



Roll Call Number

17-1774

Agenda Item Number

50B ✓

Date October 9, 2017

**RESOLUTION AUTHORIZING EXECUTION OF THE
COMMENCEMENT DATE AGREEMENT FOR LEASE OF CITY PARKING GARAGE
LOCATED AT EAST SECOND STREET IN ACCORDANCE WITH THE
LEASE PURCHASE AGREEMENT BETWEEN THE CITY OF DES MOINES,
101 EAST GRAND PARKING, LLC AND WEST BANK**

WHEREAS, by Roll Call No. 16-0636 of April 11, 2016, the City Council of the City of Des Moines, Iowa, approved the Lease Purchase Agreement between the City of Des Moines and 101 East Grand Parking, LLC (the "Lessor") and West Bank relating to the construction and acquisition of a multi-story public parking garage located in the vicinity of East Second Street; and

WHEREAS, Neumann Monson, Inc., as architect for the garage improvements, has submitted a Certificate of Substantial Completion certifying that the garage improvements have been substantially completed in accordance with the terms of the Lease Purchase Agreement and the approved plans for the garage and further, in accordance with the terms of the Lease Purchase Agreement and the City intends to take possession of the garage improvements on or about October 10, 2017; and

WHEREAS, it is appropriate for the City, Lessor and West Bank to enter into the Commencement Date Agreement for the Lease as contemplated by the terms of the Lease Purchase Agreement.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the City hereby accepts possession of the garage improvements and that the Lease Commencement Date Agreement, on file in the Office of the City Clerk, which contains an effective date of October 10, 2017 is hereby approved subject to such changes and revisions to its terms and exhibits as may be approved by the City Manager and Legal Department and the Mayor is authorized and directed to execute such Commencement Date Agreement and the City Clerk is directed to attest to the Mayor's signature.

BE IT FURTHER RESOLVED that the First Amendment to Agreement Regarding Escrow Fund relating to the escrow of funds for garage maintenance, on file in the Office of the City Clerk, is hereby approved and the Mayor is authorized and directed to execute such First Amendment.

BE IT FURTHER RESOLVED that the Agreement Regarding Escrow Fund relating to the disbursement of certain project costs that are not yet final, on file in the Office of the City Clerk, is hereby approved subject to such changes and revisions to its terms as may be approved by the City Manager and Legal Department and the Mayor is authorized and directed to execute such Agreement.



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BE IT FURTHER RESOLVED that the City Engineer is hereby directed to monitor progress and completion of all punch list items to the garage improvements to ensure their completion by the Lessor.

BE IT FURTHER RESOLVED that following completion of the punch list items, final disbursements for work, materials and supplies, issuance of final lien waivers and issuance of a final certificate of occupancy for the garage improvements, the City Manager or his designees are directed to prepare a Restated Commencement Date Agreement for consideration and approval by the City Council to include the agreed adjustment to final project costs, the agreed adjustment to balance of principal outstanding, and finalized exhibits reflecting adjustments to final project costs and adjustments to balance of principal outstanding and corresponding payment amounts.

BE IT FURTHER RESOLVED that the City Manager and the Finance Director/Treasurer or their designees are hereby authorized and directed to take all such actions as may be required by the City under the Lease Purchase Agreement, including execution or acknowledgement of any documents relating to transfer of the garage improvements from Lessor to West Bank or acceptance of possession by the City and including disbursement of all scheduled Lease payments, in order that the City be and remain in compliance with the Lease Purchase Agreement.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lawrence R. McDowell
Deputy City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk