

Date July 28, 2008

**AUTHORIZATION TO DEVELOP, EXECUTE AND ADMINISTER AN AGREEMENT WITH NEIGHBORHOOD FINANCE CORPORATION TO FUND A VOLUNTARY FLOOD ACQUISITION PROGRAM; APPROVAL TO PROCEED WITH ACQUISITION OF ELIGIBLE FLOOD DAMAGED PROPERTIES IN THE BIRDLAND AREA; AND AUTHORIZATION TO ALLOCATE FUNDS FOR THE HOME RESTORATION PROGRAM TO BE ADMINISTERED BY THE POLK COUNTY HOUSING TRUST FUND TO REHABILITE FLOOD DAMAGED PROPERTIES IN THE BIRDLAND AREA**

**WHEREAS**, On July 14, 2008 by Roll Call No. 08-1274, the City Council authorized staff to submit an application for funds for Emergency Community Development Block Grant Funds from the Iowa Department of Economic Development for flood relief, including a voluntary acquisition program and assistance with residential home repair; and

**WHEREAS**, it appears that funding will not be available in the near future and may be very limited for Des Moines because of the major devastation in the eastern part of the state; and

**WHEREAS**, it is very important for citizens to be able to repair their homes or purchase another home and restore their lives to normal; and

**WHEREAS**, from structural assessments, City and County rehabilitation staff estimate that there are 40 properties in the Birdland area that suffered substantial damage; and

**WHEREAS**, the Neighborhood Finance Corporation recognizes the devastating impact that the flood has had in the Birdland area and has offered \$1,000,000 to the City for a Voluntary Acquisition Program to be operated by the City's Engineering Department, Real Estate Division; and

**WHEREAS**, the program will be completely voluntary and will use guidelines based on previous City sponsored flood acquisition programs; and

**WHEREAS**, 16 of the 40 damaged homes are owner-occupied and need rehabilitation assistance; and

**WHEREAS**, 10 of the 40 damaged homes are owner-occupied and have sustained 60% or more damage to the property and are eligible for voluntary acquisition or rehabilitation assistance; and

**WHEREAS**, the remaining 14 properties are investor owned properties that may need assistance for repairs to the properties; and

**WHEREAS**, Polk County Trust Fund working with the City and the County, have put together a program to assist homeowners with rehabilitation funding to be administered by Polk County; and

**WHEREAS**, the City has been asked to contribute \$125,000 of non-federal funds for the Home Restoration Program, which funds are available from the Housing Services Department Operating Budget; and

★ **Roll Call Number**

**Agenda Item Number**

EX. 1

**Date** ..... July 28, 2008 .....

**WHEREAS**, the City Manager will direct existing Community Development Block Grant funds to assist with rehabilitation of investor-owned rental properties in the Birdland area to ensure that all homes in the area that were damaged due to the June 2008 floods are repaired; and

**WHEREAS**, Greater Des Moines Habitat for Humanity is available to provide additional resources to families devastated by the flood that may need additional resources for rehabilitating or rebuilding their home.

**NOW THEREFORE, BE IT RESOLVED:**

1. The voluntary acquisition and rehabilitation programs described above are hereby approved.
2. The City Manager is authorized and directed to negotiate and enter into a funding agreement with the Neighborhood Finance Corporation for voluntary acquisition of owner-occupied properties in the Birdland area that were damaged over 60% by recent flooding events.
3. The City Manager is authorized and directed to negotiate and enter into an agreement with the Polk County Housing Trust Fund to provide \$125,000 from the city's Housing Services Department Operating Budget to the Home Restoration Program.
4. The City Manager is authorized and directed to allocate existing CDBG funds for rehabilitation of rental properties in the Birdland area consistent with all federal regulations and city program requirements.
5. The City Manager shall work with Greater Des Moines Habitat for Humanity to assist those residents who may need additional help in restoring their homes or demolishing and rebuilding their homes in the Birdland area.
6. If the property owners agree to convey the property to the city in accordance with the 2008 Voluntary Flood Acquisition Program, 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.
7. 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.
8. The Mayor is authorized and directed to execute the Offer to Purchase and Warranty Deed and the City Clerk is hereby authorized and directed to endorse upon the Real Estate documents listed above the approval and acceptance of this Council and 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.
9. The Real Estate Division Manager is hereby authorized and directed to execute Maintain Vacancy Agreements and Rental Agreements, if necessary.

★ **Roll Call Number**

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*EX. 1*

Date July 28, 2008

(Council Communication No. 08-462)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Michael F. Kelley, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
<b>TOTAL</b>				

**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

# 2008 FLOOD VOLUNTARY ACQUISITION PROGRAM

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## Program Summary

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Surface water flood damage in June, 2008 created severe hardship for residents of a number of homes located in the Birdland Area and other overland drainage-ways.

