



**Roll Call Number**

16-0815

**Agenda Item Number**

Ex1

**Date** May 9, 2016

AMENDMENT TO AGREEMENT WITH 101 EAST GRAND PARKING, LLC,  
REGARDING THE PROFESSIONAL SERVICES AGREEMENTS AND DESIGN  
DOCUMENTS FOR THE DESIGN AND CONSTRUCTION OF THE PROPOSED CITY  
HALL PARKING GARAGE, TO EXPAND THE SCOPE TO INCLUDE THE  
CONSTRUCTION OF THE TEMPORARY PARKING LOT

WHEREAS, the City of Des Moines owns the surface parking lots east of City Hall, bordered by East Grand Avenue, East Locust Street, and East Second Street, and currently used for City employee parking and by Embassy Suites; and,

WHEREAS, on December 21, 2015, by Roll Call No. 15-2184, the City Council approved preliminary terms of agreement with 219 East Grand, LLC n/k/a 101 East Grand Parking, LLC (the "Developer"), for the redevelopment of the City-owned parking lots with three phases of development, starting with the design and construction of a 5-story parking garage containing approximately 535 parking spaces to be lease-purchased by the City for public use; and,

WHEREAS, on December 21, 2015, by Roll Call No. 15-2185, the City Council approved an Agreement with the Developer for the assignment of the professional services agreements and design documents for the design of the proposed parking garage in the event the parties were unable to finalize a Lease Purchase Agreement for that garage; and,

WHEREAS, on April 11, 2016, by Roll Call No. 16-0634, by the City Council approved an Urban Renewal Agreement For Sale of Land for Private Redevelopment with the Developer for the sale and redevelopment of the City-owned parking lots; and,

WHEREAS, on April 11, 2016, by Roll Call No. 16-0637, the City Council conditionally approved a Lease Purchase Agreement with the Developer for the lease purchase by the City of the parking garage to be constructed by Developer on the City-owned parking lots, and the construction of a temporary parking lot adjoining Robert D. Ray Drive (the "Temporary Parking Lot") for the relocation of the parking spaces now serving the Embassy Suites Hotel; and,

WHEREAS, the 149 parking spaces now leased by Atrium Finance III, LP, and Atrium TRS III, LP (collectively "Atrium") to provide parking for the Embassy Suites Hotel must be relocated to the Temporary Parking Lot before construction of the new parking garage may be commenced; and,

WHEREAS, to allow construction of the temporary parking lot to be immediately commenced, the City Manager has negotiated an amendment to the December 21, 2015, Agreement with the Developer regarding the assignment of the professional services agreements and design documents for the design of the proposed parking garage, to extend that Agreement until the Lease Purchase Agreement becomes effective, and to expand that Agreement to include the construction of the Temporary Parking Lot.

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

1. The proposed First Amendment to Agreement with 101 East Grand Parking, LLC, described above is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Des Moines.

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2. In the event the Lease-Purchase Agreement does not become effective by no fault of the Developer, then upon requisition by the City Manager and approval by the City Attorney, the Finance Department is hereby authorized to make payment to the Developer as required by the Agreement as amended by the First Amendment to Agreement described above.
3. This undertaking is made by the City in the exercise of its urban renewal powers, and any payment made pursuant to the Agreement shall be treated as an internal loan to the special fund created pursuant to Iowa Code §403.19 for the Metro Center Urban Renewal Area, and such loan shall be repaid from the tax increment revenues received with respect to the Metro Center Urban Renewal Area, as those funds become available.
4. That in accordance with Roll Call No. 16-0634 and Roll Call No. 16-0637, the Escrow Agreement between the City, Developer and West Bank to enable closing on the property sale and Lease Purchase Agreement and the Agreement Regarding Escrow Fund addressing the handling of the parking garage post-construction allowance in such forms approved by the City Manager and Legal Department are hereby approved and the Mayor is hereby authorized and directed to execute such documents on behalf of the City and the City Clerk is directed to attest to his signature.

MOVED by Gatto to adopt.

**(Council Communication No. 16-264)**

Sponsored by Council Member Gatto.

FORM APPROVED:

Roger K. Brown  
 Roger K. Brown  
 Assistant City Attorney

U:\Rog Docs\Eco Dev\City Hall Parking\Assign Design Docs\RC 16-05-09 Approve Reimbursement.docx

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED  
T. M. Franklin 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.

Diane Rauh

City Clerk