

★ **Roll Call Number**
..... 11-0676

Agenda Item Number
..... 25

Date April 25, 2011

**SET HEARING FOR CONVEYANCE OF A LICENSE AGREEMENT ON CITY-OWNED
PROPERTY AT 1012 OAK PARK AVENUE (MCHENRY PARK)
TO QWEST CORPORATION FOR \$200**

WHEREAS, Qwest Corporation owns and operates fiber optic equipment and lines within the street right-of-way of Oak Park Avenue which lines must be relocated, and thus Qwest has requested a license agreement to use City-owned property at 1012 Oak Park Avenue (McHenry Park) for the relocation and for the placement of related utility equipment; and

WHEREAS, the City's Real Estate Division has negotiated a License Agreement, on file in the office of the City Clerk, which Agreement has been approved and executed by Qwest Corporation as licensee and establishes a term commencing upon execution by City of the License Agreement through April 30, 2026, with a one-time lump sum payment of \$200.00 which amount reflects fair market value of the licensed area and term as currently estimated by the City's Real Estate Division, and which Agreement requires the licensee to remove all improvements to the licensed area upon termination thereof and allows for termination for cause immediately upon notice and without cause upon one-hundred twenty (120) days notice; and

WHEREAS, the City will not be inconvenienced by approval of the negotiated License Agreement with Qwest Corporation.

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

1. The City Council of the City of Des Moines, Iowa proposes to enter into a License Agreement in accordance with the terms set forth above, as on file in the office of the City Clerk, with Qwest Corporation for the use of the following described City-owned property, locally known as a portion of 1012 Oak Park Avenue, more specifically described below, for \$200:

A PARCEL OF LAND BEING THE WEST 17 FEET OF THE EAST 42.37 FEET OF THE NORTH 14 FEET OF LOT 10, OAK PARK SUBDIVISION, AS RECORDED IN PLAT BOOK D, PAGE 88 IN THE RECORDS OF POLK COUNTY IOWA, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

2. A public hearing will be held on May 9, 2011, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of the proposal and hearing in the form hereto attached, all in accordance with Iowa Code Section 362.3.

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4. The proceeds from the sale of this license agreement shall be deposited into the following account:
Property Maintenance Endowment Fund, SP767, ENG980500.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

PN

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GRIESS | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MEYER | ✓ | | | |
| MOORE | ✓ | | | |
| TOTAL | 7 | | | |

MOTION CARRIED

APPROVED

T. M. Franklin 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.

Diane Rauh City Clerk