On July 14, 2008, under Roll Call No. 08-1274, the City Council authorized the City Manager to submit a request for Emergency Community Development Block Grant (CDBG) funds from the Iowa Department of Economic Development to fund a voluntary acquisition program or home repair program for flood victims.

Additional information is now available which indicates that these funds will not be available in the near future and indeed may be very limited for Des Moines due to the major devastation in the eastern part of the State. The use of local funds will allow the City to redevelop properties that were damaged in levee protected areas, and were subsequently purchased by the City as part of this voluntary acquisition program.

This outline of procedures was created to explain how the program will operate. The City is committed to making this program work as quickly as possible so that the affected property owners may promptly make their property decisions with as much information as is available.

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## Participation Eligibility

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The City will make its initial voluntary offers to purchase to owner-occupants of flood-damaged residential property. An owner-occupant is defined as follows:

1. Holds legal title to the property with valid deed or valid real estate contract, and will certify to having lived in the house as his/her/their primary residence, as of June 14, 2008.
2. Continues to hold title to the property to the date of the City's offer to purchase.
3. Must have sustained 60% or more damage to the property. Such damage determined by the rehabilitation estimates divided by the pre-flood market value of the improvements. (Additional Housing Quality Standards may apply.)

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## Voluntary Acquisition Guidelines

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The funding for this program requires that certain conditions be met in order for it to be on a voluntary basis. Since this is a voluntary acquisition program that is funded with local funds, the City is exempt from following the processes and notices to owners required for acquisition by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter referred to as URA).

A voluntary acquisition program, in order to be exempt from the Uniform Act, must make offers to purchase on a willing buyer-willing seller basis. That is, if the seller rejects the offer, the City will not pursue acquisition of the property by using its eminent domain powers. In addition, the City must not be purchasing the property for a known project. The City will use the same criteria for purchases in all cases for this program.

The City will make voluntary offers to owners of flood-damaged property on a willing buyer-willing seller basis. The City has stated in enabling City Council actions and in the offer to purchase that the owner is under no obligation or coercive action by the City to accept the offer. Further, the City will not initiate eminent domain proceedings for the purposes of acquiring title for this voluntary acquisition program. Under this program, the City will acquire all land and improvements associated with the properties subject to this program. Any additional lots that are adjoining and owned by the eligible, residential property owners may be purchased at the option of the City and the seller.

To make an initial determination of the willing sellers, the City will send a letter to every eligible property owner as identified through structural assessments. This letter, sent certified mail or personally signed for, will request the owner's interest in participating in this voluntary acquisition program.

- Pre-Acquisition Activities

After the property owner indicates their interest in participating in the voluntary acquisition program, the City will undertake a number of activities relating to each property prior to making an offer to purchase. Briefly, these activities are:

1. Determining pre-flood market value as described in "Purchase Price" below.
2. Work with State and Federal agencies to obtain information on the proceeds received through various state/federal agencies' programs for each property. Any state/federal assistance that had been previously received may be subject to repayment under this program.

3. Undertake a Phase I environmental report for each property. The Phase I report will indicate previous uses of the property, identify any known and/or potential contaminants that could impact the property and determine whether additional testing (known as Phase II) is needed. If Phase II testing is needed, the City will contract with an environmental testing firm and relay the results, if required, to the State of Iowa Department of Natural Resources for review.

- Purchase Price

The City is utilizing the pre-flood assessed value of the property (as of June 18, 2008) for this voluntary acquisition program. In making its determination of the voluntary purchase value, the City shall offer two options to the property owner:

1. Option 1 – Through the County Assessor’s records and other public information, the City will use the January 1, 2008, full assessed value (unchanged since January 1, 2007) times a 1.10 multiplier to offer a fair market value at June 18, 2008.
2. Option 2 – Based on a competitive bid process, the City will hire an independent appraiser to contact the property owner for an appointment to view the interior and exterior of the home and complete a valuation with an effective date of valuation of June 14, 2008. This method will take several additional weeks and may result in an offer higher or lower than Option 1. The owners will be offered the appraised value.

If the appraised value is determined to be more than the January 1, 2008, full assessed value times the 1.10 multiplier, the City will make a revised offer for the amount of the appraised value and pay for the appraisal costs.

If the appraised value is determined to be less than the January 1, 2008, full assessed value times the 1.10 multiplier, the City will continue to acknowledge the original offer, but the appraisal costs will be deducted from the seller’s proceeds at closing.

