

★ Roll Call Number

12-1760

Agenda Item Number

14

Date November 19, 2012

**ACCEPTANCE OF REAL ESTATE DOCUMENTS FROM TITAN TIRE CORPORATION
FOR THE SOUTHEAST CONNECTOR PROJECT**

WHEREAS, Titan Tire Corporation, the owner of property locally known as 2345 East Market Street, has granted to the City a temporary grading easement and temporary access easement upon such property for construction of a portion of the Southeast Connector Project; and

WHEREAS, Titan Tire Corporation has included indemnity and claims procedure provisions in the temporary easements to the City, which easements are being submitted to City Council for acceptance and approval, and which provisions state that the City agrees to indemnify, defend and hold harmless Titan Tire Corporation and its affiliated parties from all claims or suits, costs, and fees related to the granting of the temporary easement and/or work performed and transporting of equipment in the easement area or resulting from the easement by the City, its contractors, or others on behalf of the City, except such claims resulting from the negligent, reckless or intentional acts or omissions of Titan Tire Corporation, and which provisions further require the City to notify Titan Tire Corporation of any claims made and to assume or cause the City's contractor or other responsible party to assume the defense and cost of such claims.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the attached documents conveying property interests, recommended for approval and acceptance by the Real Estate Division of the Engineering Department, be and are hereby approved and accepted as follows:

Property Owner: Titan Tire Corporation
Property Location: 2345 East Market Street, Des Moines, Iowa 50317-7528
Document Type: Temporary Easement for Construction and Construction-Related Activities;
Temporary Access Easement
Consideration: \$800

That the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out the 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 obtain the checks, if any, needed to carry out these transactions and to deliver them to the payee.

That the City Clerk is hereby authorized and directed to endorse upon the Easements the approval and acceptance of this Council and is further authorized and directed to deliver said Easements to the Real Estate Division Manager, who shall retain the documents in City files or may proceed to record the documents with the Polk County Recorder's Office, as applicable.

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(Council Communication No. 12-579)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

RSW

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

T. M. Franklin Cooney 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