

★ Roll Call Number

10-1786

Agenda Item Number

62B

Date October 25, 2010

AUTHORIZATION TO PROCEED WITH ACQUISITION OF THE NECESSARY RIGHT-OF-WAY AND EASEMENTS FOR THE SOUTHEAST CONNECTOR – SE 14TH STREET TO SE 30TH STREET PROJECT BY GIFT, NEGOTIATION, OR CONDEMNATION

WHEREAS, on March 7, 2005, by Roll Call No. 05-530, the City Council approved the execution of an Iowa Department of Transportation Agreement for the Southeast Connector Project; and

WHEREAS, on March 7, 2005, by Roll Call No. 05-531, the City Council approved a Professional Services Agreement between the City of Des Moines and Kirkham Michael & Associates for professional services in connection with the design of the Southeast Connector Project; and

WHEREAS, the City's Engineering Department and design consultant have determined that it is necessary to acquire property for right-of-way in connection with the Southeast Connector – SE 14th Street to SE 30th Street Project; and

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

WHEREAS, after the design is completed and right-of-way needs are determined, 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; and

WHEREAS, the project will require relocation of the City of Des Moines' facilities located east of SE 20th Street between Market Street and Scott Avenue; and

WHEREAS, in accordance with Title 23, Chapter 710, Section 509 of the Code of Federal Regulations (23 CFR 710.509), when a publicly owned property is to be acquired as part of a federally funded highway project, the public entity may be compensated by a functional replacement facility which provides equivalent utility in lieu of fair market value for the acquired real property, and thus the City facilities at SE 20th Street and Scott Avenue will be eligible for functional replacement and Federal funds may be used for providing an equivalent facility; and

WHEREAS, the City's Real Estate Division of the Engineering Department will also participate in the efforts and negotiations necessary to relocate the City facilities at SE 20th Street and Scott Avenue.

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 Southeast Connector – SE 14th Street to SE 30th Street Project, including acquisition of replacement property necessary for the relocation and replacement of the City facilities at SE 20th Street and Scott Avenue, 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 appropriate.

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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 these parcels will be approved in accordance with established City policy. If the property owners agree to convey the property 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 listed above the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, 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.
6. That the Real Estate Division Manager is hereby authorized and directed to execute Maintain Vacancy Agreements and Rental Agreements, if necessary.

Moved by Meyer to adopt.

APPROVED AS TO FORM:
Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

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

MOTION CARRIED 7 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