



Roll Call Number

18-1296

Agenda Item Number

56B

Date July 23, 2018

**RESOLUTION HOLDING PUBLIC HEARING AND APPROVING PARKING LEASE AGREEMENT BETWEEN THE CITY OF DES MOINES AND NELSON DEVELOPMENT 1, LLC FOR THE USE OF PARKING RAMP TO BE LOCATED AT 418 EAST GRAND AVENUE**

**WHEREAS**, on March 19, 2018, by Roll Call No. 18-0478, the City Council authorized the City Manager to negotiate an urban renewal development agreement based on preliminary terms of agreement with Nelson Development 1, LLC, represented by Michael Nelson (President) (“Developer”), for sale of City-owned property located at the intersections of East 4<sup>th</sup> Street and East Grand Avenue, locally known as 418 E. Grand Avenue (Polk County Assessor District/Parcel Nos. 040/01839-002-001 and 040/01839-002-002) (collectively “Property”) and located in the East Village, for development in two phases consisting of a three-level parking structure with approximately 402 total parking spaces in Phase 1, and a 5-story mixed use building in Phase 2 with approximately 36,000 square feet of commercial, retail and office space on the ground floor and second story, and 105 residential apartment units on the upper three stories; and

**WHEREAS**, on July 23, 2018, by Roll Call No. 18,1295, the City Council approved Urban Renewal Agreements with the Developer for the Phase 1 and Phase 2 Improvements, and exhibits thereto including Special Warranty Deeds, mortgages, promissory notes and Declarations of Covenants, and a Parking Lease Agreement for City use of a portion of the Phase 1 Improvements (all collectively “Development Agreement”), for Developer to purchase and develop the Property, which Development Agreement is on file in the office of the City Clerk; and

**WHEREAS**, the substantive terms of the Parking Lease Agreement by and between the City and Nelson Development 1, LLC, pursuant to which the City would lease 133 ground-level parking spaces in the parking structure constructed by Nelson Development 1, LLC as part of the Phase 1 Improvements on property in the vicinity of 418 E. Grand Avenue (Polk County Assessor District/Parcel No. 040/01839-002-002), are set forth as follows:

1. An initial term of twenty years, commencing on the first day of the month following issuance of a Certificate of Occupancy for the parking garage, with an option to extend the duration of the Agreement for four additional consecutive terms of five years each.
2. The City shall pay \$135.00 U.S. Dollars per leased parking space per month, totaling \$215,460 annually, subject to annual adjustment as set forth in the proposed Parking Lease Agreement on file in the office of the City Clerk.
3. The estimated total amount of payment to be made by the City pursuant to the Parking Lease Agreement, not including annual adjustment, is \$4,309,200 during the twenty year initial term, and is \$1,077,300 during each five year optional additional term; and

**WHEREAS**, a copy of the proposed Parking Lease Agreement is on file in the Office of the City Clerk; and

**WHEREAS**, the Parking Lease Agreement shall be payable solely out of the City’s Parking Enterprise Fund; and

**WHEREAS**, the pledge of parking revenues for payment of the Parking Lease Agreement is subordinate to all outstanding parking revenue obligations, and any future parking revenue obligations issued on a parity basis with the outstanding obligations; and

**WHEREAS**, in accordance with Sections 364.4(4) and 384.83 of the Iowa Code, it is necessary for the City Council to hold a public hearing to discuss entering into said proposed Parking Lease Agreement; and



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WHEREAS, on June 11, 2018, by Roll Call No. 18-1017, it was duly resolved by the City Council that the public hearing on the Parking Lease Agreement be set down for July 23, 2018 at 5:00 p.m. in the Council Chambers at City Hall; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed Parking Lease Agreement; and

WHEREAS, in accordance with said notice, those interested in said proposed Agreement, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts, and any and all statements of interested persons and arguments of counsel, any objections to the proposed Parking Lease Agreement are hereby overruled, and the hearing is closed.
2. The Parking Lease Agreement, as on file in the office of the City Clerk, is hereby approved; the Mayor is authorized and directed to execute the Agreement on behalf of the City of Des Moines and the City Clerk to attest to his signature; and the City Manager or his designee(s) are authorized and directed to monitor compliance with the Agreement.

MOVED BY Gatto TO ADOPT.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS     | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE         | ✓    |      |          |        |
| BOESEN         | ✓    |      |          |        |
| COLEMAN        | ✓    |      |          |        |
| GATTO          | ✓    |      |          |        |
| GRAY           | ✓    |      |          |        |
| MANDELBAUM     | ✓    |      |          |        |
| WESTERGAARD    | ✓    |      |          |        |
| TOTAL          | 7    |      |          |        |
| MOTION CARRIED |      |      | APPROVED |        |

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  
Mayor

Diane Rauh  
City Clerk