



.....
Date May 20, 2019

**HEARING AND RESOLUTION FOR SALE OF THE
CITY-OWNED EIGHTH AND MULBERRY PARKING GARAGE PROPERTY AT
750 MULBERRY STREET TO EMPLOYERS MUTUAL CASUALTY COMPANY AND SURPLUS
FUND TRANSFER FROM MUNICIPAL PARKING SYSTEM ENTERPRISE FUND**

WHEREAS, the home offices of Employer's Mutual Casualty Company ("EMC"), a multistate business, are located at 717 Mulberry Street and adjacent properties; and

WHEREAS, in conjunction with the continued operations and expansion of its home office for its multistate business in the downtown, EMC desires to acquire the City-owned 843-space Eighth and Mulberry parking garage property located at 750 Mulberry Street; and

WHEREAS, it is in the best interests of the City to sell the Eighth and Mulberry parking garage property to EMC in support of the continued operations and expansion of EMC's home office of the multistate business in the downtown; and

WHEREAS, the City has negotiated an Offer to Purchase Real Estate from the City of Des Moines and Acceptance ("Purchase Agreement") with EMC which is on file and available for public inspection in the Office of the City Clerk, whereby EMC has agreed that in consideration of the City's sale and conveyance to EMC of the Eighth and Mulberry parking garage property, EMC shall:

- i. Close on its purchase of the parking garage, for a purchase price of \$14,900,000;
- ii. Enter into a public parking agreement with the City to provide limited public parking in the parking garage, the EMC-owned parking garage adjacent thereto and the EMC-owned surface parking lot on the adjoining block; and
- iii. Lease to the City the existing occupied office space in the parking garage for the City's police department traffic enforcement operations on terms acceptable to the City and EMC.

WHEREAS, the sale of the Eighth and Mulberry parking garage property is for use as part of EMC's home office for its multistate business in the downtown, and as such the sale is exempt from the competitive disposition requirements otherwise imposed by Iowa Code Section 403.8 of the Urban Renewal Law; and

WHEREAS, on May 6, 2019 by Roll Call No. 19-0704, the City Council resolved that the proposed Purchase Agreement and sale of the City-owned Eighth and Mulberry parking garage property to EMC be set down for hearing on May 20, 2019 at 5:00 p.m., in the Council Chambers at City Hall; and

Date May 20, 2019

-2-

WHEREAS, due notice of said proposal to sell the City-owned Eighth and Mulberry parking garage property and said hearing was published in the Des Moines Register on May 8, 2019, as provided by law, setting forth the time and place for hearing on the proposed Purchase Agreement and sale of the City-owned Eighth and Mulberry garage property; and

WHEREAS, in accordance with said notice, those interested in the proposed Purchase Agreement and sale of the City-owned Eighth and Mulberry parking garage property, both for and against, have been given an 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, the objections to said Purchase Agreement and the sale of the City-owned Eighth and Mulberry parking garage on the property described below are hereby overruled and the hearing is closed.
2. The proposed Purchase Agreement with Employer's Mutual Casualty Company, and the sale and conveyance to EMC of the City-owned Eighth and Mulberry parking garage on the property described below are hereby approved:

WEST HALF OF BLOCK 3, FORT DES MOINES

LOTS 1, 2, 3, AND 4, BLOCK 3, FORT DES MOINES, AN OFFICIAL PLAT, AND THE WEST 1/2 OF VACATED PLUM STREET ADJOINING SAID LOTS 2 AND 3, AND THE WESTERLY PART OF VACATED NORTH / SOUTH ALLEY MEASURED 8.25 FEET ALONG THE NORTH LINE OF SAID BLOCK 3 AND MEASURED 10.15 FEET ALONG THE SOUTH LINE OF SAID BLOCK 3, ADJOINING SAID LOTS 1, 2, 3, AND 4, AND ADJOINING SAID WEST 1/2 OF VACATED PLUM STREET. AS SURVEYED AND MONUMENTED IN THE FIELD BY ELMER L. MILLER JR., LICENSED SURVEYOR NO. 13975. ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. CONTAINING BY SURVEY 42,864 SQUARE FEET.

