



Roll Call Number

Agenda Item Number

34

Date November 19, 2012

An Ordinance entitled, "AN ORDINANCE to amend Ordinance No. 15,014 adopted by the City Council of the City of Des Moines, Iowa, on May 9, 2011 which vacates as parkland and right-of-way approximately 13.498 acres adjacent to the Greater Des Moines Botanical Center at 909 Robert D. Ray Drive, by changing the reservation of easements thereon to only easements of record and reserving an easement for the Iowa Communications Network",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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

Prepared by: Ann DiDonato, Assistant City Attorney, 400 Robert D. Ray Drive, Des Moines, Iowa 50320 (515) 283-4130

ORDINANCE NO. _____

AN ORDINANCE to amend Ordinance No. 15,014 adopted by the City Council of the City of Des Moines, Iowa, on May 9, 2011 which vacates as parkland and right-of-way approximately 13.498 acres adjacent to the Greater Des Moines Botanical Center at 909 Robert D. Ray Drive, by changing the reservation of easements thereon to only easements of record and reserving an easement for the Iowa Communications Network.

WHEREAS, all prior requirements of law pertaining to the amendment of the reservation of an easement for utilities in Ordinance No. 15,014 for vacation of public parkland and right-of-way have been fully observed; and

WHEREAS, it is desirable that this amendment described herein be enacted;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That Section 2 of Ordinance No. 15,014 shall be repealed and replaced with the following:

Section 2. Such vacation is subject to any easements of record. The City of Des Moines hereby reserves an easement upon the property described above with the right of entry for servicing same for the continued use and maintenance of a shared communications system pursuant to Supplemental Agreement No. 2 by and between the City of Des Moines, Iowa, the Des Moines Independent Community School District, the Iowa Telecommunication and Technology Commission, Operating the Iowa Communications Network, recorded in the Polk County Recorder's Office at Book 8095, Page 004 on December 21, 1998, and Supplemental Agreement No. 2A between the City of Des Moines, Iowa, the Des Moines Independent Community School District, the Iowa Telecommunication and Technology Commission, Regarding the Construction of an East Side Hub Facility to Serve the Communications Needs of Participating Authorized Users, recorded in the Polk County Recorder's Office at Book 8095, Page 038 on December 21, 1998.

Section 2. That the City Clerk is hereby authorized and directed to cause certified copies of this ordinance and proof of publication thereof together with proof of publication of the notice of the public hearing on this matter to be properly filed in the office of the Recorder of Polk County, Iowa.

Section 3. This ordinance shall be in full force and effect after its passage and publication as provided by law and from the lease commencement date of the Botanical Center Lease and Operation, Management and Maintenance Agreement By and Between the City of Des Moines, Iowa and The Greater Des Moines Botanical Garden.

FORM APPROVED:

Ann DiDonato
Ann DiDonato
Assistant City Attorney