

Date August 10, 2009

**APPROVAL OF ENVIRONMENTAL COVENANT BETWEEN THE CITY OF DES MOINES, THE IOWA DEPARTMENT OF NATURAL RESOURCES AND MIDAMERICAN ENERGY COMPANY FOR THE SOUTHEAST CONNECTOR PROJECT – SW 2<sup>ND</sup> TO SE 6<sup>TH</sup> STREET PHASE**

**WHEREAS**, on April 25, 2005, by Roll Call 05-969, the City Council of the City of Des Moines authorized the acquisition, by gift, negotiation, or condemnation, of the right-of-way required to construct the Southeast Connector Project – SW 2<sup>nd</sup> to SE 6<sup>th</sup> Street Phase (“Project”); and

**WHEREAS**, on September 24, 2007, by Roll Call Number 07-1829, the City Council established the fair market value of property interests located at 200 SE 3<sup>rd</sup> Street, Des Moines, Iowa 50309, which property at the time was owned by MidAmerica Development Company and leased by MidAmerican Energy Company, and which property is now owned by MidAmerican Energy Company; and

**WHEREAS**, on March 10, 2008, by Roll Call Number 08-378, the City Council approved the right-of-way acquisition settlement agreement and accepted easements from MidAmerica Development Company and MidAmerican Energy Company for the Project; and

**WHEREAS**, the property located at 200 SE 3<sup>rd</sup> Street is monitored and regulated by the Iowa Department of Natural Resources (“IDNR”), and MidAmerican Energy Company, as owner, and the City, as easement holder, have been required by IDNR to prepare and execute an Environmental Covenant restricting certain uses of the property; and

**WHEREAS**, the City’s Legal and Engineering Departments have negotiated the terms of the Environmental Covenant, on file with the City Clerk as Exhibit “1” and by this reference made a part hereof, with MidAmerican Energy Company and IDNR in order to protect the City’s interest in the acquired property and in construction of the SE Connector Project, and said Covenant must now be approved by City Council.

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

1. That the above-referenced Environmental Covenant between is hereby approved.
2. That the Mayor is authorized and directed to sign the Environmental Covenant and the City Clerk is authorized and directed to attest to the Mayor’s signature.

★ Roll Call Number

Agenda Item Number  
**22**

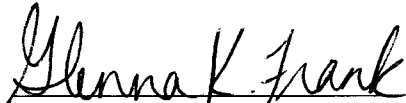
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- 3. That the City Clerk is directed to return the executed Covenant to the Legal Department to be forwarded to the Iowa Department of Natural Resources for execution and recording.

Moved by \_\_\_\_\_ to adopt.

(Council Communication No. 09-567)

APPROVED AS TO FORM:

  
 Glenna K. Frank  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
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.

\_\_\_\_\_  
Chief Deputy City Clerk