

★ **Roll Call Number**

Agenda Item Number

27

September 10, 2007

Date.....

WHEREAS, Excell Marketing L.C., of 5501 Park Avenue, Des Moines, has experienced storm water drainage problems on its property; and

WHEREAS, Excell Marketing L.C. has alleged that the drainage problems on its property are the fault of the City of Des Moines and has threatened litigation regarding the same; and

WHEREAS, the City and Excell have negotiated a settlement to the drainage problems that avoid the expense and uncertainty of litigation; NOW, THEREFORE,

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

The City will pay to Excell Marketing L.C. the sum of \$100,000.00, out of storm water utility funds in settlement of the drainage problems experienced by Excell Marketing L.C. on its property at 5501 Park Avenue and in return Excell Marketing agrees to construct the necessary storm water drainage facilities on its property to alleviate the present problem, to maintain the same, and not to sue the City regarding the same.

BE IT FURTHER RESOLVED that the Finance Director is authorized to draw a warrant in the amount of \$100,000.00 payable to Excell Marketing L.C. and its attorney, Charles F. Becker.

FORM APPROVED:

MOVED BY \_\_\_\_\_ TO ADOPT

*Mark Godwin*

Mark Godwin  
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