



Roll Call Number

21-0695

Agenda Item Number

28

Date May 10, 2021

RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION TO AUTHORIZE AN AMENDMENT TO LEASE AGREEMENT WITH U.S.S. HUSMANN, L.L.C. FOR THE RENTAL OF WAREHOUSE SPACE AT 301 SE 8TH STREET FOR TEMPORARY USE BY THE PUBLIC WORKS DEPARTMENT

WHEREAS, the City of Des Moines, Iowa (“City”) and U.S.S. HUSMANN, L.L.C. (“Landlord”) entered into a Lease Agreement (the “Agreement”) dated December 21, 2020 for the rental of warehouse space located at 301 SE 8th Street (“Leased Premises”), for temporary use by the Public Works Department for equipment storage until the Municipal Services Center Phase 2 project is completed; and

WHEREAS, the parties would like to redefine the improvements the Landlord is obligated to complete under the Agreement and to redefine the obligation of both parties to contribute toward such improvements; and

WHEREAS, certain improvements, including an CO2 exhaust system, were not contemplated at the time the Agreement was originally executed; and

WHEREAS, the terms of the Amendment to Lease Agreement have been negotiated by and between the City and U.S.S. HUSMANN, L.L.C. (“Landlord”), as set forth as follows:

1. Landlord shall insure all improvements set forth on Exhibit D to the Agreement, are completed within the Leased Premises as soon as possible.
2. The total cost of all improvements to be made by the Landlord is \$85,734.00.
3. Landlord agrees to pay all costs and expenses related to completing the exterior steps (\$3,325.00) and tear down of a lean to structure (\$6,500.00).
4. In addition, Landlord further agrees to pay \$30,000.00 towards the cost of the improvements set forth on Exhibit D.
5. The City agrees to pay for the remaining cost of improvements, all of which are required for the City’s specific use and occupancy of the Leased Premises, in the amount of \$45,909.00.
6. Upon termination of the Lease or any extension thereof, the City may remove its furniture, furnishings, fixtures, equipment and other property, including but not limited to the CO2 exhaust system, located upon and installed in the subject premises at City’s expense, except as otherwise provided.
7. City shall repair any damage to the Leased Premises to the condition prior to its tenancy, reasonable wear and tear excepted.

WHEREAS, the Amendment to Lease Agreement shall be payable solely out of the City’s General Fund; and



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WHEREAS, prior to authorizing said Amendment to Lease Agreement, the City is required, pursuant to Sections 364.4 and 384.25 of the Iowa Code, to publish notice of the proposal and of the date and time of the meeting at which the City Council of the City of Des Moines, Iowa, proposes to discuss and then take action thereon, and to receive oral and written objections thereto from any resident or property owner of the City.

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

Section 1. That the meeting of the City Council for the purpose of discussing the matter of the authorization of an Amendment to Lease Agreement between the City of Des Moines, Iowa, and U.S.S. HUSMANN, L.L.C. for the rental of 301 SE 8th Street for temporary use by the Public Works Department, said amendment addresses certain improvements that were not contemplated at the time the Agreement was originally executed, the City's portion of which would cost \$45,909, shall be on May 24, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie's March 15, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/85120305288?pwd=ZDkyenYrWVVB3eXpIVFRpVURTV1dGdz09>
Passcode: 214932

Or join by phone:

Dial:

US: +1 312 626 6799 or 833 548 0276 (Toll Free)

Webinar ID: 851 2030 5288

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m.



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May 20, 2021 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Section 2. That the Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four clear days nor more than twenty days before the date of said public meeting on the discussion of the proposed authorization of said Lease Agreement.

Section 3. The notice of the proposed action shall be in substantially the following form:

NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA
ON THE MATTER OF THE PROPOSED AUTHORIZATION OF AN AMENDMENT TO
LEASE AGREEMENT WITH U.S.S. HUSMANN, L.L.C. FOR THE RENTAL OF
WAREHOUSE SPACE AT 301 SE 8TH STREET, AND OF PUBLIC HEARING ON THE
AUTHORIZATION AND EXECUTION THEREOF

PUBLIC NOTICE is hereby given that that the meeting of the City Council for the purpose of discussing the matter of the authorization of an Amendment to Lease Agreement between the City of Des Moines, Iowa, and U.S.S. HUSMANN, L.L.C. for the rental of 301 SE 8th Street for temporary use by the Public Works Department, said amendment addresses certain improvements that were not contemplated at the time the Lease Agreement was originally executed, the City’s portion of which costs \$45,909, shall be on May 24, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie’s March 15, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor’s February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

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Or join by phone:

Dial:

US: +1 312 626 6799 or 833 548 0276 (Toll Free)

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A copy of said amendment is on file in the office of City Clerk and is available for public inspection by contacting the City Clerk, and the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. May 20, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

The Amendment to Lease Agreement shall be payable from the City's General Fund of the City of Des Moines.

At the above meeting, the City Council of the City of Des Moines, Iowa, shall receive oral or written objections from any resident or property owner of the city to the above action. After all objections have been received and considered, the Council will at this meeting, or at any adjournment thereof, take additional action for the authorization of said Amendment to Lease Agreement or will abandon the proposal.

This Notice is given by order of the Council of Des Moines, Iowa, as provided by Sections 364.4 384.25 of the Code of Iowa, as amended.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland

Assistant City Attorney

psw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

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