

Date..... February 23, 2009

WHEREAS, on April 21, 2008, by Roll Call No. 08-715, the City Council approved an Urban Renewal Development Agreement (the "Agreement") with Wellmark, Inc., for City assistance in the redevelopment of the three blocks adjoining the north side of Grand Avenue between 11th and 14th Streets, for use as Wellmark's new home office facility consisting of an Office Building to be constructed between 12th and 14th Streets and a Garage/Multi-Use Building to be constructed between 11th and 12th Streets; and,

WHEREAS, the Agreement provides for the City to vacate and convey to Wellmark portions of the 13th Street right-of-way between Grand Avenue and relocated High Street; portions of the High Street right-of-way between 11th and 12th Streets; all the alley rights-of-way within the area bounded by Grand Avenue, 11th, 14th and relocated High Streets; portions of the air rights for a pedestrian bridge over 12th Street north of Grand Avenue; and portions of the air rights over and subsurface rights under the adjoining public rights-of-way for building encroachments and a duct bank across 12th Street, all as more specifically described in Exhibit "A" for the construction of Wellmark's new Office Building and Garage/Multi-use Building; and,

WHEREAS, by Ordinance No. 14,756, passed April 21, 2008, the City Council vacated the specific portions of the public rights-of-way then believed to be necessary for construction of the Office Building and Garage/Multi-Use Building; and,

WHEREAS, the location and dimensions of the required subsurface easement areas for the foundations and footings have changed as the design of the new buildings has been finalized; and,

WHEREAS, Wellmark has provided the City with updated Plats of Survey and Easement Plats which better identify the boundaries of the street and alley rights-of-way and easement areas to be vacated and conveyed, and has requested that the City reapprove the vacation and conveyance of such street and alley rights-of-way and easement areas using the updated legal descriptions contained in the accompanying Exhibit "A"; and,

WHEREAS, Wellmark, Inc., has further requested that the City vacate and convey an easement to Wellmark for an underground duct bank across 12th Street between Grand Avenue and High Street, as more specifically described in Exhibit "A"; and,

WHEREAS, Wellmark, Inc., has further requested that the City acknowledge that the LEED Incentive Component of the Deferred Grant was intended to be applied only to the Office Building and not to the Garage/Multi-Use Building, and that the City has no objection to the relocation of the daycare from the Garage/Multi-Use Building to another nearby site; and

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WHEREAS, on February 9, 2009, by Roll Call No. 09-183, it was duly resolved by the City Council that the proposed vacation and conveyance to Wellmark of the rights-of-way and easement areas described in Exhibit "A" be set down for hearing on February 23, 2009, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way and easement areas was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described as described in Exhibit "A" are hereby overruled and the hearing is closed.

2. There is no public need for the rights-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the 13th Street right-of-way between Grand Avenue and relocated High Street, portions of the High Street right-of-way between 11th Street and 14th Street, and all the alley rights-of-way within the area bounded by Grand Avenue, 11th Street, 14th Street and relocated High Street; and portions of the air rights for a pedestrian bridge over 12th Street north of Grand Avenue; and, portions of the air rights over and subsurface rights under the adjoining public rights-of-way for building encroachments and a duct bank across 12th Street, all as more specifically described in Exhibit "A":

3. That the conveyance of the rights-of-way and easement areas described in Exhibit "A" to Wellmark, Inc., and Wellmark Holdings, Inc., is hereby approved.

4. The Mayor is hereby authorized and directed to sign the following conveyance documents, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such documents:

- *Special Warranty Deed* for the conveyance of the vacated street and alley rights-of-way as described in Exhibit "A" to Wellmark Holdings, Inc.
- *Easement for Building Encroachments* for the conveyance of the air rights as previously authorized and described in Resolution and Roll Call No. 08-715 passed

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April 21, 2008, and for the conveyance of the subsurface areas as described in Exhibit "A" to Wellmark Holdings, Inc.

- *Easement for Underground Duct Bank* for the conveyance of the subsurface area for the duct bank as described in Exhibit "A" to Wellmark Holdings, Inc.
- *Quit Claim Deed* for the conveyance of any remaining City interests (if any) in the block bounded by Grand Avenue and 11th, 12th, and relocated High Streets, and in the double block bounded by Grand Avenue and 12th, 13th and relocated High Streets.

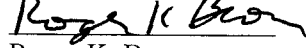
6. Upon final passage of an ordinance vacating the public rights-of-way and easement areas as described in Exhibit "A", the City Clerk is authorized and directed to forward the original of the said deeds and the easements, together with a certified copy of this resolution and the affidavit of publication of the notice of this hearing, to the Real Estate Division for delivery to Wellmark at Closing.

7. The City Council hereby acknowledges and agrees that the LEED Incentive Component of the Deferred Grant under the Agreement was intended to be applied only to the Office Building and not to the Garage/Multi-Use Building, and that the City has no objection to the relocation of the daycare from the Garage/Multi-Use Building to another nearby site, provided that the minimum required size and assessed value of the Garage/Multi-Use Building is not reduced.

(Council Communication No. 09- 082)

MOVED by _____ to adopt.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

.....
 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.

_____ City Clerk