

Date November 21, 2016

**APPROVING THE AGREEMENT WITH IOWA INTERSTATE RAILROAD, LTD.
FOR TRACK PROTECTION SERVICES AND TRACK WORK NECESSARY FOR
INSTALLATION OF FLOOD GATES AT THE ENDS OF IOWA INTERSTATE
RAILROAD'S DES MOINES RIVER BRIDGE AS PART OF THE DOWNTOWN
CLOSURES IMPROVEMENTS PROJECT**

WHEREAS, on October 12, 2009, by Roll Call 09-1833, the City Council of the City of Des Moines, Iowa, entered into the Project Partnership Agreement with the Department of the Army for the Des Moines and Raccoon Rivers Project, including the Birdland Park Levee, wetland mitigation and downtown closure improvements; and

WHEREAS, on October 12, 2009, by Roll Call No. 09-1834, the City Council of the City of Des Moines, Iowa, accepted a Permanent Easement for Flood Protection Levee System from Iowa Interstate Railroad, Ltd. (Easement) to extend and improve existing flood protection levee improvements; and

WHEREAS, on March 22, 2010, by Roll Call 10-463, the City of Des Moines approved the Corps of Engineers request to increase the total project cost to secure American Recovery and Reinvestment Act (ARRA) funding for the Birdland Park levee construction; and

WHEREAS, on June 28, 2010, by Roll Call 10-1020, the City Council of the City of Des Moines, Iowa, entered into the Project Partnership Agreement with the Department of the Army for the Central Place levee portion of the Des Moines and Raccoon Rivers Project; and

WHEREAS, on March 28, 2011, by Roll Call 11-0553, the City of Des Moines approved the Corps of Engineers request to increase the total project cost to account for actual construction costs and the results of the Des Moines River Flow Frequency Study and authorized \$500,000 to cover costs in excess of the Congressionally authorized limit; and

WHEREAS, on August 11, 2014, by Roll Call 14-1211, City Council approved the increase of total project costs for the design and construction of the Des Moines and Raccoon Rivers Project; and

WHEREAS, on April 25, 2016, by Roll Call 16-0656, City Council approved the increase of total project costs for the design and construction of the Des Moines and Raccoon Rivers Project; and

WHEREAS, in compliance with the terms of the Easement, in order to construct the flood closure structures crossing the Iowa Interstate Railroad's track as part of the downtown closure improvements of the Des Moines and Raccoon Rivers Project, an Agreement is required between the Iowa Interstate Railroad, Ltd. and the City of Des Moines.

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WHEREAS, the Agreement provides for track protection services and track work by Iowa Interstate Railroad, Ltd. with reimbursement to be paid by the City to Iowa Interstate Railroad, Ltd. for the actual cost of materials and labor for said improvements, as currently estimated by Iowa Interstate Railroad, Ltd. at \$73,000.

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

1. That the Agreement between Iowa Interstate Railroad, Ltd. and City of Des Moines, Iowa to construct and maintain a levee and flood closure structures, copies which are now on file in the office of the City Clerk, be and are hereby approved as to form and content.
2. That the Mayor is hereby authorized and directed to execute said Agreement for and on behalf of the City of Des Moines, Iowa.
3. That the Engineering Department is hereby authorized to administer the terms of said Agreement.
4. That the Finance Director is authorized to make payment to the railroad for the actual costs of track protection services and track work upon receipt of an invoice acceptable to the Engineering Department.

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(Council Letter Number 16-001 attached)
Activity ID 08-2016-005

Moved by _____ to adopt.

FORM APPROVED:

[Signature]

Lisa A. Wieland
Assistant City Attorney

Funding Source: 2016-2017 CIP, Page Storm Water Improvements - 6, Flood Mitigation Improvements, SM087

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

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