

Date October 13, 2008

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; and,

WHEREAS, the Agreement provides for the City to vacate and convey to Wellmark easements within specific portions of the adjoining public rights-of-way for the use of air-rights and subsurface areas necessary for the construction of Wellmark's new home office facility; and,

WHEREAS, by Ordinance No. 14,756, passed April 21, 2008, the City Council vacated the specific portions of the adjoining public rights-of-way necessary for the conveyance of such air-rights and subsurface easements to Wellmark; and,

WHEREAS, the location and dimensions of the subsurface easement area for one of the building footings designated as Area 3 has changed, and it was subsequently discovered that an additional subsurface easement is needed for the placement of a Food, Oil and Grease ("FOG") Interceptor within a portion of the 12th Street right-of-way between Grand Avenue and High Street; and,

WHEREAS, Wellmark, Inc., has requested that the City vacate and convey easements to Wellmark for the use of the subsurface areas within the amended Area 3 and for the FOG Interceptor as described below, in accordance with the terms of the Agreement; NOW, THEREFORE,

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating the subsurface rights under portions of the 11th and 12th Street right-of-way north of Grand Avenue, more specifically described as follows:

**AREA A6-3: (As amended)**

A PART OF 11TH STREET RIGHT-OF-WAY LYING ADJACENT TO LOT 2 IN BLOCK 58, CAMPBELL & McMULLEN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHEAST CORNER OF LOT 43 IN FOURTEENTH STREET PLACE, BEING AN OFFICIAL PLAT, IN THE CITY OF DES MOINES,

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POLK COUNTY, IOWA; THENCE NORTH 80° (DEGREES) 07' (MINUTES) 38" (SECONDS) EAST, 66.27 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 12TH STREET EXTENDED NORTHERLY; THENCE NORTH 34°03'39" EAST, 13.09 FEET; THENCE NORTH 83°10'52" EAST, 273.07 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SAID 11TH STREET EXTENDED NORTHERLY; THENCE SOUTH 15°27'41" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 146.03 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°32'19" EAST, 4.00 FEET; THENCE SOUTH 15°27'41" EAST, 94.82 FEET; THENCE SOUTH 74°32'21" WEST, 4.00 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE; THENCE NORTH 15°27'41" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 94.82 FEET TO THE POINT OF BEGINNING AND CONTAINING 379 SQUARE FEET.

**FOG Interceptor Area:**

A part of the 12th Street right-of-way adjacent to Lot 5, in Block 58, Campbell & McMullen's Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more specifically described as follows:

Commencing at the Northeast corner of Lot 43 in Fourteenth Street Place, an Official Plat; thence North 80°07'38" East, 66.27 feet to a point on the East right-of-way line of said 12th Street extended northerly; thence South 15°03'34" East along said East right-of-way line, 181.25 feet to the Point of Beginning; thence continuing South 15°03'34" East along said East right-of-way line, 64.51 feet; thence South 74°00'00" West, 6.98 feet; thence North 16°00'00" West, 64.50 feet; thence North 74°00'00" East, 8.04 feet to the Point of Beginning and containing 484 square feet, more or less.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to convey easements for the use of such subsurface rights to Wellmark, Inc., and/or Wellmark Holdings, Inc., in consideration of Wellmark's undertakings under the Agreement.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easements are to be considered shall be on October 27, 2008, said meeting to be held at 5:00 p.m., in the Council Chambers.

( continued )

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4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K Brown*

Roger K. Brown

Assistant City Attorney

C:\Rog\Eco Dev\Wellmark\Admin\Closing\RC & Ord - Subsurface esmts.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