



**Roll Call Number**

16-1207

**Agenda Item Number**

24

**Date** July 25, 2016

**SET HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH IOWA COMMUNICATION NETWORK ON CITY PROPERTY LEASED BY THE BLANK PARK ZOO FOUNDATION, LOCATED AT 7401 SW 9<sup>TH</sup> STREET**

**WHEREAS**, the City of Des Moines, Iowa, is the owner of the real property located at 7401 SW 9th Street, in Des Moines, Iowa, which property is currently being leased to the Blank Park Zoo Foundation; and

**WHEREAS**, Iowa Communication Network, an agency of the State of Iowa, has requested a license agreement under, across and below a portion of City-owned property located at 7401 SW 9<sup>th</sup> Street, which property is currently being leased to the Blank Park Zoo Foundation, in order to construct and maintain a telecommunication line and related utility equipment (herein "Licensed Premises"), as legally described below; and

**WHEREAS**, the City's Real Estate Division has negotiated a License Agreement (herein "Agreement") for the use of the Licensed Premises with Iowa Communication Network as licensee, which Agreement will include, among other terms, a license term commencing upon execution by City of the License Agreement and terminating on July 31, 2031, with Iowa Communication Network having the unilateral right at its option to renew this License Agreement for one additional fifteen (15) year term running from August 1, 2031 until July 31, 2046, 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 Iowa Code §364.7(3) Iowa Communication Network shall pay no consideration for said Agreement; and

**WHEREAS**, Blank Park Zoo Foundation has provided its consent to the Agreement, and the City will not be inconvenienced by approval of the proposed Agreement with Iowa Communication Network.

**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 Iowa Communication Network for the use of a portion of City-owned property located at 7401 SW 9<sup>th</sup> Street, legally described as follows, for the purpose of constructing and maintaining telecommunication lines and related utility equipment, for an initial fifteen year term (through July 31, 2031) with an option to renew for an additional fifteen year term (August 1, 2031 until July 31, 2046):

A 10-FOOT WIDE FIBER OPTIC LICENSE AREA ACROSS A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 33, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, GENERALLY DEPICTED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, LICENSE AREA



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LOCATION TO BE 5 FEET ON EITHER SIDE OF THE CENTERLINE OF THE FIBER OPTIC LINE AS CONSTRUCTED.

- 2. A public hearing will be held on August 8, 2016, at 5:00 p.m. in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, 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. There are no proceeds associated with this transaction.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

BN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

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

MOTION CARRIED APPROVED  
J. M. Franklin Mayor