

★ Roll Call Number

130298

Agenda Item Number

12

Date February 25, 2013

**ACCEPTANCE OF REAL ESTATE DOCUMENTS FROM THE  
UNITED STATES ARMY CORPS OF ENGINEERS (USACE) FOR THE  
INTER-URBAN TRAIL BRIDGE REPAIR PROJECT**

**WHEREAS**, on October 22, 2012, by Roll Call No. 12-1663, the City of Des Moines held a public hearing and approved plans and specifications and accepted the lowest responsive, responsible bid for the construction of the Inter-Urban Trail Bridge Repair Project ("Project"); and

**WHEREAS**, the United States, by and through the Department of the Army, Corps of Engineers, is the owner of property lying directly south of Euclid Avenue, east of Martin Luther King, Jr. Parkway, on the east side of the Des Moines River, upon which a portion of the Project improvements are located; and

**WHEREAS**, the USACE has agreed to provide the City with the real estate documents listed below in order for the City to construct, operate, maintain and rehabilitate the Inter-Urban Trail Bridge (also known as Beaverdale Bridge located in Prospect Park), subject to provisions set forth in said documents requiring the City's indemnification of the United States for any claims arising out of the temporary license other than related to the fault or negligence of the United States or its contractors, and subject to the existing rights of the United States and the disclaimer of any liability of the United States for damage or injury to City improvements within the consented area, including damage caused by any action or future operation of the United States or arising from the exercise of the consented activity regardless of the fault or negligence of the United States or its contractors; and

**WHEREAS**, these documents, as required for the Project, are submitted to City Council for approval and acceptance due to the afore-mentioned indemnification and disclaimer provisions.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that the attached documents conveying property interests, recommended for approval and acceptance by the Real Estate Division of the Engineering Department, be and are hereby approved and accepted as follows:

Property Owner:	United States, Department of the Army – Corps of Engineers
Property Location:	Polk County Geo Parcel: 7924-28-227-001
Document Type:	Consent to Easement Structures, Consent No. DACW25-9-13-4025; License Contract No. DACW25-3-13-4029
Consideration:	Benefit of the general public

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and directed to execute License Contract No. DACW25-3-13-4029, and to endorse acceptance on behalf of the City upon Consent to Easement Structures No. DACW25-9-13-4025, and the City Clerk is hereby authorized and directed to

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attest to the Mayor's signature by execution of the Certificate of Authority for each document, and to deliver said documents to the Real Estate Division Manager, who shall distribute the documents to the grantor and retain the documents in City file or proceed to record the documents with the Polk County Recorder's Office, as applicable.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIES		APPROVED		

T. M. Franklin 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.

Diane Rauh City Clerk