in ARPA (SLFRF) to the Foundation for operational support for the Zoo and Park in accordance with the ARPA federal program requirements and all other existing terms of the Lease Agreement; and

**WHEREAS**, on January 9, 2023, by Roll Call No. 23-0026, it was duly resolved by the City Council that said proposed Second Amendment to the Lease Agreement be set down for hearing on January 23, 2023 at 5:00 pm in the Council Chamber; and



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**WHEREAS**, due notice of said proposed Second Amendment to the Lease Agreement was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed Second Amendment to the Lease Agreement, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed Second Amendment to the Lease Agreement are hereby overruled and the hearing is closed.
2. The proposed Second Amendment to the Lease Agreement with Blank Park Zoo Foundation, Inc., in form on file in the City Clerk's Office and requiring the City to provide \$1,000,000.00 of additional funding to the Foundation for operational support for the Zoo and Park, is hereby approved.
3. The Mayor is authorized and directed to execute said Second Amendment to the Lease Agreement and the City Clerk is authorized and directed to attest to the City Manager's signature.
4. Upon execution by the Mayor, the City Clerk is authorized and directed to forward the original of the Second Amendment to 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. Upon execution of said Second Amendment to the Lease Agreement, the Real Estate Division of the Engineering Department is authorized and directed to forward the original of the said lease amendment, 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 said documents to be recorded.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division shall file the original of Second Amendment to the Lease Agreement and send copies to the City Clerk, the Land Records Clerk, the Parks and Recreation Department, and to the Blank Park Zoo Foundation, Inc.

(Council Communication 23-040) Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM: Second by \_\_\_\_\_.

/s/ Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

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

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, Laura Baumgartner, 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