

City of Omaha
Jean Stothert, Mayor

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2016 JUN 20 PM 3:31
CITY CLERK
OMAHA, NEBRASKA

Public Works Department

Omaha/Douglas Civic Center
1819 Farnam Street, Suite 601
Omaha, Nebraska 68183-0601
(402) 444-5220
Fax (402) 444-5248

Robert G. Stubbe, P.E.
Public Works Director

Honorable President

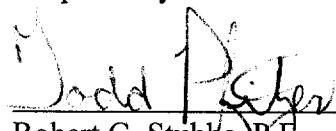
and Members of the City Council,

The attached Ordinance authorizes an air space lease agreement between the City of Omaha and Department of Roads of the State of Nebraska for the lease of certain property under and adjacent to Interstate 480 beginning June 1, 2016. This lease will continue the productive use of such property by allowing a surface parking lot to be constructed on the property, which lot will support activities at the Capitol District and provide parking for its visitors. This lot will be generally located between 8th and 10th Streets and north of Capitol Avenue.

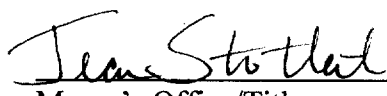
Finance will pay the cost of this lease in the amount of \$2,880.00 per year from Organization 116241, Interstate Parking, Fund 21116, Parking Garage Fund.

We therefore, recommend approval of the attached Ordinance.

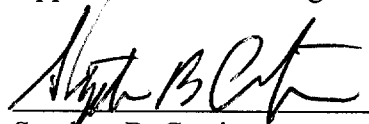
Respectfully submitted:


for Robert G. Stubbe, P.E.
Public Works Director
6/20/16
Date

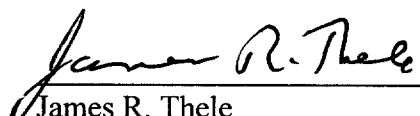
Referred to City Council for Consideration:


Mayor's Office/Title
6/20/16
Date

Approved as to Funding:


Stephen B. Curtiss
Finance Director
6/20/16
Date

Approved:


James R. Thele
Planning Director
6/20/16
Date

ORDINANCE NO. 40812

AN ORDINANCE to approve an air space lease agreement between the City of Omaha and the Department of Roads of the State of Nebraska for the lease of certain premises beneath Interstate 480 located between 8th and 10th Streets and north of Capitol Avenue beginning June 1, 2016 in the amount of approximately \$2,880.00 per year; to authorize the payments specified therein; and to provide an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That the attached air space lease agreement between the City of Omaha and the Department of Roads of the State of Nebraska for the lease of certain premises beneath Interstate 480 located between 8th and 10th streets and north of Capitol Avenue beginning June 1, 2016 in the amount of approximately \$2,880.00 per year is hereby approved.

Section 2. That the Finance Director of the City of Omaha is authorized to pay the cost hereof from Organization 11551, Interstate Parking Lots, Fund 21116, Parking Garage Fund.

Section 3. That this Ordinance, not being of legislative character, shall be in force and take effect immediately upon its date of passage.

INTRODUCED BY COUNCILMEMBER

Ben B. Gray

APPROVED BY:

Jim Stewart 7/14/16
MAYOR OF THE CITY OF OMAHA DATE

PASSED JUL 12 2016 7-0

ATTEST:

Sandra L. Madsen 7/14/16
DEPUTY CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

Ass't 6/20/16
CITY ATTORNEY DATE

AIRSPACE LEASE AGREEMENT

This agreement made and entered into this 14th day of July 2016, by and between the DEPARTMENT OF ROADS of the STATE OF NEBRASKA, hereinafter known as "Lessor" and CITY OF OMAHA hereinafter known as "LESSEE."

The leased premises are a part of the State's land holdings acquired for the purpose of construction, operating and maintaining a public improvement. It is the State's policy to allow such land to be put to a productive use for as long as possible before such land is used by the State. Any Lessee wishing to take advantage of the State's policy should be on notice that the term of the lease is dependent upon the State's construction and funding commitments and that this lease will be terminated when deemed necessary for the State's construction program.

In consideration of the payment of the sum of \$2,880.00 per year, payable in monthly installments of \$240 and any Real Estate taxes which may become due on the property in accordance with LB 271 passed by the 96th Legislature, the Lessor hereby leases to the Lessee, parking and landscape purposes the following described land, hereinafter referred to as the leased premises, and which is more particularly described as follows:

Lots 1, 4 and part of Lot 5 Block 70; and Lot 5 Block C; all in the original City of Omaha, Douglas County, Nebraska, to a vertical height limitation of twelve feet, with right of ingress to and egress from the premises by existing drives. More particularly illustrated on Exhibit "A"

TERM OF LEASE: this lease shall continue from year to year, commencing June 1, 2016, and shall be terminated only upon thirty days written notice by either party. Should the lease be terminated by the Lessor, the Lessee shall hold the Lessor harmless for any and all liability for damages resulting from the loss in the use of the leased premises..

The Lessor reserves the right to annually review and to increase or decrease such consideration.

The Lessee will not construct buildings upon the leased premises or make alterations to appurtenances furnished except with written permission of the Lessor, provided that such limitation shall not restrict Lessee from constructing a parking lot on the Leased Premises.

