

★ **Roll Call Number**

13-1630

Agenda Item Number

18

Date October 21, 2013

**SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH
WELLMARK, INC. UPON CITY-OWNED PROPERTY LOCATED
NORTH OF EAST DOUGLAS AVENUE IN SARGENT PARK FOR \$100**

WHEREAS, Wellmark, Inc. owns and operates fiber optic equipment and lines within City of Des Moines right-of-way pursuant to license agreement administered by City Engineering Department, Traffic & Transportation Division, in accordance with the ROW Management Code, Chapter 102, Article IX of the Des Moines City Code; and

WHEREAS, in order to connect with said equipment, additional fiber optic line installation is required to be established within City-owned real property outside of the right-of-way, and thus Wellmark, Inc. has requested a license agreement to use such City-owned property north of East Douglas Avenue in Sargent Park, as legally described below, for the placement of related utility equipment; and

WHEREAS, the City's Real Estate Division is negotiating a License Agreement with Wellmark, Inc. as licensee, which Agreement will include, among other terms, a twenty year license term commencing upon execution by City of the License Agreement, with an upfront, one-time lump sum payment of \$100.00, which amount reflects fair market value of the licensed area and term as currently estimated by the City's Real Estate Division, and the requirement that the licensee remove all improvements within the licensed area upon of the License, which termination may occur 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 proposed License Agreement with Wellmark, Inc.

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 with Wellmark, Inc. for the use of City-owned real property located north of East Douglas Avenue in Sargent Park, legally described as follows, for the purpose of construction and maintenance of fiber optic line and related utility equipment, for a twenty-year term, and for consideration in the lump-sum license amount of \$100.00:

A PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M. INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 20; THENCE NORTH 89° (DEGREES) 37' (MINUTES) 22" (SECONDS) EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 738.50 FEET; THENCE NORTH 0°22'38" EAST, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF DOUGLAS AVENUE AND TO THE POINT

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OF BEGINNING; THENCE NORTH 82° 07' 10" EAST, 64.45 FEET; THENCE NORTH 85° 52' 21" EAST, 78.59 FEET; THENCE SOUTH 89° 48' 53" EAST, 39.94 FEET; THENCE NORTH 87° 59' 42" EAST, 144.91 FEET; THENCE SOUTH 74° 41' 18" EAST, 20.93 FEET; THENCE SOUTH 83° 17' 21" EAST, 94.18 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE SOUTH 89° 37' 22" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 40.52 FEET; THENCE NORTH 83° 17' 21" WEST, 54.34 FEET; THENCE NORTH 74° 41' 18" WEST, 20.54 FEET; THENCE SOUTH 87° 59' 42" WEST, 144.24 FEET; THENCE NORTH 89° 48' 53" WEST, 39.85 FEET; THENCE SOUTH 85° 52' 21" WEST, 78.24 FEET; THENCE SOUTH 82° 07' 10" WEST, 26.33 FEET; THENCE SOUTH 89° 37' 22" WEST, 38.29 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE, 38.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,016 S.F.).

- A public hearing will be held on November 4, 2013, 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.
- 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.
- Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>T. M. Franklin</u> 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