

Date October 12, 2009

**SET HEARING ON THE INTENT TO ACQUIRE AGRICULTURAL PROPERTY AND
AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS THEREOF
FROM LEMAR KOETHE FOR PROPERTY LOCATED AT THE NORTHEAST CORNER
OF ARMY POST ROAD AND EAST INDIANOLA AVENUE FOR THE EAST ARMY POST
TRUNK SANITARY SEWER PROJECT BY GIFT, NEGOTIATION,
OR EMINENT DOMAIN**

WHEREAS, on March 23, 2009, by Roll Call No. 09-457, the City Council approved the Professional Services Agreement with Foth Infrastructure & Environment, LLC for the design and construction phase services for the East Army Post Trunk Sanitary Sewer, not to exceed \$118,250; and

WHEREAS, under the provisions of Chapter 6B of the Iowa Code, a governmental body which proposes to acquire agricultural land under power of eminent domain for a public improvement project is required to give notice of intent to commence the project to all owners and record contract purchasers of such agricultural land whose properties may be acquired in whole or in part for the project (See Sections 6A.21(a) and 6B.2A of the Iowa Code); and

WHEREAS, the East Army Post Road Trunk Sewer Project design plans include the following:

The East Army Post Road Trunk Sewer would provide for the construction of a trunk sanitary sewer ranging in size from 10-inch to 15-inch to provide sanitary sewer service for the area lying north of East Army Post Road from the 3000 block to Indianola avenue, and on the north and south sides of East Army Post Road from Indianola Avenue to the 1900 block of East Army Post Road. This trunk sewer will allow the area to develop at the densities required to make the area an asset and to provide for the growth that is projected; and

WHEREAS, in accordance with Section 6B.2A of the Iowa Code, before the City of Des Moines can proceed with the portion of the East Army Post Road Trunk Sewer Project that affects agricultural land, the City Council must:

- (a) Hold a public hearing, giving persons interested in the proposed project the opportunity to present their views and objections regarding the project, and regarding the proposed acquisition of agricultural property for the project by gift, negotiation or eminent domain.
- (b) Adopt a resolution to approve the project and authorize acquisition of agricultural property for the project by eminent domain.
- (c) Mail notices as required by Iowa Code Section 6B.2A to all property owners and contract purchasers of record of agricultural land with any potential for any form of property acquisition activity for this project and publish notice as specified in the Iowa Code; and

Date October 12, 2009

WHEREAS, Iowa Code Section 6B.2A further requires that the mailed notice be sent at least thirty (30) days in advance of the scheduled hearing, and in order to meet such deadline, said notice, in the form attached hereto, has been mailed by the City Engineer and the City Clerk to the appropriate parties.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That a public hearing shall be held on November 9, 2009, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

2. That the mailed notice heretofore sent to the appropriate parties by the City Engineer and City Clerk as required by Iowa Code Section 6B.2A is supported by the City Council of the City of Des Moines, and such mailing is hereby ratified and confirmed.

3. That the City Engineer and City Clerk are hereby instructed to cause notice to be published as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the project and regarding the acquisition of agricultural property for the project by gift, negotiation or eminent domain, said Notice of Intent to be in substantially the attached form.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

REN

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

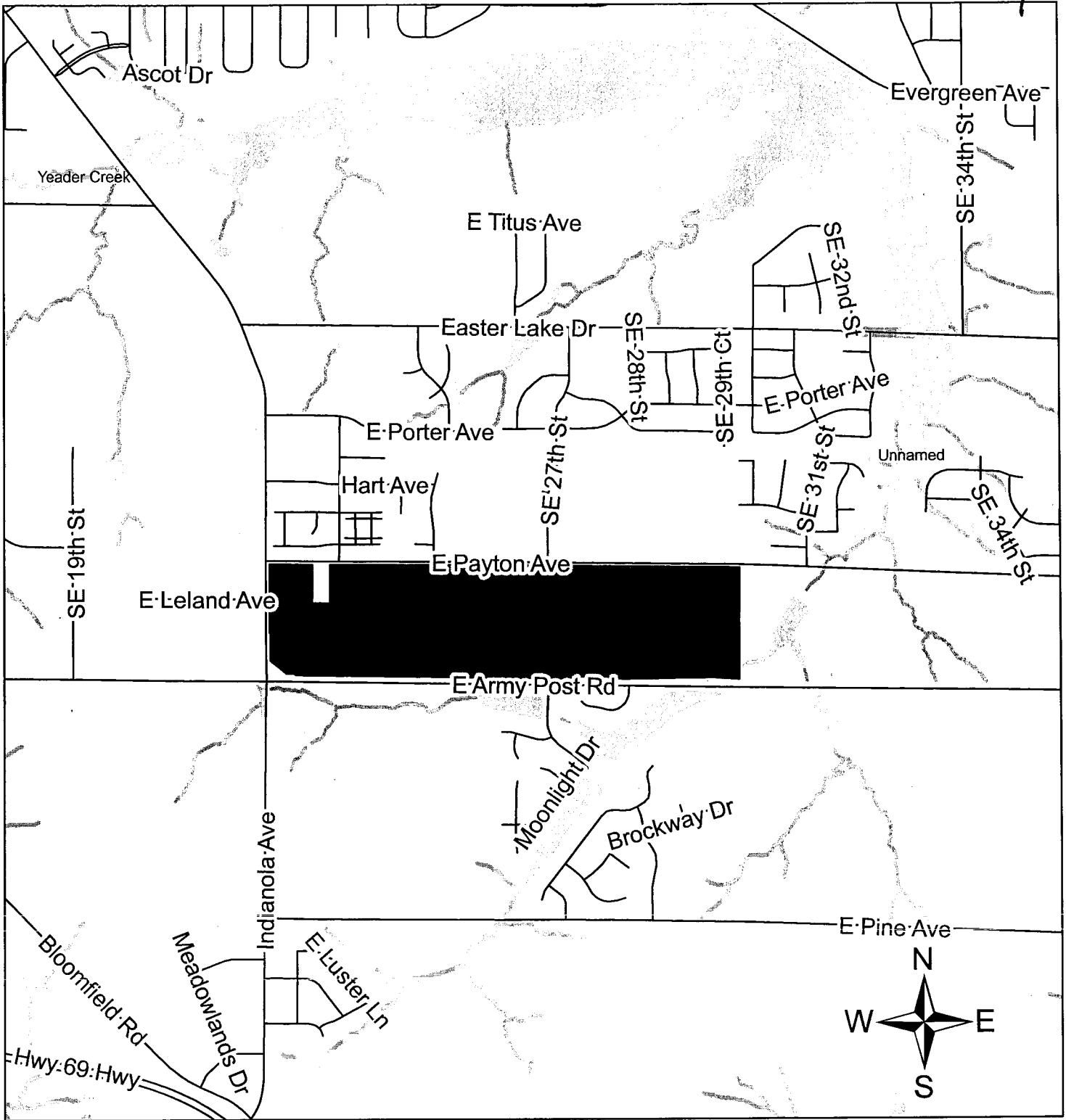
CERTIFICATE

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



Legend

■ PROJECT LOCATION

**EAST ARMY POST ROAD
SANITARY SEWER PROJECT
AGRICULTURAL LAND NOTICES**