

Date January 11, 2010

APPROVING PROPERTY ACQUISITION SETTLEMENT AGREEMENT WITH UNION PACIFIC RAILROAD FOR THE I-235 DEAN'S LAKE OUTLET STORM SEWER – PHASE 2 PROJECT

WHEREAS, on September 24, 2001, by Roll Call No. 01-2846, the City Council of the City of Des Moines approved a Professional Services Agreement with Veenstra and Kimm, Inc., for design services for the Dean's Lake Outlet Storm Sewer – Phase 2 Project ("Project"); and

WHEREAS, on November 22, 2004, by Roll Call No. 04-2515, the City Council of the City of Des Moines authorized the acquisition, by gift, negotiation, or condemnation, of the right-of-way required to construct this project; and

WHEREAS, on September 28, 2009, by Roll Call No. 09-1742, the City Council of the City of Des Moines established fair market value of certain property interests to be acquired from Union Pacific Railroad (UPRR) for the Project; and

WHEREAS, subsequent to said Council action, the Project Engineer and consultants determined that additional property interests were needed to be acquired from the UPRR for the Project that significantly increased the anticipated cost of acquisition above the established and appraised fair market value; and

WHEREAS, the City Engineering Department Real Estate Division and Legal Department have negotiated a settlement with Union Pacific Railroad in the amount of \$150,000 for all previously established and newly identified property interests required for this Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the settlement calling for payment of the total amount of \$150,000 to Union Pacific Railroad as consideration for all necessary permanent, temporary, crossing and access interests needed for the Dean's Lake Outlet Storm Sewer – Phase 2 Project is hereby approved.
2. That following final review and approval by the Legal Department, the Mayor is authorized and directed to sign the Easement Deed and Agreement, in substantially the form as on file in the office of the City Clerk, and all related documents as approved by the Legal Department and the City Clerk is authorized and directed to attest to the Mayor's signature.

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3. That the Finance Director is authorized and directed to issue checks and pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to obtain the checks, if any, needed to carry out these transactions and to deliver them to the payees.
4. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.
5. That the City Clerk is hereby authorized and directed to endorse upon the closing documents approval and acceptance of this Council and is further authorized and directed to deliver said closing documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

(Council Communication No. 10- 011)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

RN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
KIERNAN				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk



PROJECT LOCATION

**AQUISITION FOR
I-235 DEAN'S LAKE
OUTLET SEWER - PHASE 2
FROM UNION PACIFIC
RAILROAD COMPANY**