Lessee will not sub-lease, sell, or assign its interest or any part of its interest in the leased premises, nor make any significant revision in the design shown in Exhibit "A" or use the leased premises for any other purpose other than for parking of motor vehicles

and landscaping purposes only; provided that Lessee may sublease of the Leased Premises to Capitol District Parking, LLC for the purposes of installing and maintaining a parking lot and landscaping, and for a term not to exceed the term of this lease.

Any uses other than a parking or landscaping must have the prior written permission of the Department of Roads.

Any other sub-lease except that already specified here-in must have the prior written permission of the Department of Roads.

The City of Omaha agrees that pier protection on each pier on each lot will be in place no later than June 1, 2016.

The Lessee shall maintain the leased premises and all improvements located thereon of every type, including all fencing, in a safe and neat appearing condition. The leased premises shall be kept free of all noxious weeds and of debris. If Lessee fails to control noxious weeds on the leased premises, Lessee agrees to reimburse the Lessor for any and all costs incurred by the Lessor to control such noxious weeds, regardless of whether such costs were incurred during the term of this lease.

The Lessor, their agents or authorized Federal Highway Administration representatives, may enter upon said premises at any time.

The Lessee, as a part of the consideration hereof, does hereby covenant and agree (1) that the leased premises or any part thereof shall not be used for the erection or display of any advertising sign, devise or display; (2) that the leased premises shall not be used for the storage, processing, sorting, transfer or any other use related to or connected with scrap material of any nature or kind; or be used for the storage of flammable, explosive or hazardous material, so as to create or cause an unsightly or obnoxious appearance or create a hazard upon the premises herein leased.

The Lessee, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

The State of Nebraska, Department of Roads, their designee, agents, contractors or subdivision of the Department of Roads reserves the right to push or blow snow from the elevated structures of the Highway above said leased premises covered by this agreement and to store such snow in these locations designated from time to time by the Department of Roads. It is agreed and understood that the Lessee shall hold the Lessor harmless from all claims or suits for damages to persons or property on the leased premises as a result of snow being pushed or blown from the elevated structures of the Highway. The removal of snow and clearance of the leased premises shall be the responsibility of the Lessee. It is agreed and understood that the Lessee shall hold the Lessor harmless for all claims or suits for damages to persons or property on the leased premises as a result of such snow removal.

It is agreed and understood that the State of Nebraska, Department of Roads, will from time to time be painting the elevated structures of the Highway above the leased premises. It is further agreed and understood that the Lessee shall hold the Lessor harmless from all claims or suits for damages to persons or property as a result of said painting. It shall be the Lessee's responsibility to provide sufficient and proper notification to anyone entering the leased premises while said painting is being accomplished. Notice of such painting to the Lessee will be at least one working day before beginning such work.

The Lessee shall hold the Lessor harmless from all claims or suits for damages to persons or property due to debris which may fall or land on the leased premises during the usage and maintenance of the Highway.

Lessee shall be responsible for and shall hold the Lessor harmless from any and all liability resulting from the placement, movement, or repair of any utility facilities on the leased premises which are placed upon the leased premises by the Lessee.

The Lessee shall carry adequate insurance for the payment of any damage, injury or loss of life which may occur on the leased premises during the duration of this lease, and Lessee shall hold the Lessor harmless from all claims or suits for damages to persons or property arising out of the use or occupancy of the leased premises pursuant to this lease. The City, at its option, may choose to be self insured.

Notwithstanding the foregoing, Lessee shall not be required to hold Lessor harmless from claims or suits for injury or death to persons or damage to property or liability resulting from Lessor's negligence.

Upon expiration, or termination or cancellation of the lease by Lessor, the Lessee may be required at the option of the Lessor, to remove all improvements placed by the Lessee on the leased premises and surrender peaceable possession to the Lessor at no cost to the Lessor.

Should the Lessee violate any of the conditions of this lease or should the leased premises cease to be used for parking of motor vehicles and landscaping purposes, this lease shall thereby terminate at the option of the Lessor.

Upon failure of the Lessee to pay the rent within 30 days after the due date, liquidated damages in the amount of \$25.00 may be added to the amount due. If the total amount is not received within 60 days of the original due date, the lease may be terminated and the Lessor shall have the right of possession of the leased premises without further notice to the Lessee.

The covenants herein shall extend to and be binding upon the heirs, executors and administrators of the Lessee.

Signed this 14th day of July, 2016.

STATE OF NEBRASKA
DEPARTMENT OF ROADS, Lessor

CITY OF OMAHA

Right of Way Manager

Jim Stothard 7/14/16
Lessee

APPROVED AS TO FORM:

[Signature] 5/12/16
ASSISTANT CITY ATTORNEY

9/4

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ORDINANCE NO. 40812

AN ORDINANCE to approve an air space lease agreement between the City of Omaha and the Department of Roads of the State of Nebraska for the lease of certain premises beneath Interstate 480 located between 8th and 10th Streets and north of Capitol Avenue beginning June 1, 2016 in the amount of approximately \$2,880.00 per year; to authorize the payments specified therein; and to provide an effective date.

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PRESENTED TO COUNCIL

1st Reading JUN 21 2016 - Hearing
6/28/16

Hearing JUN 28 2016 - June 28
7:00 PM - 7:15 PM - City Council
File #11-4

Final Reading JUL 12 2016

Passed 70

BUSTER BROWN
City Clerk

PUBLICATIONS

PUBLICATION OF HEARING
Date 6-24-16

PUBLICATION OF ORDINANCE
Date 7-20-16