

Date October 12, 2009

**AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY RIGHT-OF-WAY AND EASEMENTS FOR THE DES MOINES AND RACCOON RIVERS PROJECT BY GIFT, NEGOTIATION, OR CONDEMNATION**

**WHEREAS**, flood damage reduction includes construction of levees and other improvements to the flood protection system and is provided as a City storm water utility project; and

**WHEREAS**, on September 13, 1999, by Roll Call 99-2748, the City Council of the City of Des Moines, Iowa, entered into agreement with the Department of the Army for the Des Moines and Raccoon Rivers Feasibility Study for flood damage reduction purposes; and

**WHEREAS**, on March 20, 2006, by Roll Call 06-497, the City Council approved the Design Agreement between the City and the Department of the Army for design of the Des Moines and Raccoon Rivers Project for Flood Protection; and

**WHEREAS**, on August 11, 2008, by Roll Call 08-1468, the City Council submitted a request to the Corps of Engineers to advance funds to complete the design of the Birdland and Central Place levees; and

**WHEREAS**, on January 26, 2009, by Roll Call 09-070, the City Council approved Amendment No. 1 to the Design Agreement to allow the City to provide funds in excess of the required twenty-five percent of the total cost to allow design of the Birdland and Central Place levees to proceed; and

**WHEREAS**, the Corps of Engineers has finalized the Project Partnership Agreement for construction of the Des Moines and Raccoon Rivers Project, that includes reconstruction of the levee in the Birdland Park area, associated wetland mitigation at the Chichaqua mitigation site, improvements to closures in the downtown flood protection system and construction of a multipurpose trail from the Neal Smith Trail to Riverview and McHenry Park; and

**WHEREAS**, the Project Partnership Agreement makes the City responsible for 65% of the flood damage reduction project costs and 50% of the recreation costs; 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 all flood damage reduction measures associated with the Des Moines and Raccoon Rivers Project.

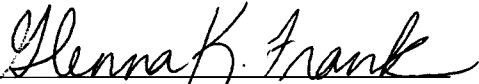
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2. That the property will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and that relocation assistance is hereby authorized.
  
3. That the Fair Market Value 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 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.

(Council Communication No. 09- 720 )

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

APPROVED AS TO FORM:

  
 Glenna K. Frank, Assistant City Attorney

*PSM*

| COUNCIL ACTION | YEAS | NAYS | PASS     | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE         |      |      |          |        |
| COLEMAN        |      |      |          |        |
| HENSLEY        |      |      |          |        |
| KIERNAN        |      |      |          |        |
| MAHAFFEY       |      |      |          |        |
| MEYER          |      |      |          |        |
| VLASSIS        |      |      |          |        |
| TOTAL          |      |      |          |        |
| MOTION CARRIED |      |      | APPROVED |        |
| _____<br>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

# DES MOINES AND RACCOON RIVERS FLOOD PROTECTION PROJECT I. RECONSTRUCT LEVEES

