



Roll Call Number

15-0762

Agenda Item Number

33

Date May 4, 2015

HOLD HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH CENTURYLINK CORPORATION UPON 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 Grand Avenue right-of-way over the Des Moines River pursuant to a license agreement administered by the 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, reconstruction 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; and



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WHEREAS, on April 20, 2015, by Roll Call No. 15-0653, it was duly resolved by the City Council that consideration of the proposed License Agreement be set down for hearing on May 4, 2015, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, in accordance with City Council direction, those interested in the proposed license agreement, both for and against, have been given an opportunity to be heard and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed License Agreement with Centurylink Corporation, as described below, are hereby overruled and the hearing is closed.

2. The public would not be inconvenienced by reason of a License Agreement between the City of Des Moines and Centurylink Corporation, as on file in the office of the City Clerk, across 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 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, and said Agreement is hereby approved:

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.

3. The Mayor is authorized and directed to sign the License Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. The City Clerk is authorized and directed to forward the original of the License Agreement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing the documents to be recorded.

5. The Real Estate Division Manager is authorized and directed to forward the original of the License Agreement, together with a certified copy of this resolution and of the affidavit of publication of the



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notice of this hearing, to the Polk County Recorder's Office for the purpose of causing the documents to be recorded.

6. Non-project related proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 15- 227)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			

T. M. Franklin Council 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