

★ Roll Call Number

16-2192

Agenda Item Number

52

Date December 19, 2016

HOLD HEARING FOR CONSIDERATION OF LICENSE AGREEMENT WITH IOWA NETWORK SERVICES, INC. D/B/A AUREON NETWORK SERVICES UPON CITY-OWNED PROPERTY LOCATED IN GREENWOOD PARK TO SERVE BERGMAN ACADEMY FOR \$11,241.00

WHEREAS, the City of Des Moines is the owner of real property locally known as Greenwood Park located East of 45th and South of Grand Avenue in Des Moines, Iowa; and

WHEREAS, Iowa Network Services, Inc. d/b/a Aureon Network Services desires to install and maintain a fiber optic line and associated equipment within a portion of City-owned, non-right-of-way property located in Greenwood Park (herein "Licensed Premises"), as legally described below; and

WHEREAS, Bergman Academy currently leases a portion of the Licensed Premises and the License Agreement would allow Iowa Network Services, Inc. d/b/a Aureon Network Services to provide services to Bergman Academy; and

WHEREAS, the City's Real Estate Division has negotiated a License Agreement for the use of the Licensed Premises with Iowa Network Services, Inc. d/b/a Aureon Network Services as licensee, which Agreement will include, among other terms, a twenty five (25) year license term and an upfront, one-time payment of \$11,241.00, which amount reflects the fair market value of the Licensed Premises as currently estimated by the City's Real Estate Division; and

WHEREAS, Bergman Academy consents to said License Agreement; and

WHEREAS, the City will not be inconvenienced by approval of the proposed License Agreement with Iowa Network Services, Inc. d/b/a Aureon Network Services; and

WHEREAS, on December 5, 2016, by Roll Call No. 16-2066, it was duly resolved by the City Council of the City of Des Moines, Iowa, that consideration of the proposed License Agreement be set down for hearing on December 19, 2016, 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 Iowa Network Services, Inc. d/b/a Aureon Network Services across

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City-owned real property locally known as Greenwood Park located East of 45th and South of Grand Avenue in Des Moines, Iowa, as described herein, 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 Iowa Network Services, Inc. d/b/a Aureon Network Services, as on file in the office of the City Clerk, across City-owned real property locally known as Greenwood Park located East of 45th and South of Grand Avenue in Des Moines, Iowa, a portion of which is currently leased to Bergman Academy, legally described as follows, for the purpose of installation and maintenance of a fiber optic line and related utility equipment to serve Bergman Academy, for a twenty-five year term (through December 19, 2041) in consideration of a lump-sum, one-time payment of \$11,241.00 and said Agreement is hereby approved:

A PART OF THE SECTION 12, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M. INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING 2.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 12, MENNIG PLACE PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE NORTH 0° (DEGREES) 15' (MINUTES) 39" (SECONDS) EAST ALONG THE WEST LINE OF SAID LOT 12, A DISTANCE OF 250.00 FEET; THENCE NORTH 2°06'00" WEST TO THE WEST RIGHT-OF-WAY LINE OF 45TH STREET AND THE POINT OF BEGINNING; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 400.00 FEET, WHOSE ARC LENGTH IS 201.26 FEET AND WHOSE CHORD BEARS SOUTH 23°13'10" WEST, 199.14 FEET; THENCE SOUTH 32°55'36" WEST, 367.29 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 530.00 FEET, WHOSE ARC LENGTH IS 325.20 FEET AND WHOSE CHORD BEARS SOUTH 39°09'10" WEST, 320.13 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 530.00 FEET, WHOSE ARC LENGTH IS 117.21 FEET AND WHOSE CHORD BEARS SOUTH 39°48'28" WEST, 116.97 FEET; THENCE SOUTH 36°36'33" WEST, 67.69 FEET; THENCE SOUTH 53°12'43" EAST, 69.40 FEET; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 130.00 FEET, WHOSE ARC LENGTH IS 108.69 FEET AND WHOSE CHORD BEARS SOUTH 32°54'28" EAST, 105.55 FEET; THENCE SOUTH 03°43'42" EAST, 107.96 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 165.00 FEET, WHOSE ARC LENGTH IS 93.92 FEET AND WHOSE CHORD BEARS SOUTH 20°26'02" EAST, 92.66 FEET; THENCE SOUTH 36°34'06" EAST, 96.62 FEET; THENCE SOUTH 27°34'04" WEST, 48.23 FEET; THENCE SOUTH 14°24'08" WEST, 274.69 FEET; THENCE SOUTH 05°42'19" EAST, 130.72 FEET; THENCE SOUTH 78°15'03" WEST, 53.79 FEET TO THE POINT OF



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TERMINUS AND CONTAINING 0.24 ACRES (10,313 S.F.) 5 FEET WIDE STRIP OF GROUND TO BE CENTERED ON THE CONDUIT AS CONSTRUCTED.

SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

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 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.



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(Council Communication No. 16-710)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRAY	✓			
HENSLEY	✓			
GATTO	✓			
MOORE	✓			
WESTERGAARD	✓			
WESLEY				
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 Fauh

City Clerk

T. M. Franklin Council Mayor