

Date November 9, 2009

**HOLD HEARING ON THE INTENT TO ACQUIRE AGRICULTURAL PROPERTY AND AUTHORIZING ACQUISITION OF ALL NECESSARY PROPERTY INTERESTS 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**, on October 12, 2009 by Roll Call No. 09-1849, City Council set the time and place for a hearing at which owners and contract purchasers of agricultural land affected by the East Army Post Trunk Sanitary Sewer Project may present their views regarding the Project and regarding the proposed acquisition of agricultural property for the Project by gift, negotiation or eminent domain; and

**WHEREAS**, authorized notice of this hearing was mailed and published as provided by law, setting forth the time and place for hearing on the proposal; and

**WHEREAS**, the City Council has met as provided in the notice to receive and consider input regarding the East Army Post Trunk Sanitary Sewer Project and the acquisition of agricultural property by gift, negotiation or eminent domain for said Project, and those interested in this proposed Project, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa:

1. That all objections and endorsements having been fully reviewed and considered, the hearing providing the opportunity for public input on the question of proceeding with the East Army Post

Date November 9, 2009

Trunk Sanitary Sewer Project and on the acquisition or condemnation of agricultural property and property interests for said Project is now concluded and closed.

2. That the proposed funding and proposed route for the East Army Post Trunk Sanitary Sewer Project are hereby approved.

3. That acquisition of private agricultural property needed for this Project, including acquisition by eminent domain (condemnation) if necessary, is hereby authorized.

4. That 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 East Army Post Trunk Sanitary Sewer Project.

5. 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.

6. 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.

7. 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.

8. 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.

★ Roll Call Number

Agenda Item Number

51

Date November 9, 2009

(Council Communication No. 09- 781 )

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

APPROVED AS TO FORM:

*Glenna K. Frank*

Glenna K. Frank, Assistant City Attorney

*DR*

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

MOTION CARRIED

APPROVED

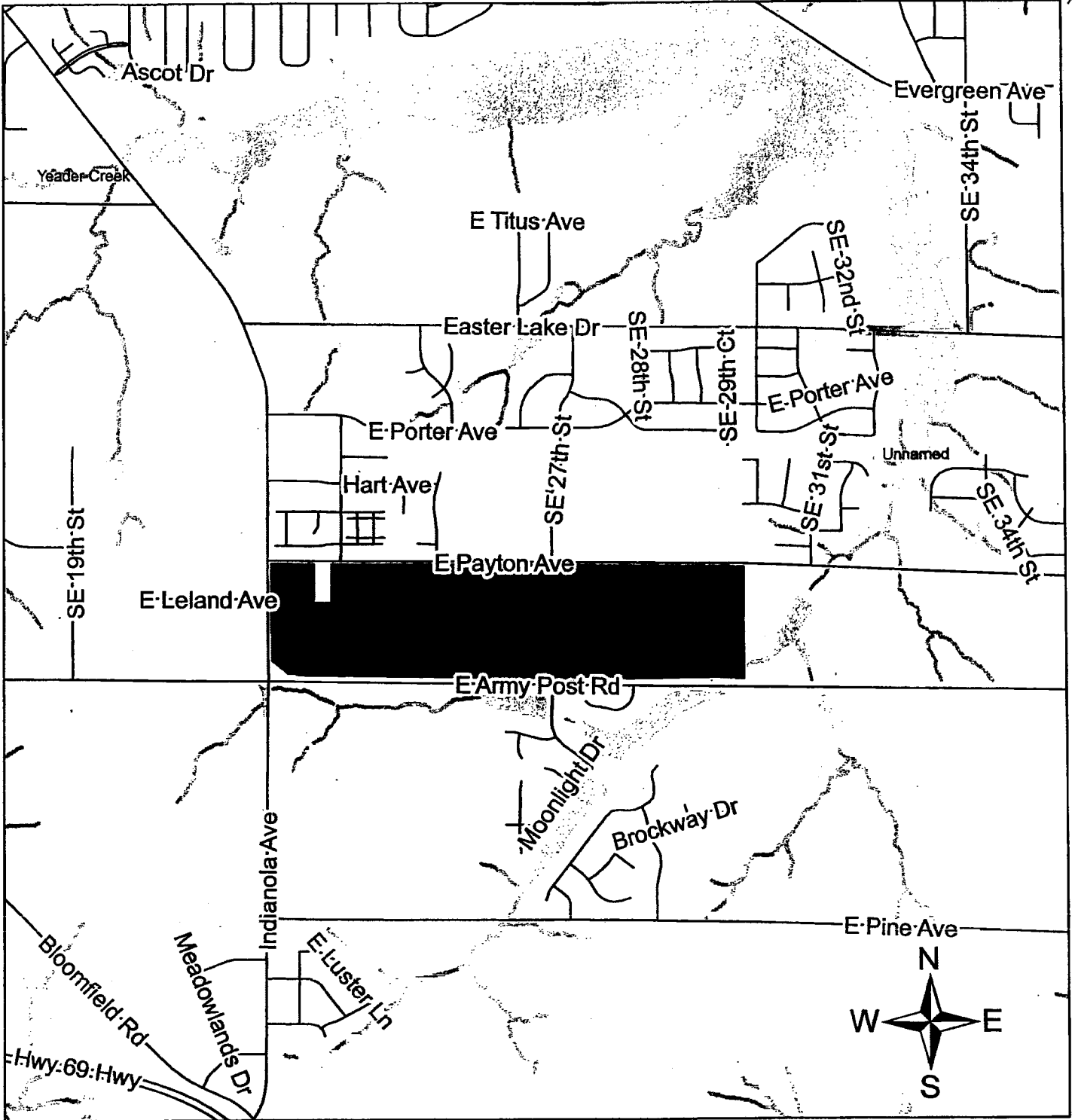
\_\_\_\_\_  
Mayor

**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.

\_\_\_\_\_  
Clerk City



**Legend**

 PROJECT LOCATION

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