

**CITY COUNCIL
COMMUNICATION:**

ITEM _____

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

99-046

SYNOPSIS -

AGENDA:

FEBRUARY 1, 1999

SUBJECT:

SUPPLEMENTAL
AGREEMENT NO. 2 -
SKYWALK
CONNECTION

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

SUBMITTED BY:

FLOYD BENTZ
ACTING CITY
ENGINEER

At its January 4, 1999 meeting, by Roll Call No. 99-028, the City Council deferred consideration of Supplemental Agreement No. 2 on the Civic Center/Federal Building/Plaza Condominium Skywalk Connection with Herbert/Lewis/Kruse/Blunck (HLKB) for a report from the Manager on the possibility of contributions from other parties involved in the Skywalk Project for these expenses.

Larry McDowell, City Solicitor, has reviewed the terms of the Skywalk Agreements with The Plaza, Civic Center, and federal government and has advised that The Plaza and Civic Center have no responsibility for any increased costs. The City will ask the federal government to pay a portion of the cost of the Supplemental Agreement, although our chances of receiving a favorable response are not high.

FISCAL IMPACT -

Funds for this Supplemental Agreement will be made available from Tax Increment Funds.

RECOMMENDATION -

Approval of Supplemental Agreement No. 2 with Herbert/Lewis/Kruse/Blunck.

BACKGROUND -

Larry McDowell, City Solicitor, has reported the following:

Under the terms of the basic Skywalk Agreement, the City is responsible for all costs and expenses of engineers and architects with respect to the construction of a Skywalk Bridge.

The owners of private property connected to a Skywalk Bridge are only responsible for the portion of construction costs attributable to a Skywalk Bridge over private property and for specific bridge improvements such as building openings, doors, and structural supports. The amount of costs for which a private property owner is responsible shall be separately set out in the approved construction bid. Accordingly, The Plaza and Civic Center have no responsibility for any increased costs for design and construction inspection services.

The Skywalk project included construction of Skywalk Corridor exterior to the Federal Building on federal government property. The federal government was responsible for all costs with respect to design and construction of the corridor. Accordingly, the City and federal government entered into a Memorandum of Agreement in 1994 to share the costs of skywalk design. The Memorandum of Agreement identified the HLKB proposal for conceptual design costs (\$56,180) and final design costs (\$224,725). On the basis of the HLKB proposal, the federal government agreed to pay 25 percent of the conceptual design costs (\$14,045) and 40.44 percent of the final design costs (\$90,889). Also in accordance with the Memorandum of Agreement, the federal government agreed to pay 40.44 percent of the costs for construction inspection services performed by HLKB. The construction inspection services were incorporated as Supplemental Agreement No. 1 to the Agreement between the City and HLKB and such Supplemental Agreement was incorporated as part of the Skywalk Agreement between the City and federal government approved by the City Council in January 1996 and signed by the federal government in April 1996.

It will likely be difficult to obtain additional money from the federal government to pay a portion of the requested increased costs incurred by HLKB. It should be noted that the City acknowledged in the Skywalk Agreement that federal law generally prohibits the federal government from making or authorizing expenditures without appropriations or from exceeding amounts that have been made available in an appropriation.

City staff will make a request of General Services Administration (GSA) to share in 40.44 percent of these additional costs.

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