



# Council Communication

Office of the City Manager

Date

January 11, 2010

Agenda Item No. 12  
Roll Call No. 10-  
Communication No. 10-011  
Submitted by: Jeb E. Brewer, P.E.,  
City Engineer

## AGENDA HEADING:

Approving property acquisition settlement agreement with Union Pacific Railroad for the I-235 Dean's Lake Outlet Storm Sewer – Phase 2 Project.

## SYNOPSIS:

Recommend Council approval of property acquisition settlement agreement with Union Pacific Railroad Company (UPRR) for the I-235 Dean's Lake Outlet Storm Sewer – Phase 2 Project. The City's Legal and Engineering Departments have negotiated a property acquisition settlement agreement in the amount of \$150,000 for all property interests required for this project. Without this settlement, the City would have had to acquire the property interests by condemnation. This settlement will allow the project to advance, and will prevent further delays caused by additional time under the condemnation process. This settlement is in the best interest of the general public, and approval is recommended so the project may advance.

## FISCAL IMPACT:

Amount: \$150,000, plus closing costs and incidental fees.

Funding Source: 2009-10 CIP, Page Street Improvements - 20, I-235 Storm and Sanitary Sewer Improvements, STR197.

## ADDITIONAL INFORMATION:

The I-235 Dean's Lake Storm Sewer Outlet Project – Phase 2 will require the acquisition of several large permanent and temporary easements for construction of a new storm sewer as required by the I-235 reconstruction project. The easements required for this project are located on an active railroad corridor owned by UPRR on the west side of East 20<sup>th</sup> Street from Hubbell Avenue south to E. Market Street.

On September 24, 2001, by Roll Call No. 01-2846, the City Council approved a Professional Services Agreement with Veenstra and Kimm, Inc., for design services for the Dean's Lake Outlet Storm Sewer – Phase 2 Project. On November 22, 2004, by Roll Call No. 04-2515, the City Council authorized the acquisition by gift, negotiation, or condemnation, of the right-of-way required to construct the I-235 Dean's Lake Outlet Storm Sewer – Phase 2 Project. On September 28, 2009, by Roll Call No. 09-1742, the City Council established fair market value of the property interests to be acquired.

As part of the negotiations to acquire the required property interests for this project, UPRR requested a change from a partial fee interest acquisition to multiple permanent and temporary easements along with

various crossing agreements to allow for potential future use of existing railways. In addition to UPRR's requested change in property interests to be acquired, there were several large additional permanent and temporary easements that were identified to be needed for construction of this project. Due to these changes, the approved fair market value was no longer applicable and the City's Real Estate Division of the Engineering Department and Legal Department negotiated an acquisition settlement agreement with Union Pacific Railroad in the amount of \$150,000 for all property interests required for construction of this project. This property acquisition settlement is considered to be within a reasonable range of the estimated fair market value of the revised property interests to be acquired for this project. Recent experience in Eminent Domain actions, the range of probable testimony, and the estimate of condemnation costs were also considered in conjunction with the above items as justification for this settlement.

**PREVIOUS COUNCIL ACTION(S):**

Date: September 28, 2009

Roll Call Number: 09-1742

Action: Establishing Fair Market Value for property in the vicinity of 2001 Hubbell Avenue from Union Pacific Railroad Company for the I-235 Dean's Lake Outlet Sewer – Phase 2 Project. (Council Communication No. 09-697). Moved by Coleman to adopt. Motion Carried 7-0.

Date: November 22, 2004

Roll Call Number: 04-2515

Action: Authorization to proceed with right-of-way acquisition for Deans Lake Outlet Storm Sewer Project – Phase II. Moved by Vlassis to adopt. Motion Carried 7-0.

Date: September 24, 2001

Roll Call Number: 01-2846

Action: Approving Professional Services Agreements with Veenstra & Kimm, Inc. for design and right-of-way acquisition services for I-235 as follows:

01-2846 (A) Deans Lake Outlet Storm Sewer - Not to exceed \$344,517. (Council Communication No. 01-490). Moved by Vlassis to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE****ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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