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|  <p style="text-align: center;"><b>Council</b><br/><b>Communication</b><br/>Office of the City Manager</p> | <b>Date:</b>             | April 6, 2015                                     |
|   | <b>Agenda Item No.</b>   | <b>10</b>   |
|   | <b>Roll Call No.</b>     | <b><u>15-0570</u></b>                             |
|   | <b>Communication No.</b> | <b><u>15-174</u></b>                              |
|   | <b>Submitted by:</b>     | <b>Pamela S. Cooksey,<br/>P.E., City Engineer</b> |

**AGENDA HEADING:**

Approval of Fiscal Year (FY) 2014-2015 Annual Right-of-Way (ROW) Management Fee.

**SYNOPSIS:**

Recommend approval of the FY2014-2015 annual management fee in the amount of **\$.0085** per equivalent lineal foot (with a minimum fee of \$100) for the ROW Management Program, which is documented in the Supplemental ROW Budget information attached to the roll call.

**FISCAL IMPACT:**

Amount: \$177,500 revenue from ROW of non-City utility users, and \$26,500 revenue from City of Des Moines Sewer Enterprise funds.

Funding Source: \$204,000 Revenue to: 2015-2016 Operating Budget, Page 71, Engineering Department Traffic and Transportation—ROW Management, EG062083

**ADDITIONAL INFORMATION:**

In accordance with the City of Des Moines ROW Management Ordinance, Chapter 102, Article IX of the City Code, the City has established a program to manage and regulate the use of its street and alley ROW by public and private users. The City has established provisions to charge ROW management fees to recover the costs of the program from all persons, companies, and governmental entities present and performing activities in the ROW.

The City Engineer has calculated and hereby submits for City Council consideration the FY2014-2015 annual management fee in the amount of **\$.0085** per equivalent lineal foot of ROW usage (or **\$.0085** per 100 equivalent linear feet). This fee is charged to all ROW users on the basis of their reported or estimated usage of City ROW, as required by Section 102-711 of the City Code. ROW users have utilities or other facilities in the public ROW, either underground or overhead.

Program costs that can be attributed to specific users (allocable costs) are recovered through permit fees (exclusive of license fees), which are specified in a separate fee schedule and are charged to those users when they obtain a permit for construction or maintenance activities. Program costs that cannot be attributed to specific users (non-allocable) are recovered through an annual management fee, which is charged to all users, including the City, based on their pro rata occupancy of City ROW.

Last year, a study was conducted that identified a deficit between City costs to manage the ROW, including administrative costs, degradation costs, construction costs, operation costs, and disruption costs, and fees collected from ROW users. Based on this study and input from the City Council and stakeholders, a revised fee schedule will be presented to City Council later this year for consideration for implementation in FY2015-2016.

All users are required to report to the City Engineer the amount of equipment or facilities they own and operate in the City ROW and update it on an annual basis. The 2014-2015 total footage of all ROW users is 23,943,095 equivalent lineal feet. The amount of the annual management fee charged to each user is then calculated based on their reported, estimated usage and the **\$.0085** rate per foot.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: September 22, 2014

Roll Call Number: [14-1498](#)

Action: [Amending](#) Chapter 102 of the Municipal Code regarding ROW Management Fees. Moved by Hensley to continue this item indefinitely, and refer to the City Manager and City Attorney to work with the Taxpayer's Association and other interested parties for review and recommendation regarding options. Motion Carried 7-0.

Date: September 8, 2014

Roll Call Number: [14-1390](#)

Action: [Amending](#) Chapter 102 of the Municipal Code regarding ROW Management Fees. ([Council Communication No. 14-440](#)) Moved by Hensley that this ordinance be considered and given first vote for passage; refer to the City Manager to continue discussions with CenturyLink regarding the following: 1. Seek input on a possible hybrid of fees and permits. 2. Review the potential impact of increasing the implementation period to 10 years. 3. Review the declaratory judgment process. Motion Carried 6-1. Nays: Coleman.

Date: August 25, 2014

Roll Call Number: [14-1313](#)

Action: [Amending](#) Chapter 102 of the Municipal Code regarding ROW Management Fees. ([Council Communication No. 14-423](#)) Moved by Hensley to continue to September 8, 2014; refer to the City Manager, City Attorney and Engineering Department to work with the impacted parties on suggestions for amendments to the proposed ordinance, to provide the Council with a list of all right-of-way users, and to provide information regarding the proposed job description for the additional staff person. Motion Carried 7-0.

Date: January 27, 2014

Roll Call Number: [14-0118](#)

Action: [Approval](#) of FY2013-2014 Annual ROW Management Fee. ([Council Communication No. 14-020](#)) Moved by Mahaffey to adopt. Motion Carried 5-2.

Date: April 8, 2013

Roll Call Number: [13-0562](#)

Action: [FY2012-2013 Annual ROW Management Fee](#). ([Council Communication No. 13-176](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: February 11, 2013

Roll Call Number: [13-0186](#)

Action: [Approving](#) professional services agreement with Springsted, Inc. to update ROW Management Fee Study, not to exceed \$55,530. ([Council Communication No. 13-056](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 7, 2012

Roll Call Number: [12-0710](#)

Action: [FY2011-2012 Annual ROW Management Fee](#). ([Council Communication No. 12-212](#)) Moved by Hensley to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Annual approval of the management fee.

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