

★ Roll Call Number

08-378

Agenda Item Number

19

Date March 10, 2008

**APPROVING RIGHT-OF-WAY ACQUISITION SETTLEMENT AGREEMENT  
AND ACCEPTING EASEMENTS FROM MIDAMERICA DEVELOPMENT COMPANY  
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, and owned by MidAmerica Development Company and leased by MidAmerican Energy Company; and

**WHEREAS**, the City Engineering Department and its Real Estate Division have negotiated a settlement with MidAmerica Development Company and MidAmerican Energy Company including the following terms: (1) the City will pay consideration in the amount of \$250,000.00 to MidAmerica Development Company and MidAmerican Energy Company for acquisition of the permanent and temporary easement interests required for the Project, which amount includes compensation of all land value and cost-to-cure damage items; (2) upon approval by the City Planning & Zoning Department, the City will vacate and convey to MidAmerican Energy a portion of SE 2<sup>nd</sup> Street valued at \$20,000.00, at no cost, to be used by MidAmerican Energy for internal site access in lieu of MidAmerican Energy’s request of compensation in the amount of \$90,247.00 for gates with card readers and a chain link fence; and

**WHEREAS**, in exchange for the aforesaid consideration, MidAmerica Development Company and MidAmerican Energy Company have provided to the City a Permanent Easement for Levee, Public Pedestrianway, Water Supply, and Sewer and Street Right-of-Way; a Permanent Easement for Water Supply and Sewer Right-of-Way; and a Temporary Easement for Construction and Environmental Assessment as needed for the Project; and

**WHEREAS**, approval of this settlement and acceptance of the easement documents from MidAmerica Development Company and MidAmerican Energy Company would be in the best interest of the City of Des Moines.

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

1. That the settlement calling for payment of the total amount of \$250,000.00 to MidAmerica Development Company and MidAmerican Energy Company for acquisition of the permanent and temporary easement interests required for the Project, and vacation and conveyance of a portion of SE 2<sup>nd</sup> Street valued at \$20,000.00, at no cost, to be used by MidAmerican Energy for internal site access in lieu of MidAmerican Energy's request of compensation in the amount of \$90,247.00 for gates with card readers and a chain link fence upon approval by the City Planning & Zoning Department, is hereby approved.
2. That the Mayor is authorized and directed to sign the Offer to Purchase Easement in Real Estate and Acceptance and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. That the Finance Director is authorized and directed to draw warrants in the amount of \$250,000.00 payable MidAmerica Development Company and MidAmerican Energy Company, and to issue checks and pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to obtain the checks, if any, needed to carry out these transactions and to deliver them to the payees.
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 Permanent Easement for Levee, Public Pedestrianway, Water Supply, and Sewer and Street Right-of-Way; Permanent Easement for Water Supply and Sewer Right-of-Way; and Temporary Easement for Construction and Environmental Assessment, approval and acceptance of this Council and is further authorized and directed to deliver said Easements to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

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Moved by Hensley to adopt.

(Council Communication No. 08-117)

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			
MOTION CARRIED				

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