If the Offer to Purchase is rejected and the property owner chooses not to sell the property, the acquisition funds will be de-obligated and made available for additional acquisitions.

- Offer Terms

The City will make its purchase offers in substantially the same form as used with other City purchases of real property, and including appropriate terms as provided by or required by the participating State and Federal agencies. Several important terms of the offer are:

1. *Purchase Price*: The pre-flood damage assessed value of the real estate, adjusted upward to reflect the current market value as defined on Page 3.
2. *Expiration Date* - The City will allow two weeks from the date the offer is made for the seller to decide whether to accept. The City will permit an extension of the expiration date, if requested in writing by the owner, up to an additional two weeks. It is the intention of the City to make as many offers as quickly as

possible. People will be reminded that if they do not want to accept the offer, they must let the City know as soon as possible.

3. *Deductions from Purchase Price:* As applicable, insurance proceeds for real estate damage, other public payments as determined by the City that represent a duplication of payment for the real estate, property taxes due and owing, and other payments required to clear special assessments, liens or judgments, will be paid prior to closing or deducted at the time of closing. Furthermore, the City will receive individual determinations from other state and federal agencies of the deductions or credits that must be paid back for financial assistance previously received, if any.
4. *Closing Date* - A mutually-agreed upon date by the City and the seller to close on the property.
5. *Abstract* - The City will pay for the update of the abstract. If a new 40-year abstract must be created, the City will split the cost with the seller on a 50/50 basis.
6. *Clear Title* - The seller must provide clear title to the City's satisfaction before the closing can occur. The seller must convey by warranty deed.
7. *Replacement Housing Location* - The Seller must agree to certify to the use the purchase price of the flood-damaged property expressly for the purpose of replacement housing outside the National Flood Insurance Program (NFIP) Zone A Flood Plain boundaries.
8. *Subject To Approval Of The City Council* - The offer is subject to the City Council approval of the form of offer and the specific offer terms for each property.

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## Relocation

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The Relocation portion of this document will describe the City's provision of relocation assistance for the residential properties that are purchased. Benefits will be made available as described below.

Because of the voluntary nature of the program, the City is not obligated but has chosen to provide relocation benefits to owner-occupants who accept the City's offer to purchase their flood-damaged residential property. These benefits will help the owner-occupants secure replacement housing. It is anticipated that almost all owner-occupants will be able to use the relocation assistance as a major source of funds to purchase decent, safe and sanitary replacement housing. The relocation assistance guidelines are outlined as follows:

1. *Eligibility - Owner-Occupants:* In order to be eligible for the owner-occupant benefits, the owner-occupant must:
  - a. Accept the City's offer to purchase.
  - b. Meet the definition of owner-occupant.
  - c. Purchase or rent a decent, safe and sanitary housing unit within 6 months of acceptance of the City's offer that is not located in an AREA "A" as defined on the NFIP Flood Hazard maps.
2. *Determination of Benefits:* The City will provide two types of relocation benefits for owner-occupants: a **Replacement Housing Payment** and a **moving expense payment**. The Replacement Housing Payment is for the purchase or rental of a unit. A Notice of Relocation Eligibility (Exhibit C) explaining the specific benefits to the owner-occupant will be made in person by the relocation staff after the City's offer to purchase the flood-damaged property is presented. The seller will be asked to sign a receipt for the Notice. The Notice will contain a "180 Day Eligibility Provision" notifying the owner of the expiration date of the Replacement Housing Payment benefit.
3. *Replacement Housing Payment –Purchase:* The City will make a Replacement Housing Payment, based on the following schedule, for owner-occupants **purchasing** replacement housing which is decent, safe and sanitary **within 6 months** from the owner-occupant's acceptance of the City's offer to purchase the flood-damaged property.

<b>Replacement Housing Payment</b>	
<b>Total Square Feet of Living Area (TSFLA) in Flood-Damaged Unit <i>as per County Assessor's Records</i></b>	<b>Amount</b>
< 1,000 TSFLA	\$ 9,000
1,000 - 1,249 TSFLA	\$ 9,750
1,250 - 1,499 TSFLA	\$10,500
1,500 or more TSFLA	\$11,250

4. *Timing of Release of Replacement Housing Payment:* The payment will be released only after the closing on the property the City is purchasing from the owner-occupant and at the closing on the replacement house. If a replacement unit is not purchased within 6 months of the owner-occupant's acceptance of the City's offer to purchase the flood-damaged structure, the relocation money will be de-obligated and made available for additional acquisitions.

If the owner-occupant purchases a house that will be constructed, arrangements may be made with the relocation staff for a staged draw-down of the Replacement Housing Payment benefit. However, the full amount of relocation assistance will not be released until the replacement dwelling is deemed to be decent, safe and sanitary.

