

Date January 8, 2018

APPROVING REVISED CITY COUNCIL POLICY REGARDING THE APPRAISAL OF PROPERTY AND APPRAISAL WAIVER PROCEDURE TO ESTABLISH FAIR MARKET VALUE FOR THE ACQUISITION OF PROPERTY OR PROPERTY INTERESTS FOR PUBLIC PROJECTS UNDER IOWA CODE CHAPTER 6B

WHEREAS, Section 6B.54(2) of the Iowa Code provides that an acquiring agency may prescribe a procedure to waive the requirement for an appraisal "in cases involving the acquisition of property with a low fair market value"; and

WHEREAS, on September 13, 1999, by Roll Call No. 99-2888, the City Council of the City of Des Moines, Iowa approved a policy waiving the requirement for an appraisal when the estimated fair market value of a property or property interests does not exceed \$10,000; and

WHEREAS, said City Council policy also approved a procedure for the City Manager to establish fair market values for property or property interests with a value of \$10,000 or less; and

WHEREAS, on November 27, 2017, the Iowa Department of Transportation (IDOT) revised their policy for the valuation of property or property interests with a low fair market value under Instructional Memorandum No. 3.605; and

WHEREAS, under its revised policy, the IDOT has increased the limit to waive an appraisal from \$10,000 to \$25,000, allowing for the preparation of a "compensation estimate" (waiver valuation) when the estimated fair market value of property or property interests to be acquired does not exceed \$25,000; and

WHEREAS, it would be in the best interests of the City of Des Moines to adopt a revised policy similar to that adopted by the IDOT, allowing the use of compensation estimates to determine the fair market value of property or property interests, rather than appraisals, in those circumstances where the value of the property or property interests are estimated not to exceed \$25,000; and

WHEREAS, it would also be in the best interests of the City of Des Moines to adopt a revised policy to increase the City Manager's limit to establish fair market values for property or property interests when the value is \$25,000 or less; and

WHEREAS, the Engineering Department and Legal Department have developed and are recommending City Council approval of a revised policy addressing all of the above issues, which policy is now on file in the office of the City Clerk and is entitled "City Council Policy regarding the appraisal of property and appraisal waiver procedure to establish fair market value for the acquisition of property or property interests for public projects under Iowa Code Chapter 6B".

★ **Roll Call Number**

Agenda Item Number

51

Date January 8, 2018

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the revised City Council Policy, now on file in the office of the City Clerk and by this reference made a part hereof, be and is hereby approved.

AND BE IT FURTHER RESOLVED that the Engineering Department and the Legal Department be and they are hereby authorized and directed to implement the above referenced revised City Council Policy as to all future acquisitions of property or property interests for City of Des Moines projects.

AND BE IT FURTHER RESOLVED that the above referenced revised City Council Policy shall supersede and replace the City Council's prior policy entitled "City Council Policy regarding the appraisal of property and the establishment of just compensation for the acquisition of property or property interests in conjunction with public improvement, community development, and economic development projects, and regarding the release of appraisals, appraisal information, and compensation estimates, adopted September 13, 1999, by Roll Call No. 99-2888.

(Council Communication No. 18-024)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

BSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
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

CITY COUNCIL POLICY
REGARDING THE APPRAISAL OF PROPERTY AND APPRAISAL WAIVER PROCEDURE TO ESTABLISH
FAIR MARKET VALUE FOR THE ACQUISITION OF PROPERTY OR PROPERTY INTERESTS
FOR PUBLIC PROJECTS UNDER IOWA CODE CHAPTER 6B

I. Appraisals or Compensation Estimates (Waiver Valuation) to be Utilized to Determine the Value of Property or Property Interests Being Involuntarily Acquired for City Projects.

