



Council Communication

Office of the City Manager

Date

November 9, 2009

Agenda Item No. 51
Roll Call No. 09-
Communication No. 09-781
Submitted by: **Jeb E. Brewer, P.E.**
City Engineer

AGENDA HEADING:

Authorization to proceed with acquisition of the necessary right-of-way and easements for the East Army Post Trunk Sanitary Sewer Project by gift, negotiation, or eminent domain.

SYNOPSIS:

Recommend Council authorization to acquire agricultural property and all other necessary right-of-way and easements for the East Army Post Trunk Sanitary Sewer 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.

Funding Source: 2009-10 CIP, Sanitary Sewer Improvements, East Army Post Road Trunk Sewer, SAE127, Sanitary Sewer Improvements – Page 10.

ADDITIONAL INFORMATION:

The East Army Post Road Trunk Sewer would provide for the construction of a trunk sanitary sewer ranging in size from 10-inch to 15-inch to provide sanitary sewer service for the area lying north of East Army Post Road from the 3000 block to Indianola Avenue, and on the north and south sides of East Army Post Road from Indianola Avenue to the 1900 block of East Army Post Road. This trunk sewer will allow the area to develop at the densities required to make the area an asset and to provide for the growth that is projected.

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 Army Post Trunk Sewer 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 further proceeding with the portion of the East Army Post Trunk Sanitary Sewer 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.

In addition to the property interests in agricultural land, City Council must separately approve authorization to proceed with acquisition for the remainder of the right-of-way and easement needs for the East Army Post Trunk Sanitary Sewer Project by gift, negotiation, or eminent domain.

PREVIOUS COUNCIL ACTION(S):

Date: October 12, 2009

Roll Call Number: 09-1849

Action: On intent to acquire agricultural property and authorize acquisition of the necessary property interests at the northeast corner of Army Post Road and E. Indianola Avenue from Lemar Koethe for the East Army Post Trunk Sanitary Sewer Project, (11-9-09). Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: March 23, 2009

Roll Call Number: 09-457

Action: Approving Professional Services Agreement with Foth Infrastructure & Environment, LLC for design and construction phase services for E. Army Post Trunk Sanitary Sewer, not to exceed \$118,250. (Council Communication No. 09-175) Moved by Hensley to adopt. Motion Carried 5-2.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Establish Fair Market Value

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