



Roll Call Number

16-0964

Agenda Item Number

37

Date June 13, 2016

APPROVING INDEMNIFICATION AND HOLD HARMLESS AGREEMENT WITH 101 EAST GRAND PARKING, LLC, AND WEST BANK, CONCERNING THE NEW PARKING GARAGE SITE EAST OF CITY HALL

WHEREAS, the City of Des Moines owns the block east of City Hall, bordered by East Grand Avenue, East Locust Street, and East Second Street; and,

WHEREAS, the north half of the block previously contained a parking lot that served the guests and employees of City Hall, and the south half of the block previously contained a parking lot leased and subleased by Atrium Finance III, LP, and Atrium TRS, III, LP, respectively (hereinafter collectively referred to as "Atrium"), to serve the parking needs of the Embassy Suites Hotel; 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 101 East Grand Parking, LLC (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 a parking garage to be constructed by the 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 Temporary Parking Lot has been completed and the parking for the Embassy Suites Hotel has been relocated to the Temporary Parking Lot and designated on-street parking spaces; and,

WHEREAS, a portion of the parcel to be conveyed to the Developer for redevelopment with the new parking garage is still encumbered by the recorded parking lease to Atrium, pending final approval of the relocation of the leased parking spaces by Atrium's mortgage lender; and,

WHEREAS, to permit construction of the new parking garage to be immediately commenced and to avoid the costs that will arise from any delay in commencing such construction, the City Manager has negotiated an Indemnification and Hold Harmless Agreement with the Developer and its lender, West Bank, whereby the City agrees to indemnify the Developer and West Bank from any claims or damages asserted against them by Atrium and Atrium's leasehold mortgage lender, arising from West Bank's purchase, redevelopment and use of a portion of the parking lot originally leased to Atrium and subject to the leasehold mortgage.

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



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-2-

1. The proposed *Indemnity and Hold Harmless Agreement* 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.
2. The City Manager is hereby authorized and directed to administer the Agreement in accordance with its terms. **(Council Communication No. 16.323)**

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

U:\Rog Docs\Eco Dev\City Hall Parking\Dev Agr\RC 16-06-13 Approve Indemnity Agr.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