

**CITY COUNCIL
COMMUNICATIO
N:**

03-087

AGENDA:

FEBRUARY 24,
2003

SUBJECT:

RELEASE OF
RESTRICTIONS
ON FORMER
FORT DES
MOINES
PROPERTY
FROM THE
FEDERAL
GOVERNMENT
AND
AUTHORIZATION
OF CITY
MANAGER TO
EXECUTE
RELEASE ON
EXPIRATION OF
RESTRICTIONS
AGREEMENT

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

SUBMITTED BY:

DONALD M.
TRIPP
PARK AND
RECREATION
DIRECTOR

ITEM 39

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

SYNOPSIS —

Release of Federal Government Restrictions and Acceptance of 17.75 acres of former Fort Des Moines property. Execution of such agreement is with the United States Department of Education.

FISCAL IMPACT —

NA

RECOMMENDATION —

Approval.

BACKGROUND —

On November 6, 1972, the United States of America, acting through the U.S. Department of Health, Education and Welfare, conveyed 93.62 unimproved acres, locally known as a portion of Fort Des Moines, to the City by Quitclaim Deed. The Deed contained certain conditions and restrictions, including a 30- year period whereby the property was required to be used for educational purposes in accordance with the application submitted by the City of Des Moines dated May 17, 1971. On November 20, 1972, by Roll Call No. 92-5593, Council approved the acceptance of the property and related conditions.

By Quitclaim Deed dated August 6, 1979, a 27.9 acre portion was returned to the United States of America.

By abrogation and release of restriction dated October 16, 1991, a 38.92 acre portion was abrogated by the City of Des Moines.

On April 22, 1996, by Roll Call No. 96-1586, City Council approved the sale of 9.05 acres to Clarke & Clarke LC. On January 20, 1997, by Roll Call No. 97-231, City Council authorized payment of \$138,000 to the United States of America for the Abrogation and Release of Restriction on the 9.05 acres. By Abrogation and Release of Restriction dated February 11, 1997, a 9.05 acre portion was abrogated by the City of Des Moines. On March 12, 1997, the City of Des Moines sold the 9.05 acre

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parcel to Clarke & Clark LC. Pursuant to a development agreement.

On November 6, 2002, the 30-year period expired. Representatives of the United States Department of Education have evaluated the reports submitted by the City of Des Moines over the 30-year period and conducted periodic inspections of the property and have determined substantial compliance with the restrictions outlined in the original agreement.

On December 11, 2002, the United States of America executed an agreement releasing nearly all of the restrictions contained in the original agreement. The agreement has been received by the City Manager's office with instructions to execute the same, record the same and send copies of the information to the Department of Education. The restriction remains that Title VI of the Civil Rights Act must be complied with for educational or similar uses of the property.

By this action, the restrictions set down as part of the acquisition of the property from the United States of America, except for continued compliance with Title VI, will be released.

