

Date February 23, 2009

APPROVAL OF FY 2008-09 ANNUAL RIGHT-OF-WAY MANAGEMENT FEE

WHEREAS, pursuant to the City of Des Moines Right-of-Way 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 rights-of-way (ROW) by public and private users, and established provisions to charge ROW management fees to recover the costs of said program; and

WHEREAS, pursuant to Section 102-711 of the City Code, the City will attempt to recover its ROW management costs from all persons, companies and governmental entities whose presence and activities in the ROW require the City to engage in regulatory activities, as provided and allowed by Chapter 480A of the Iowa Code, "Public Utilities in Public Rights-of-Way"; and

WHEREAS, Section 480A.5 of the Iowa Code provides as follows:

A local government may recover from a public utility only those management costs caused by the public utility's activity in the public right-of-way. A fee or other obligation under this section shall be imposed on a competitively neutral basis. When a local government's management costs cannot be attributed to only one entity, those costs shall be allocated among all users of the public rights-of-way, including the local government itself. The allocation shall reflect proportionately the costs incurred by the local government as a result of the various types of uses of the public rights-of-way"; and

WHEREAS, Section 102-711 of the City Code provides that ROW management costs which the City incurs due to the activities of particular persons, companies and governmental entities in its ROW will be allocated to and collected from such persons, companies and governmental entities by means of permit fees; and

WHEREAS, Section 102-711 of the City Code further provides that ROW management costs which the City incurs which cannot be allocated to particular users ("non-allocable costs") will be allocated among all users of the public rights-of-way, including the City, and collected by means of an "annual management fee"; and

WHEREAS, Section 102-711 of the City Code provides that each user's annual management fee is to be based on its proportional allocation and use of City ROW as reported to the City by all ROW users, and that each user is to pay its proportionate share of the non-allocable costs in the City's ROW management program budget by means of an annual management fee to be approved by the City Council; and

WHEREAS, the City Engineer has determined the proportional allocation of ROW usage by all of the known ROW users in terms of "equivalent lineal footage" of such use, which usage was calculated on the basis of reports of ROW usage submitted by such users, or on the basis of City Engineer's estimate of such usage, as provided and required in Section 102-711 of the City Code; and

★ Roll Call Number

Agenda Item Number 65

Date February 23, 2009

WHEREAS, the City Engineer recommends the City Council approve the annual management fee for FY 2008-2009 in the amount of 0.41 cents (.0041 dollars) per equivalent lineal foot with the proposed minimum annual management fee of \$100.

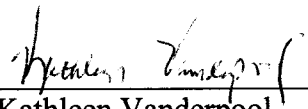

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That the supplemental documentation for the FY 2008-2009 ROW Management Program Budget submitted by the City Engineer is hereby received and filed.
2. That the City Engineer's calculation of the annual management fee for FY 2008-2009 in the amount of 0.41 cents (.0041 dollars) per equivalent lineal foot with the proposed minimum annual management fee of \$100, all as shown in the supplemental documentation for the FY 2008-2009 ROW Management Program Budget, is hereby approved and adopted by this City Council as provided by Section 102-711 of the City Code.
3. That this City Council hereby authorizes and directs the City Engineer to calculate the annual management fee for FY 2008-2009 owing by all ROW users with known use of City ROW and to send notice of such fee to all such ROW users.

(Council Letter Number 09-103 attached)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Kathleen Vanderpool
 Deputy City Attorney

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

City of Des Moines
Engineering Department

**SUPPLEMENTAL DOCUMENTATION FOR FY 2008-2009
RIGHT-OF-WAY MANAGEMENT PROGRAM BUDGET
February 2009**

FY 2008-09 Budget

Revenues

Carry Over from FY 2007 - 2008	\$125,615
Reserve	(\$40,000)
Annual Management Fee ^(1,2,3)	\$96,912
ROW Permit Fees	\$165,000
Total	\$347,527

Expenditures

Personal Services ⁽⁴⁾	\$326,745
Contractual Services ⁽⁵⁾	\$3,000
Other Services & Charges ⁽⁶⁾	\$4,482
Commodities/Capital Outlays ⁽⁷⁾	\$13,300
Total	\$347,527

⁽¹⁾ Annual Management Fee = 0.41 Cents / equivalent lineal foot of ROW usage

⁽²⁾ Approximately \$44,300 of the total Annual Management Fee will be covered by the City General Fund.

⁽³⁾ Minimum annual management fee to be charged to ROW users = \$100

⁽⁴⁾ Personnel Services = salaries, wages, and fringe benefits of employees and indirect employee costs.

⁽⁵⁾ Contractual Services = consultants and cell phone service.

⁽⁶⁾ Other Services = charges from other departments for service provided.

⁽⁷⁾ Commodities/Capital Outlay = office supplies, office equipment, and computers.