

★ Roll Call Number
15-01653

Agenda Item Number
15

Date April 20, 2015

SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH CENTURYLINK CORPORATION ON CITY-OWNED PROPERTY LOCATED NORTH OF AND ADJACENT TO GRAND AVENUE RIGHT-OF-WAY ON THE EAST AND WEST BANKS OF THE DES MOINES RIVER, FOR \$3,800

WHEREAS, Centurylink Corporation owns and operates telecommunication lines and related utility equipment 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, construction of the City's Grand Avenue bridge over the Des Moines River conflicts with the existing telecommunication lines and related utility equipment owned by Centurylink Corporation, resulting in the need to relocate said telecommunication lines and related utility equipment to a new site on City-owned property; and

WHEREAS, Centurylink Corporation has requested a license agreement under, across and below a portion of City-owned, non-right-of-way property located north of and adjacent to Grand Avenue right-of-way on both the east and west banks of the Des Moines River (herein "Licensed Premises"), as legally described below; and

WHEREAS, the City's Real Estate Division has negotiated a License Agreement for the use of the Licensed Premises with Centurylink Corporation as licensee, which Agreement will include, among other terms, a license term commencing upon execution by City of the License Agreement and terminating on May 31, 2065, with Centurylink Corporation having the unilateral right at its option to renew this License Agreement for one additional fifty (50) year term running from June 1, 2065 until May 31, 2115, and with both terms subject to termination for default and termination by either party, with or without cause, upon one-hundred eighty (180) days written notice; and

WHEREAS, pursuant to the negotiated Agreement, Centurylink Corporation shall pay an upfront, one-time lump sum payment of \$3,800.00 as consideration for the initial fifty (50) year license term, and an additional upfront, one-time lump sum payment of \$7,600.00 in the event that Centurylink Corporation exercises its option to renew the License Agreement, which amounts reflect fair market value of the Licensed Premises and terms as currently estimated by the City's Real Estate Division; and

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

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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 Centurylink Corporation for the use of City-owned real property located north of and adjacent to Grand Avenue right-of-way on both the east and west banks of the Des Moines River, legally described as follows, for the purpose of relocating and maintaining telecommunication lines and related utility equipment, for an initial fifty year term (through May 31, 2065) with an option to renew for an additional fifty year term (June 1, 2065 through May 31, 2115), and for consideration in the lump-sum license amount of \$3,800.00 for the initial term, and \$7,600.00 for the renewal term:

A 10-FOOT WIDE UNDERGROUND FIBER LINE LICENSE ACROSS THE SOUTH 30 FEET OF LOT 4, BLOCK 2, EAST FORT DES MOINES, AN OFFICIAL PLAT, AND ACROSS THE SOUTH 30 FEET OF LOT 14, THE SIBLEY ADDITION, AN OFFICIAL PLAT, AND ACROSS THE SOUTH 30 FEET OF THE EAST 50 FEET OF LOT 3 RIVER HILLS PLAT TWO, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, LICENSE LOCATION TO BE 5 FEET ON EACH SIDE OF FIBER LINE AS CONSTRUCTED.

2. A public hearing will be held on May 4, 2015, 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.
4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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15-0653

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

Ann DiDonato
 Ann DiDonato, Assistant City Attorney

pm

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
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