5. *Purchase of Replacement Housing Unit Before the City makes Offer to Purchase:* If an owner-occupant wants to purchase another house *before* the City makes its offer, the purchase is at the owner's risk. If the City then makes its offer to purchase the flood-damaged property and the owner accepts the City's offer, the replacement unit previously purchased must pass a decent, safe and sanitary inspection to qualify for the Replacement Housing Payment. Adjustments to the Replacement Housing benefit, as described below, can be made as required.

The Replacement Housing Payment will be made after the closing of the City's purchase and upon submission of a deed or other evidence acceptable to the City of the amount paid for the replacement housing unit.

6. *Adjustments to the Replacement Housing Payment Benefit:* If the replacement housing unit costs less than the combined total of the City's purchase price of the flood-damaged home and the Replacement Housing benefit, the City will decrease the Replacement Housing benefit so that the total of the City's purchase price and the Replacement benefit equals the cost of the replacement housing unit. If the cost of that unit is less than the City's purchase price of the flood-damaged structure, the replacement housing benefit will not be paid.

For instance, the owner-occupant receives \$30,000 as the purchase price of the flood-damaged property and qualifies for the \$10,500 relocation housing benefit for a total of \$40,500. The owner-occupant then purchases a replacement housing unit for \$38,000; the City will provide \$8,000 as the relocation Replacement Housing benefit. If the replacement housing unit house cost was less than \$30,000 (the City's purchase price for the flood-damaged property), the owner-occupant would only receive the moving expense payment.

If the replacement housing unit costs less than the total City payment for acquisition and the replacement housing benefit, but requires repairs to make it decent, safe and sanitary, the City will let the owner-occupant use the balance of the benefit to have those specific repairs completed. In addition, when the replacement housing unit costs less than the total of the City's acquisition and Replacement Housing Payments, the City will permit the Replacement Housing Payment, as needed, to be used to pay eligible closing costs on the replacement housing unit that do not represent costs normally paid by the buyer. It will not include items such as pre-paid interest (points) or mortgage insurance.

If the maximum relocation assistance payment is not required to purchase the replacement dwelling selected by the displaced person, certain costs can be considered as part of the replacement unit's purchase price, for the purposes of this program only, when calculating the Replacement Housing Payment. Eligible costs are those costs necessary to *correct* decent, safe and sanitary deficiencies and to make the replacement dwelling more comparable and functionally similar to the flood-damaged unit the City is acquiring. Eligible examples of those items to make the replacement dwelling more comparable and functionally similar are a garage, an extra bathroom and handicapped accessibility that existed in the former dwelling.

7. *Decent, Safe and Sanitary:* All owner-occupants receiving the replacement housing benefits must relocate to housing units that are decent, safe and sanitary. The decent, safe and sanitary standard is similar to HUD Housing Quality Standards. The City will also accept a current rental occupancy certificate for rental units and a certificate of occupancy issued no earlier than January 1, 1998 for newly-constructed houses in lieu of a decent, safe and sanitary inspection.

The decent, safe, and sanitary inspection is *not* a certification or guarantee of the house's condition or of its major systems (such as heating, plumbing and electrical). It will be conducted by a qualified individual who can inspect, at a minimum, the items that are specifically listed in federal regulations (49 CFR, Part 24).

After the owner-occupant has an accepted purchase agreement for the housing replacement unit and has received the City's offer to purchase the flood-damaged property, he/she is to call the Relocation staff to get the decent, safe and sanitary inspection scheduled, with the name and phone number of the person who can provide access to the property that needs to be inspected.

It may take several days for the actual inspection. If the house is located outside the Des Moines metro area, it will be necessary for the City to work with the nearest local public agency to get an inspection scheduled.

When the decent, safe and sanitary inspection is made of the replacement housing unit, the inspector will provide a list of the items that are violations. Many of the violations can be solved quickly and inexpensively and should not cause the sale to be lost. Common problems are missing hand rails, improperly vented water heaters, missing light switch cover plates and water heater drip legs, copper gas lines and exposed wiring. It is the responsibility of the buyer and seller to reach an agreement as to who pays for the required repairs.

- 8. *Moving Expense Payment:* In addition, the City will pay the following as a moving expense payment when the owner-occupant moves into a replacement living unit.

# Rooms in Flood-Damaged Unit*	Moving Expense Payment
4	\$900
5	\$1,000
6	\$1,100
7	\$1,225
8 or more	\$1,350

\* For the purposes of computing the number of rooms, the City will use the City Assessor's room count *not* including bathrooms. A garage and/or a basement will count as one room in calculating the room count.