



**Council  
Communication**  
Office of the City Manager

<b>Date</b>	December 17, 2007
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<b>Agenda Item No.</b>	<b>49A</b>
<b>Roll Call No.</b>	<b>07-</b>
<b>Communication No.</b>	<b>07-748</b>
<b>Submitted by:</b>	<b>Jeb E. Brewer, P.E., City Engineer</b>

**AGENDA HEADING:**

Authorization to proceed with acquisition of the necessary right-of-way and easements for the East Indianola Avenue Widening Project by gift, negotiation, or eminent domain.

**SYNOPSIS:**

Recommend authorization to acquire agricultural property, properties for recreational trail purposes, and all other necessary right-of-way and easements for the East Indianola Avenue Widening Project. These actions are required by Iowa law before the City can initiate the right-of-way acquisition process under eminent domain.

**FISCAL IMPACT:**

Amount: To be determined by an independent appraiser after design is complete and the right-of-way acquisition limits have been determined. The preliminary planning estimate of right-of-way acquisition cost for the corridor is \$500,000.

Funding Source: 2007-08 CIP, Page Street – 16, East Indianola Avenue Widening – SE 14<sup>th</sup> to Army Post Road, STR213

**ADDITIONAL INFORMATION:**

The phased construction of the East Indianola Avenue Widening Project, approximately 2.2 miles in length, will provide for reconstruction of the street to a 4-lane roadway between SE 14<sup>th</sup> Street and Army Post Road. The section north of Ewing Park will be either a 5-lane roadway or a 4-lane roadway with left-turn lanes at major intersections. The section south of Ewing Park will be a 4-lane divided boulevard-type roadway. A separate multi-purpose recreational trail is to be included along the west side of the new roadway. As the design progresses, consideration will be given to staging and budget constraints. The ultimate 4-lane cross-section on the southern sections may be initially constructed with fewer lanes, the remaining lanes would then be constructed as part of a future project.

Agricultural Land:

Under the provisions of Chapter 6B of the Iowa Code, a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of intent to commence the project to all owners of such agricultural land whose properties may be acquired in whole or in part for the project. (See Sections 6A.21(a) and 6B.2A of the Iowa Code.) Potential acquisition interests for the East Indianola Avenue Project have been identified on agricultural

land owned by LeMar Koethe and located at the northeast corner of Army Post Road and East Indianola Avenue.

The City has mailed and published notice regarding the potential acquisition of the agricultural property for this project as required by law. Before proceeding with the portion of the East Indianola Avenue Widening Project that affects agricultural land, the City must (a) hold a public hearing, giving persons interested in the proposed project the opportunity to present their views and objections regarding the project and regarding the proposed acquisition of agricultural property for the project by gift, negotiation or eminent domain; and (b) adopt a resolution to approve the project and authorize acquisition of agricultural property for the project by eminent domain.

Property Needed for Recreational Trail Purposes:

Under the provisions of Chapter 6B of the Iowa Code, a governmental body which proposes to acquire property under power of eminent domain for recreational trail purposes is required to give notice of a proposed resolution, motion, or other document authorizing acquisition of property by eminent domain to each property owner, contract purchaser of record, and any tenant known to be occupying the properties that may be acquired in whole or in part for the recreational trail. Said notice must be prior to the date of the meeting at which such proposed authorization will be considered. (See Section 6B.2D of the Iowa Code.) Potential acquisition interests for the recreational trail portion of the East Indianola Avenue Project have been identified on various properties along the West side of the proposed East Indianola Avenue Widening Project.

The City has mailed notice regarding the proposed resolution authorizing acquisition of property for recreational trail purposes for this project as required by law. Before further proceeding with the portion of the East Indianola Avenue Widening Project that contains a recreational trail, the City must (a) hold a public hearing, giving affected persons the opportunity to attend the hearing and present their views and objections regarding the proposed acquisition of private property for the recreational trail portion of the project by gift, negotiation or eminent domain; and (b) adopt a resolution to authorize acquisition of private property for the recreational trail portion of the project by eminent domain.

Remaining Property Interests:

In addition to the property interests in agricultural land and property interests for recreational trail purposes, City Council must separately approve authorization to proceed with acquisition for the remainder of the right-of-way and easement needs for the East Indianola Avenue Widening Project by gift, negotiation or eminent domain.

**PREVIOUS COUNCIL ACTION(S):**

Date: November 19, 2007

Roll Call Number: 07-2199

Action: [On](#) intent to acquire agricultural property and authorize acquisition of the necessary property interests thereof from Lemar Koethe for property at the northeast corner of Army Post Road and E. Indianola Avenue for the E. Indianola Avenue Widening Project, (12-17-07). Moved by Vlassis to adopt. Motion Carried 7-0.

Date: November 19, 2007

Roll Call Number: 07-2200

Action: [On](#) intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property interests thereof from various property owners for the E. Indianola Avenue Widening Project, (12-17-07). Moved by Vlassis to adopt. Motion Carried 7-0.

Date: October 8, 2007

Roll Call Number: 07-1994

Action: [E.](#) Indianola Avenue Corridor Study, and Professional Services Agreement with Snyder & Associates, Inc. (David Moeller, P.E., President, Ankeny, IA) for the E. Indianola Avenue Roadway Design, \$988,908. ([Council Communication No. 07-601](#)) Moved by Meyer to adopt. Motion Carried 7-0.

Date: July 25, 2005

Roll Call Number: 05-1773

Action: Approving Professional Services Agreement with Snyder & Associates, Inc. (Stephen P. Rowe, President, Ankeny) for engineering services in conjunction with East Indianola Avenue Corridor Study from SE 14<sup>th</sup> Street to E. Army Post Road, not to exceed \$223,200. ([Council Communication No. 05-413](#)) Moved by Brooks to adopt. Motion Carried 6-1.

**BOARD/COMMISSION ACTION(S):**

Traffic Safety Committee review on September 18, 2007 – Information item  
Plan and Zoning Commission review on October 4, 2007 – Information item  
Parks and Recreation Board review on October 9, 2007 – Information item

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**