Chapter 6B.54(2) of the Iowa Code provides that an acquiring agency may prescribe a procedure to waive the requirement for an independent appraisal "in cases involving the acquisition of property with a low fair market value." The Iowa Department of Transportation (IDOT) has revised their policy for the valuation of property or property interests with a low fair market value (I.M. No. 3.605, November 27, 2017). Under its revised policy, the IDOT prepares a "compensation estimate" (waiver valuation) when the value of just compensation to be paid for the property or property interests to be acquired does not exceed \$25,000.

Policy:

1. When the City of Des Moines intends to acquire private property or interests in private property by purchase or condemnation, and when the total anticipated compensation for said property or property interests, as determined by the City's Real Estate Division Manager, is estimated to be in excess of \$25,000, the valuation of such property or property interests shall be determined through the preparation of an independent appraisal.
2. When the City of Des Moines intends to acquire private property or interests in private property by purchase or condemnation, and when the total anticipated compensation for said property or property interests, as determined by the City's Real Estate Division Manager, is estimated to be \$25,000 or less, the valuation of such property or property interests may, in the discretion of the Real Estate Division Manager, be determined through the preparation of an independent appraisal or through the preparation of a compensation estimate (waiver valuation).

3. For purposes of this policy, the following terms shall have the following definitions:
Appraisal means a written report, prepared by a Certified General Real Property Appraiser in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), setting forth an opinion of just compensation to be paid for the acquisition or taking of private property, or interests in private property.
Compensation Estimate means a waiver valuation, prepared by an acquisition agent and reported on the appropriate form, setting forth an opinion of just compensation to be paid for the acquisition or taking of private property, or interests in private property. A compensation estimate is not an appraisal.

II. Establishment of Fair Market Value for Property or Property Interests Being Involuntarily Acquired for City Projects.

Policy:

1. City Council to Establish Fair Market Value for the Acquisition of Property or Property Interests in Excess of \$25,000 in Value.

In those instances in which the just compensation to be paid for a property or property interests, as determined by an independent appraisal, is in excess of \$25,000, the Real Estate Division Manager shall prepare for City Council consideration a resolution establishing the fair market value of the property or property interests at its suggested fair market value, as determined by independent appraisal. The City Council may in its discretion, as to a particular project or property, delegate to the City Manager the authority to establish the fair market value of such property or property interests in excess of \$25,000 pursuant to an independent appraisal.

2. City Manager to Establish Fair Market Value for the Acquisition of Property or Property Interests up to \$25,000 in Value.

In those instances in which the just compensation to be paid for a property or property interests, as determined by a compensation estimate (waiver valuation), is \$25,000 or less, the City Manager shall by written memorandum directed to the Real Estate Division Manager establish the fair market value of the property or property interests at the value shown in the compensation estimate. In those instances in which the fair market value was established by the City Manager pursuant to a compensation estimate, an independent appraisal will not be required to support an administrative settlement, or final offers made prior to a condemnation, in excess of \$25,000.

III. Release of Appraisals, Compensation Estimates, or Appraisal Information.

Policy:

1. Provision of Appraisal or Compensation Estimate to Property Owner Prior to Commencement of Negotiations to Acquire the Property or Property Interests.

Section 6B.45 of the Code requires that the acquiring agency mail "a copy of the independent appraisal **in its entirety**"..."to the person, corporation, or entity whose property or interest in the property is to be taken....at least ten days prior to the date of contact...."

The purchase offer for a property or property interest, together with the independent appraisal or compensation estimate prepared by or on behalf of the City in connection with the City's proposed acquisition of that property or property interest, shall be mailed to the person(s), corporation(s), or entity(ies) who own or have an interest in the property by ordinary mail at their last known addresses not less than 10 days before the City's acquisition agent contacts the property owner or other interest holders to commence negotiations for the purchase of that property or property interests. The offer shall be accompanied by a cover letter to the property owners and interest holders, in which the Real Estate Division shall advise the property owners or interest holders of the pendency of the 10 day waiting period before the City's acquisition agent may contact them to begin negotiations, and shall advise them of their right to waive the 10 day waiting period.