

Date March 8, 2010

**AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY
RIGHT-OF-WAY AND EASEMENTS FOR THE MCKINLEY AVENUE WIDENING AT
SOUTH UNION STREET PROJECT BY GIFT, NEGOTIATION, OR CONDEMNATION**

WHEREAS, on January 12, 2004, by Roll Call No. 04-20, the City Council approved the professional services agreement between the City of Des Moines and Earth Tech for engineering services in conjunction with the McKinley Avenue Corridor Study; and

WHEREAS, on October 11, 2004, by Roll Call No. 04-2157, the City Council approved the McKinley Avenue Corridor Study; and

WHEREAS, the City's Engineering Department has determined that it is necessary to acquire Right-of-Way in connection with the McKinley Avenue Widening at South Union Street Project; and

WHEREAS, the City's Real Estate Division of the Engineering Department will acquire the necessary Right-of-Way for this project; and

WHEREAS, after the design is completed and right-of-way needs are determined, the proposed Fair Market Value of the property interests to be acquired will be submitted to the City Council or the City Manager, as applicable, for approval and authorization to proceed with the acquisitions.

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

1. That the City Manager be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by gift, negotiation, or condemnation the necessary property interests for construction of the McKinley Avenue Widening at South Union Street Project, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201, (c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as appropriate.
2. That the property will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and that relocation assistance is hereby authorized.
3. That the Fair Market Value of these parcels will be approved in accordance with established City policy. If the property owners agree to convey the property to the City in an amount based on the established fair market value, including an approved administrative settlement, or if a condemnation award is based on the established fair market value or falls within an approved settlement amount, the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out

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these transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to complete these transactions in accordance with standard real estate practices and state law requirements.

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 real estate documents listed above the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

6. That the Real Estate Division Manager is hereby authorized and directed to execute Maintain Vacancy Agreements and Rental Agreements, if necessary.

(COUNCIL COMMUNICATION NO. 10- 119)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

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

MOTION CARRIED

APPROVED

Mayor

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.

City Clerk