Date ....November 8, 2010....

RESOLUTION APPROVING AMENDMENT
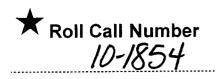## TO EMBASSY SUITES PARKING LOT LEASE AGREEMENT

WHEREAS, the City of Des Moines as landlord has leased the real property locally known as 100 E. Locust Street and improved as the Embassy Suites Parking Lot to John Q. Hammons, the predecessor in interest to John Q. Hammons Hotels, L.P., a Delaware Limited Partnership, under a Lease Agreement dated May 1, 1989, recorded at Book 6101, Page 866 in the real estate records of Polk County, Iowa and by way of that Memorandum of Lease dated October 22, 1990 recorded at Book 6317, Page 988 of said records, as assigned by John Q. Hammons to John Q. Hammons Hotels, L.P. by Assignment of Lessee's Interest in Lease dated May 21, 2002, and recorded in the office of the Polk County Recorder at Book 9159, Page 894 ("the Parking Lot Lease"); and

WHEREAS, on February 20, 2006, by Roll Call No. 06-360, the City Council of the City of Des Moines approved a further assignment of the Parking Lot Lease to Atrium Finance III, L.P. ("Lessee"), the current owner of the adjoining Embassy Suites Hotel and a wholly owned subsidiary of Atrium Hotels, L.P., formerly known as John Q. Hammons Hotels, L.P.; and

WHEREAS, the twentieth year of the thirty-year lease term of the Parking Lot Lease commenced on October 3, 2010, and pursuant to the terms of said Lease and amendments thereto, the annual rental amounts were not provided for lease years 21 through 30 of the lease term and rather are to be calculated upon reaching said lease years; and

WHEREAS, the City's Real Estate Division has negotiated an Amendment to Lease Agreement, on file in the office of the City Clerk, which Amendment has been approved and executed by Lessee and establishes the annual rental amount of $74,100.00 per year for lease years 21 through 25 of the Parking Lot Lease, which amount reflects fair market rental rates for the leased property, and which Amendment further sets forth the terms for establishing annual rental amounts for lease years 26 through 30 based on reevaluation by the City's Real Estate Division Manager.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Des Moines, Iowa, that the Amendment to Lease Agreement between the City of Des Moines and Atrium Finance III, L.P. for the real property locally known as 100 E. Locust Street and improved as the Embassy Suites Parking Lot is hereby approved, the Mayor is authorized and directed to sign the Amendment, and the Clerk is directed to attest to his signature and to forward the Amendment to the City's Real Estate Division for recording with the Polk County Recorder.

BE IT FURTHER RESOLVED, that the City's Real Estate Division is directed to continue to administer the terms of the Parking Lot Lease and all amendments thereto; the City's Real Estate Division Manager is further authorized and directed to reevaluate and amend the Parking Lot Lease to address annual rental amounts for lease years 26 through 30 as set forth in the Amendment to Lease Agreement approved by this resolution; and the City's Real Estate Division Manager is further authorized and directed to approve other minor non-substantive changes in the form of amendments to the Parking Lot Lease, and to return all other substantive changes to said Lease to the City Council for approval.

(Council Communication No. _*10-669*_)

Moved by ___*Hensley*___ to adopt.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED   APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, 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