

Date..... July 27, 2009

RESOLUTION APPROVING VACATION AND CONVEYANCE
OF EASEMENT FOR UNDERGROUND BUILDING ENCROACHMENTS
TO WELLMARK FOR CONSTRUCTION OF ITS NEW OFFICE BUILDING

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, 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, and Ordinance No. 14,839 passed July 27, 2009, 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, one additional subsurface area approximately 10 feet wide and extending 4 feet under the public sidewalk along Grand Avenue is now required for the foundations and footings for the new Office Building;

WHEREAS, on July 13, 2009, by Roll Call No. 09- 1214 , it was duly resolved by the City Council that the proposed vacation and conveyance to Wellmark of the easement area described below be set down for hearing on July 27, 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 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,

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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 below are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the subsurface portion of the Grand Avenue right-of-way between 12th Street and vacated 13th Street, more specifically described as follows:

All that area below the public sidewalk under a portion of Lot 49, in Fourteenth Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more specifically described below:

Commencing at the southeast corner of said Lot 49; thence North 15° (degrees) 03' (minutes) 34" (seconds) West along the easterly line of said Lot 49, a distance of 4.00 feet; thence South 74°07'17" West along the northerly right-of-way line of Grand Avenue, 12.60 feet to the Point of Beginning; thence South 15°52'43" East, 4.00 feet to a point on the southerly line of said Lot 49; thence South 74°07'17" West along said southerly line, 9.75 feet to the southeasterly corner of an existing subsurface footing easement as shown on a survey recorded in Book 12642 Pages 892 and 893; thence North 15°57'07" West along the easterly line of said subsurface footing easement, 4.00 feet to a point on said northerly right-of-way line; thence North 74°07'17" East along said northerly right-of-way line, 9.76 feet to the Point of Beginning and containing 39 S.F.

DESCRIPTION REVIEWED
[Signature]
7/14/2009 14:00

3. That the conveyance of the Easement for Underground Building Encroachments into the subsurface easement area described above, to Wellmark, Inc., and Wellmark Holdings, Inc., in consideration of its undertakings under the Agreement is hereby approved.

4. The Mayor is hereby authorized and directed to sign the Easement for Underground Building Encroachments on behalf of the City of Des Moines, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such document.

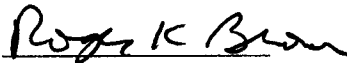
(continued)

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5. Upon final passage of an ordinance vacating the easement area described above, the City Clerk is authorized and directed to forward the original of the easement, 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.

MOVED by _____ to adopt.

FORM APPROVED:



Roger K. Brown

C:\Rog\Eco Dev\Wellmark\Admin\Missed Esmt\RC Vac & Conv.doc

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