ALSO DESCRIBED AS:



.....
Date May 20, 2019

-3-

LOTS 1, 2, 3, AND 4, BLOCK 3, FORT DES MOINES, AN OFFICIAL PLAT, AND THE WESTERLY PART OF VACATED NORTH / SOUTH ALLEY MEASURED 8.25 FEET ALONG THE NORTH LINE OF SAID BLOCK 3 AND MEASURED 10.15 FEET ALONG THE SOUTH LINE OF SAID BLOCK 3 ADJOINING SAID LOTS 1, 2, 3, 4, AND THROUGH VACATED PLUM STREET, AND THE WESTERLY PART OF VACATED PLUM STREET ADJOINING SAID LOTS 2, 3, AND ADJOINING SAID WESTERLY PART OF VACATED NORTH / SOUTH ALLEY. AS SURVEYED AND MONUMENTED IN THE FIELD BY ELMER L. MILLER JR., LICENSED SURVEYOR NO. 13975. ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. CONTAINING BY SURVEY 42,864 SQUARE FEET.

3. The Mayor is hereby authorized and directed to sign the Purchase Agreement and the Special Warranty Deed required by the Purchase Agreement for conveyance of the City-owned Eighth and Mulberry parking garage on property identified above, on behalf of the City of Des Moines, and the City Clerk is directed to attest to the Mayor's signature on such documents.
4. The Public Parking Agreement with EMC required by the terms of the Purchase Agreement is hereby approved and the Mayor is hereby authorized and directed to sign the Public Parking Agreement on behalf of the City of Des Moines and the City Clerk is directed to attest to the Mayor's signature on said document.
5. The Declaration of Covenants from EMC required by the terms of the Purchase Agreement and to be referenced and attached to the Special Warranty Deed is hereby approved and accepted and the City Clerk is directed to certify the acceptance of such document on behalf of the City.
6. With the proceeds from the sale of the City-owned Eighth and Mulberry parking garage, the City Council, as the governing body of the municipal parking system enterprise, determines the municipal parking system enterprise has on hand surplus available funds in the amount of \$14,900,000 after making all deposits into all funds required by the terms, covenants, conditions and provisions of any outstanding revenue bonds, pledge orders, loan agreements and other obligations which are payable from the revenues of the municipal parking system enterprise and after complying with all the requirements, terms, covenants, conditions and provisions of the proceedings and resolutions pursuant to which revenue bonds, pledge orders, loan agreements and other obligations are issued in accordance with Iowa Code Section 384.89 and Iowa Administrative Code Section 545-2.5(5).

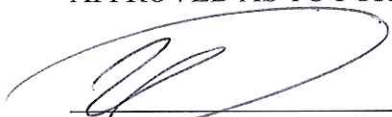
Date May 20, 2019

7. The following transfers of \$14,900,000 of surplus funds in the municipal parking system enterprise are hereby approved and the Finance Director is authorized and directed to make the following approved fund transfers:
 - i. \$7,600,000.00 of surplus funds in the municipal parking system enterprise fund is transferred to the special tax increment fund for the Metro Center Urban Renewal Project Area, the reason and purpose for the transfer of funds is to comply with the required credit under Iowa Code Section 403.19A(10) to the tax increment special fund of the net proceeds from the sale of the parking garage assets purchased, in part, using amounts deposited in the tax increment special fund.
 - ii. \$7,300,000.00 of surplus funds in the municipal parking system enterprise fund is transferred to a subfund of the general fund for capital improvements, the reason and purpose for the transfer of funds is to allocate funds available for capital improvements of the City, including construction of a new animal control shelter and construction of a new fire station.

7. Upon execution of all documents, the City Clerk is directed to forward the executed documents, a certified copy of this resolution and the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for closing in accordance with the terms of the Purchase Agreement.

APPROVED AS TO FORM:

Moved by _____ to adopt.



Lawrence R. McDowell, Deputy City Attorney

(Council Communication No. 19-214)

G:\APPDATA\LEGAL\LAWYERS\LRMRC\EMC - Sale of Eighth and Mulberry Parking Garage - Hearing.docx

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

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.

Mayor

City Clerk