

Date September 14, 2015

**AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY
RIGHT-OF-WAY AND EASEMENTS FOR THE YEADER CREEK GRADE CONTROL
IMPROVEMENTS PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN**

WHEREAS, on August 11, 2014, by Roll Call No. 14-1257, the City Council approved a Cooperative Agreement with the Iowa Department of Natural Resources for a project for stream stabiliazation within Yeader Creek and urban conservation practices within Ewing Park; and

WHEREAS, on August 11, 2014, by Roll Call 14-1258, the City Council approved a Professional Services Agreement between the City of Des Moines and Snyder & Associates, Inc. to provide design phase services for the Yeader Creek Grade Control Improvements, Phase 1 Project; and

WHEREAS, on August 10, 2015, by Roll Call 15-1346, the City Council continued this item to the Council meeting on August 24, 2015 to allow for time to schedule a meeting with property owners, the Polk County Conservation staff and City representatives to address concerns of affected property owners; and

WHEREAS, on August 24, 2015, by Roll Call 15-1419, the City Council continued this item to the Council meeting on September 14, 2015 to allow for a public meeting that was held with affected property owners on August 26, 2015; and

WHEREAS, the City's Real Estate Division of the Engineering Department will acquire the necessary right-of-way and easements for this project; and

WHEREAS, the proposed fair market value of the property interests to be acquired will be submitted to the City Council or the City Manager, as applicable, for approval and authorization to proceed with the acquisitions.

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

1. That the City Manager be and 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 Yeader Creek Grade Control Improvements Project, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201 (c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as applicable.
2. 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.

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2. 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.

3. That the Fair Market Value of the acquired property interests will be approved in accordance with established City policy. If the property owners agree to convey the property interests 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.

4. 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.

5. That the City Clerk is hereby authorized and directed to endorse upon the real estate documents associated with acquisitions for this Project, the approval and acceptance of this Council; the Mayor is authorized and directed to sign all necessary real estate documents associated with acquisitions for this Project; 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.

(Council Communication No. 15- 494)

APPROVED AS TO FORM: Moved by _____ to adopt.



 Lisa A. Wieland, Assistant City Attorney

RM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
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