



Roll Call Number

16-0074

Agenda Item Number

43

Date January 11, 2016

HOLD 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 eighty 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.

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; and



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WHEREAS, on December 21, 2015, by Roll Call No. 15-2118, it was duly resolved by the City Council that consideration of the proposed Lease Agreement with Option be set down for hearing on January 11, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, in accordance with City Council direction, those interested in the proposed Lease Agreement with Option, 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 Lease Agreement with Option with American Towers LLC, as described herein, are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of a Lease Agreement with Option between the City of Des Moines, Iowa, and American Towers LLC, as on file in the office of the City Clerk, across 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, and said Lease Agreement with Option is hereby approved:

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.

3. The Mayor is authorized and directed to sign the Lease Agreement with Option 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 Lease Agreement with Option, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing,



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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 Lease Agreement with Option, together with a certified copy of this resolution and of the affidavit of publication of the 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. 16- 014)

Moved by Gray to adopt.

APPROVED AS TO FORM:

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

pa

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | ✓ | | |
| COLEMAN | | ✓ | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MOORE | | ✓ | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 4 | 3 | | |

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

T. M. Franklin Mayor
City Council