

★ Roll Call Number

15.2118

Agenda Item Number

20

Date December 21, 2015

SET HEARING FOR CONSIDERATION OF A LEASE AGREEMENT WITH AMERICAN TOWERS LLC ON CITY-OWNED PROPERTY LOCATED AT 4800 DOUGLAS AVENUE

WHEREAS, American Towers LLC desires to lease a portion of City-owned property located at 4800 Douglas Avenue ("Leased Premises") for the purpose of constructing and maintaining a communications facility, including but not limited to a telecommunications tower, communications equipment, one or more buildings or equipment cabinets, radio transmitting and receiving antennas, personal property and related improvements and facilities to facilitate the use of the Leased Premises as a site for the transmission and receipt of communication signals including, but not limited to, voice, data and internet transmissions and for any other uses which are incidental to the transmission and receipt of communication signals; and

WHEREAS, the Real Estate Division of the City of Des Moines, Iowa ("City") and American Towers LLC ("Tenant") have negotiated a Lease Agreement with Option ("Agreement"), which Agreement includes the following terms:

1. Tenant shall pay the City an upfront, one-time payment of \$1,000.00 for an option to lease the Leased Premises, which option period shall last for one-hundred twenty days from the date of the executed Agreement.
2. If Tenant exercises the option, the following terms shall apply:
 - a. Tenant shall pay City a one-time non-refundable payment of \$18,000.00.
 - b. The lease term shall be for twenty years, commencing on the date Tenant exercises Tenant's lease option and terminating on the last day of the month in which the twentieth anniversary of the commencement date shall have occurred.
 - c. The City will be allowed to install and/or use a communications systems on the Tenant's telecommunication tower for the City's public emergency communications, the location of which shall be determined by the City in its sole discretion.
 - d. Tenant shall pay the following rent:
 - i. Base Rent in the amount of \$1,700.00 on a monthly basis.
 - ii. In addition to the Base Rent, Tenant shall also pay Additional Rent, which shall be based on the number of colocation sites on the tower. Tenant shall pay City a one-time payment of \$1,200.00 for each colocator for the use of each collocation site on the tower, and, beginning in year eleven of the Agreement, Tenant shall pay City \$400.00 per colocator per month.
 - iii. No rent shall be paid by City to Tenant for City's use of one collocation site on the tower.
 - e. If it is determined any portion of the Leased Premises is needed for a future public improvement project, upon sixty (60) days written notice to Tenant, the City has the right to terminate the Agreement at any time beginning fifteen years after the Commencement Date of the Agreement. Otherwise, the City does not have the right, for any reason, to terminate the Agreement early.

WHEREAS, there is no current or anticipated City need for the Leased Premises and the City will not be inconvenienced by approval of the proposed Agreement with American Towers LLC.

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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 Lease Agreement with Option with American Towers LLC for the use of City-owned real property located at 4800 Douglas Avenue, Fire Station No. 9, legally described as follows, for the purpose of constructing and maintaining a communications facility including a telecommunications tower and related utility equipment.

LEASE AREA LEGAL DESCRIPTION

Lease Area Legal Description -

EXCEPT BUILDINGS AND SITE IMPROVEMENTS -- A PORTION OF LOT 22, J. N. CASADY'S, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. (Subject to survey; a portion of said Lot 22 to be retained by City for municipal building purposes).

INGRESS – EGRESS LEGAL DESCRIPTION

THE SOUTH 25 FEET OF THE NORTH 190 FEET OF THE WEST 80 FEET OF LOT 22, J. N. CASADY'S, AN OFFICIAL PLAT, 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 January 11, 2016, 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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Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

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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 Fauh
 City Clerk