

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> May 24, 2010
	<p><b>Agenda Item No.</b> 16</p> <p><b>Roll Call No.</b> <u>10-800</u></p> <p><b>Communication No.</b> <u>10-283</u></p> <p><b>Submitted by:</b> <b>Jeb E. Brewer, P.E., City Engineer</b></p>

**AGENDA HEADING:**

Approving Property Acquisition Settlement Agreement with Richard B. Margulies for the Merle Hay Road and Urbandale Avenue Intersection Improvements Project.

**SYNOPSIS:**

Recommend approval of Property Acquisition Settlement Agreement with Richard B. Margulies for the Merle Hay Road and Urbandale Avenue Intersection Improvements Project. Without this settlement, the City would have to acquire the property interests by condemnation. This settlement will allow the project to advance and will prevent further delays caused by additional time under the condemnation process. This settlement is in the best interest of the public and approval is recommended so the project may advance.

**FISCAL IMPACT:**

Amount: \$100,000, plus closing and sign relocation costs.

Funding Source: 2010-11 CIP, Street Improvements, Merle Hay Road and Urbandale Avenue Intersection Improvements, Page Street Improvements – 30, STR235, Iowa Department of Transportation (IDOT) Funds and G.O. Bonds.

**ADDITIONAL INFORMATION:**

This project provides for the widening of the north and south approaches on Merle Hay Road in order to provide left turn lanes. The current pavement width of 49 feet will be widened to 65 feet. A raised median will be installed on Merle Hay Road within the vicinity of the intersection. New traffic signals with back plates will also be installed, including north-south left turn phasing. A ten-foot clear zone will be established within the limits of the project.

Richard B. Margulies is the titleholder of the commercial properties at 3101 and 3107 Merle Hay Road, which is developed as a neighborhood retail center, and a house that has been converted for commercial uses. This acquisition will require relocation of three business signs.

The original appraisal approved by Council for the property interests required for the project established a value of \$70,899 for a partial fee acquisition, landscaping replacement and temporary easement for construction. As part of the appraisal review process by IDOT, the appraisal was revised downward due to mathematical miscalculations in the amount of \$15,900 for a new appraised value of \$54,999.

Richard B. Margulies has secured his own independent appraisal from Frandson & Associates, L.C. in the amount of \$135,000. The price per square foot for land value between appraisals were comparable, with compensation for loss of parking (current loss and future loss of lease revenue based on reduced parking) being the biggest and most subjective difference of estimated value. Based on the analysis and conclusions of value provided in the appraisals obtained by the City and property owner, the City's Engineering Department - Real Estate Division has negotiated a settlement with the property owner in the amount of \$100,000 for the property interests required for this project. The above settlement amount represents a fair and reasonable price to be paid for said property interests, and without this settlement, the City would need to acquire the property interests by condemnation. Recent experience in condemnation actions, the range of probable testimony and the estimate of condemnation costs were also considered in conjunction with the above items as justification for this settlement.

### **PREVIOUS COUNCIL ACTION(S):**

Date: October 12, 2009

Roll Call Number: 09-1843

Action: [Establishing](#) revised fair market value of multiple properties for the Merle Hay Road and Urbandale Avenue Intersection Improvements Project. ([Council Communication No. 09-721](#)) Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: March 23, 2009

Roll Call Number: 09-454

Action: [Authorization](#) to acquire the necessary right-of-way and easements for the Merle Hay Road and Urbandale Avenue Intersection Improvements Project. ([Council Communication No. 09-169](#)) Moved by Hensley to adopt. Motion Carried 5-2.

Date: March 23, 2009

Roll Call Number: 09-453

Action: [Approving](#) and authorizing execution of Iowa Department of Transportation Addendum to the Predesign Agreement for Merle Hay Road (Iowa 28) widening at Urbandale Avenue. ([Council Communication No. 09-171](#)) Moved by Hensley to adopt. Motion Carried 5-2.

### **BOARD/COMMISSION ACTION(S): NONE**

### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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