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Date April 20, 2009

RESOLUTION APPROVING SEPARATE AGREEMENTS WITH IOWA DEPARTMENT OF TRANSPORTATION AND HY-VEE, INC., CONCERNING THE CONSTRUCTION OF A SIGNALIZED INTERSECTION ON DOUGLAS AVENUE AT THE ENTRANCE INTO THE PROPOSED HY-VEE STORE WEST OF BEAVER AVENUE, AND GRANTING AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY RIGHT-OF-WAY BY GIFT, NEGOTIATION, OR CONDEMNATION

WHEREAS, Hy-Vee is redeveloping a site in the City of Des Moines, extending between Douglas Avenue and Euclid Avenue, west of Beaver Avenue as a new Hy-Vee grocery store, and as required by the Iowa Department of Transportation (hereinafter "IDOT") and the City of Des Moines, seeks to construct a signalized intersection at the entrance to the site from Douglas Avenue; and,

WHEREAS, the expected volume of traffic that will be entering and exiting the site from Douglas Avenue warrants a signalized intersection, street widening and other street improvements as required by IDOT and the City in order to ensure the orderly flow of traffic along Douglas Avenue and the safety of the motoring public; and

WHEREAS, Douglas Avenue in the vicinity of the site is a State Highway and any improvement of Douglas Avenue must be approved and accepted by IDOT; and,

WHEREAS, the City, recognizing the benefit that the improvement of Douglas Avenue will provide in the way of orderly flow of traffic and safety to the motoring public, is willing to undertake property acquisition for the improvement of Douglas Avenue with a signalized intersection, street widening and other street improvements as identified above if the City is reimbursed for its costs and such improvement is approved by IDOT; and,

WHEREAS, the City Manager has negotiated an agreement with Hy-Vee, Inc., for the reimbursement of the City's costs to acquire the property needed for the construction of the signalized intersection and associated street improvements, which is on file and available for public inspection in the office of the City Clerk; and,

WHEREAS, the City Manager has negotiated an agreement with IDOT whereby the City may acquire the property needed for the construction of the signalized intersection and associated street improvements in the name of the State of Iowa; and,

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WHEREAS, after the design of the signalized intersection and associated street improvements 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, as follows:

1. The agreements with Hy-Vee, Inc., and with Iowa Department of Transportation for installation of a signalized intersection on Douglas Avenue and associated street improvements as described above are hereby approved.
2. The Mayor is hereby authorized and directed to sign the said agreements with Hy-Vee, Inc., and with Iowa Department of Transportation on behalf of the City of Des Moines, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such documents.
3. The City Manager 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 signalized intersection and associated street improvements, 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.
4. The property shall be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and relocation assistance is hereby authorized.
5. The Fair Market Value of these parcels shall 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 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, with all such costs to be advanced to City by Hy-Vee, Inc., in accordance with the agreement described above.

★ Roll Call Number

Agenda Item Number

16

Date April 20, 2009

(Council Communication No. 09- **243**)

Moved by _____ to adopt.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED	APPROVED			

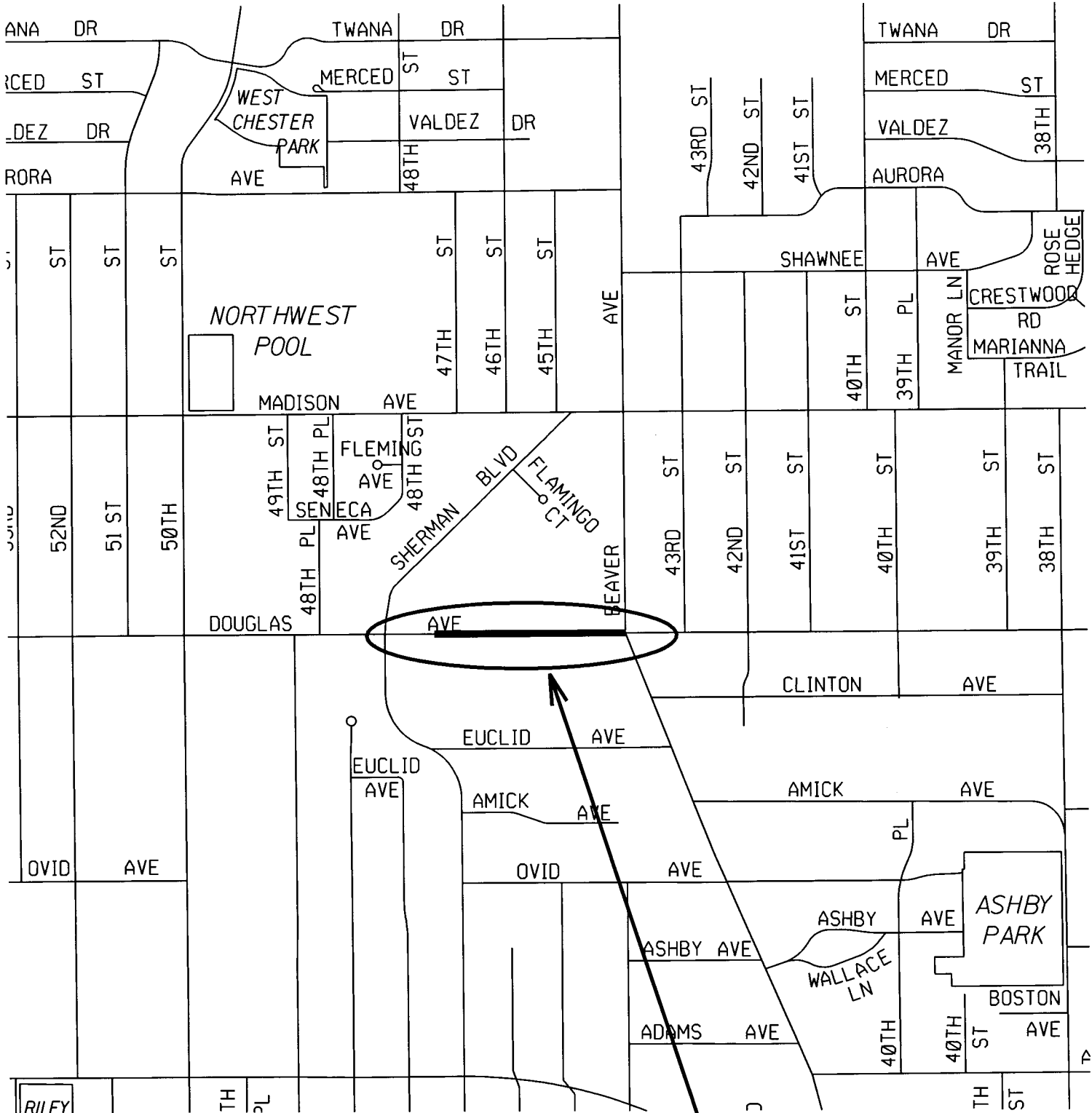
CERTIFICATE

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.

Mayor

City Clerk



PROJECT LOCATION

**AQUISITION FOR DOUGLAS AVENEUE
STREET IMPROVEMENTS
HY-VEE**

