

★ Roll Call Number

10-476

Agenda Item Number

5

Date March 29, 2010

**ACCEPTANCE OF REAL ESTATE DOCUMENTS FROM UNION PACIFIC RAILROAD
COMPANY FOR THE DES MOINES AND RACCOON RIVERS –
BIRDLAND LEVEE PROJECT**

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; 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, on October 12, 2009, by Roll Call No. 09-1832, the City Council approved a Memorandum of Understanding among Federal Highway Administration, Polk County, City of Des Moines, and Iowa Department of Transportation (Iowa DOT) designating roles and responsibilities as joint lead agencies in the environmental review process in the preparation of an environmental impact statement for the North-South Metro Connector (IA 415 to I-235) Polk County, Iowa Project; and

WHEREAS, on October 12, 2009, by Roll Call No. 09-1833, the City Council approved a Project Partnership Agreement between the City and the Department of the Army for construction of the Des Moines and Raccoon Rivers Project; and

WHEREAS, on October 12, 2009, by Roll Call No. 09-1834, the City Council authorized acquisition of the necessary right-of-way and easement for the Des Moines and Raccoon Rivers Project by gift, negotiation, or condemnation; and

WHEREAS, on November 23, 2009, by Roll Call No. 09-2143, the City Council approved plans for construction of a multi-use trail connection to McHenry Park as part of the Des Moines and Raccoon Rivers; and

WHEREAS, on February 8, 2010, by Roll Call No. 10-180, the City Council established fair market value of property owned by Union Pacific Railroad Company as needed for levee construction and the remainder parcels recommended for recreational trail usage; and

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WHEREAS, on March 22, 2010, by Roll Call No. 10-463, the City Council approved an increase in project cost for the Project Partnership Agreement as based upon the construction bids received by the Corps of Engineers; and

WHEREAS, the Real Estate Division and Legal Department have negotiated the property acquisition of the levee parcels and remainder parcels from Union Pacific Railroad Company as listed below and the consideration listed below represents a reasonable and appropriate price to be paid for the property interests to be acquired.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the property acquisition is approved and the attached document is hereby approved and accepted as follows:

Property Owner:	Union Pacific Railroad Company
Property Location:	McHenry Park and Riverview Nature Island Areas
Document Type:	Letter of Understanding
Consideration:	\$51,110 plus closing costs

That the Finance Director is authorized and directed to issue checks and/or wire transfers in the amounts necessary to carry out the 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 the transactions in accordance with standard real estate practices.

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.

That the Mayor is hereby authorized and directed to sign the Letter of Understanding and, upon receipt thereof from Union Pacific, the City Clerk is hereby authorized and directed to endorse upon the Quit Claim Deed the approval and acceptance of this Council and 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.

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(Council Communication No. 10-171)

Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

PSM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	6			1

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.

Diane Rauh City Clerk

T. M. Franklin Council Mayor