

Date September 28, 2009

AUTHORIZE DEPOSIT OF COMPENSATION COMMISSION AWARD TO GENERAL MANUFACTURING COMPANY AND THE WITTERN PARTNERSHIP FOR PROPERTY LOCATED AT 5725 SOUTHWEST 56TH STREET AND 5041 ARMY POST ROAD FOR THE AIRPORT RUNWAY 13R-31L PROJECT

WHEREAS, on September 3, 2003, by Resolution No. A03-226, the Airport Board of the City of Des Moines authorized the development of a voluntary acquisition program on a hardship basis for properties needed for the future construction of the initial project phase of the 13R/31L Runway Project; and

WHEREAS, on December 2, 2003, by Resolution No. A03-285, the Des Moines International Airport Board approved and authorized the design of a public improvement project to construct Runway 13R/31L and authorized the City Manager to proceed with the acquisition of properties needed for the project; and

WHEREAS, on January 6, 2004, by Resolution No. A04-16, the Airport Board approved the Voluntary Acquisition Program on a hardship basis for the properties needed for the Runway 13R/31L Project; and

WHEREAS, on June 1, 2004, by Resolution No. A04-103, the Airport Board approved an Acquisition Program to purchase on a voluntary basis the properties needed for the Runway 13R/31L Project; and

WHEREAS, on March 1, 2005, by Resolution No. A05-42, the Airport Board recommended that the City Council authorize the acquisition of the remaining properties needed for the future Runway 13R/31L by gift, negotiation, or eminent domain; and

WHEREAS, on March 7, 2005, by Roll Call No. 05-541, the City Council approved the acquisition of the remaining properties by gift, negotiation, or eminent domain for the Airport Runway 13R/31L Project; and

WHEREAS, on October 7, 2008, by Resolution No. A08-197, the Airport Board established the fair market value and authorized acquisition of the following described property:

Titleholder: General Manufacturing Company and The Wittern Partnership
Fair Market Value: \$1,830,000 plus closing costs
Property Location: 5725 SW 56th Street and 5041 Army Post Road
Interest to Acquire: Fee Simple

WHEREAS, the City's Real Estate Division made good faith efforts but was unable to negotiate a purchase of the above described property; and

WHEREAS, condemnation proceedings were subsequently instituted for the aforementioned property interests; and

★ **Roll Call Number**

Agenda Item Number

17

Page 2

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Date September 28, 2009

WHEREAS, the Polk County Compensation Commission convened on September 14, 2009, in Des Moines, Iowa; and

WHEREAS, the Sheriff has submitted his certification of costs and report of the award of the commission; and

WHEREAS, pursuant to Iowa Code §6B.25, the award must be deposited with the Sheriff in order for the City to proceed to enter on to the property and take possession as is necessary for the project to proceed; and

WHEREAS, the City of Des Moines' Real Estate Division of the Engineering Department and the Legal Department recommend depositing with the Sheriff the Compensation Commission award and that other fees and commission expenses be paid in order to proceed with the project; and

WHEREAS, the City of Des Moines has a reasonable expectation that it will achieve the public purpose, comply with all applicable standards, and obtain all necessary permits in conjunction with this project.

Date September 28, 2009

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the City Council hereby authorizes the deposit of the compensation commission award of \$2,134,370 for fee title to the aforementioned property, plus Sheriff's fees and commission expenses as certified by the Sheriff of Polk County.

That the Finance Director is authorized and directed to draw checks for the payment of the condemnation award and Commissioners' and Sheriff's fees as certified by the Sheriff of Polk County 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 obtain the checks needed to carry out this transaction and to deliver them to the Sheriff of Polk County and the Real Estate Division Manager is also charged with securing the proper receipts therefor.

(Council Communication No. 09- 690)

Moved by _____ to adopt.

APPROVED AS TO FORM:



David A. Ferree
Assistant City Attorney

REN

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| HENSLEY | | | | |
| KIERNAN | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| VLASSIS | | | | |
| 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



LEGEND

 PROJECT LOCATION



**AQUISITION-
AIRPORT - RUNWAY 13R-31L
GENERAL MANUFACTURING - WITTERN**