

★ Roll Call Number
13-1629

Agenda Item Number
17

Date October 21, 2013

**SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH
WELLMARK, INC. UPON CITY-OWNED PROPERTY LOCATED EAST OF COLLEGE
AVENUE AND MICHIGAN STREET IN CENTRAL PLACE FOR \$400**

WHEREAS, Wellmark, Inc. owns and operates fiber optic equipment and lines within City of Des Moines right-of-way pursuant to license agreement administered by City Engineering Department, Traffic & Transportation Division, in accordance with the ROW Management Code, Chapter 102, Article IX of the Des Moines City Code; and

WHEREAS, in order to connect with said equipment, additional fiber optic line installation is required to be established within City-owned real property outside of the right-of-way, and thus Wellmark, Inc. has requested a license agreement to use such City-owned property east of College Avenue and Michigan Street in Central Place, as legally described below, for the placement of related utility equipment; and

WHEREAS, the City's Real Estate Division is negotiating a License Agreement with Wellmark, Inc. as licensee, which Agreement will include, among other terms, a twenty year license term commencing upon execution by City of the License Agreement, with an upfront, one-time lump sum payment of \$400.00, which amount reflects fair market value of the licensed area and term as currently estimated by the City's Real Estate Division, and the requirement that the licensee remove all improvements within the licensed area upon of the License, which termination may occur for cause immediately upon notice and without cause upon one-hundred twenty (120) days notice; and

WHEREAS, the City will not be inconvenienced by approval of the proposed License Agreement with Wellmark, Inc.

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

1. The City Council of the City of Des Moines, Iowa proposes to enter into a License Agreement with Wellmark, Inc. for the use of City-owned real property located east of College Avenue and Michigan Street in Central Place, legally described as follows, for the purpose of construction and maintenance of fiber optic line and related utility equipment, for a twenty-year term, and for consideration in the lump-sum license amount of \$400.00:

A PART OF THE LOT 1 IN BLOCK 6 AND A PART OF LOT A ALL IN CENTRAL PLACE, AN OFFICIAL PLAT AND A PART OF GOVERNMENT LOT 6 IN THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING 20.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

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COMMENCING AT THE NORTHEAST CORNER OF LOT 2 OF SAID BLOCK 6 OF CENTRAL PLACE; THENCE NORTH 89°(DEGREES) 49'(MINUTES) 01"(SECONDS) EAST, 30.40 FEET TO THE SOUTHWEST CORNER OF SAID LOT A; THENCE NORTH 9°28'42" WEST ALONG THE WEST LINE OF SAID LOT A, 11.33 FEET TO THE POINT OF BEGINNING; THENCE NORTH 85°02'44" EAST, 108.16 FEET; THENCE NORTH 84°54'28" EAST, 190.02 FEET; THENCE SOUTH 77°09'23" EAST, 107.63 FEET TO THE EAST LINE OF SAID LOT A AND TO THE POINT OF TERMINUS, LINES EXTENDED AND SHORTEN TO BEGIN ON THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVE AND THE WEST LINE OF SAID LOT 1 OF BLOCK 6 AND ALSO EXTENDED AND SHORTEN TO END AT THE EAST LINE OF GOVERNMENT LOT 6 AND THE EAST LINE OF SAID LOT 1 OF BLOCK 6, SAID AREA CONTAINS 0.38 ACRES MORE OR LESS.

2. A public hearing will be held on November 4, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of the proposal and hearing in the form hereto attached, all in accordance with Iowa Code Section 362.3.
4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Hensley to adopt.

APPROVED AS TO FORM:
Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney
 RW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED				

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