

Date May 8, 2006

RESOLUTION AUTHORIZING EXECUTION AND DELIVERY OF AN AMENDMENT TO THE LEASE PURCHASE AGREEMENT DATED AS OF JULY 28, 2004 BETWEEN THE CITY OF DES MOINES AND EMPLOYERS MUTUAL CASUALTY COMPANY

WHEREAS, the City of Des Moines, Iowa (the "City") and Employers Mutual Casualty Company (the "Lessor") are parties to a Lease Purchase Agreement dated as of July 28, 2004, relating to the construction and acquisition of a multi-story public parking garage located at the intersection of 8th and Mulberry Streets, Des Moines, Iowa; and

WHEREAS, the Lessor and the City, as Lessee under the Lease, desire to amend the Lease so as to extend the date for substantial completion of the garage Improvements and to revise the schedules for the Principal and Interest payments to be made under the Lease; and

WHEREAS, a form of Amendment to Lease Purchase Agreement (the "Amendment") has been prepared and presented to this Council and has been determined to be in appropriate form for said purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

Section 1. The form of Amendment presented to this meeting of the City Council is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute, attest, seal and deliver the Amendment for and on behalf of the City in substantially the form now before this meeting, but with such changes as may be acceptable to the Mayor, upon the advice of the City Attorney, and from and after the execution thereof, the Mayor, City Clerk and Finance Director/Treasurer are hereby authorized and directed to take all such actions as may be required of the City under said Amendment in order that the City be and remain in compliance with the Lease as so amended.

APPROVED AS TO FORM:

Moved by: \_\_\_\_\_ to adopt.

  
Lawrence R. McDowell  
Deputy City Attorney

(Council Communication No. 06-245 )

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
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.

MOTION CARRIED

APPROVED

.....Mayor

..... City Clerk

Don Klemme, CPCU  
Senior Vice President

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Des Moines, IA 50303-0712  
Phone 515.280.2626  
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E-mail don.d.klemme@emcins.com  
www.emcinsurance.com



May 3, 2005

RECEIVED

MAY 03 2006

CITY MANAGER'S OFFICE

**HAND DELIVERED**

Mr. Richard Clark  
City Manager  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309

RE: Eighth and Mulberry Parking Garage

Dear Rick:

We are delivering to you with this letter duplicate executed originals of the Amendment to Lease Purchase Agreement which we understand will be on the agenda for the May 8, 2006 meeting of the Council. As you know, the City had requested deferral of certain payments under the Lease Purchase Agreement between Employers Mutual Casualty Company ("EMC") and the City, and we are pleased to accommodate your request in this regard. We have worked with Jeb Brewer, Larry McDowell, Merrill Stanley, and Bill Noth to conclude a mutually agreeable form of amendment.

The Amendment also extends the date of substantial completion of the garage to August 15, 2006. This extension has been made necessary by a number of reasons, all of which have been known to the City representatives who attend the weekly project meetings. Reasons include, but are not limited to, delays in material deliveries, design conditions, construction of two garages within a tight construction site, additional testing, the complexity of the project, and, most recently, delays in obtaining the necessary electrical service in order to install the elevators. Yet, we are confident that had the project not proceeded on a design build basis, but upon a full set of design plans and then out to bid, the project would be more expensive and would take even longer to complete.

I am sure that you and all the members of the City Council recognize the advantages that have accrued to the City by this unique arrangement with EMC. The working relationship between EMC and all of the City employees has been most amicable and professional. We look forward to completing this project, and to a long and mutually beneficial association with the City in the operation of our two parking garages.

Please call me if you have any questions or need anything further for the Council meeting and please advise if you think I should attend.

Very truly yours,

Donald D. Klemme  
Senior Vice President-Administration

