

★ Roll Call Number  
13-0027

Agenda Item Number  
18

Date January 14, 2013

**SET HEARING ON RIGHT-OF-WAY AGREEMENT BETWEEN MIDAMERICAN ENERGY COMPANY AND CITY OF DES MOINES ON CITY-OWNED PROPERTY LYING EAST OF SE 22<sup>ND</sup> STREET AND NORTH OF SCOTT AVENUE FOR RELOCATION OF OVERHEAD ELECTRIC LINES FOR THE SOUTHEAST CONNECTOR PROJECT**

**WHEREAS**, MidAmerican Energy Company (“MidAmerican”) currently is a licensee pursuant to license agreement with Norfolk Southern Railway Company for operation and maintenance of overhead electric lines within railroad right-of-way in the vicinity of SE 22<sup>nd</sup> Street and Scott Avenue; and

**WHEREAS**, due to the design and construction of the Southeast Connector Project, the City needs to relocate said MidAmerican overhead electric lines to City-owned property lying east of SE 22<sup>nd</sup> Street and north of Scott Avenue that will be used for the construction and right-of-way of the Southeast Connector; and

**WHEREAS**, MidAmerican has agreed to enter into a Right-of-Way Agreement with the City for the relocated lines, as substantially in the form on file in the office of the City Clerk, subject to said Agreement providing a permanent easement to MidAmerican that allows MidAmerican to remove obstructions from the right-of-way area, and prohibits the City from improving the right-of-way area for any purpose without MidAmerican’s prior approval, other than obstructions and improvements related to the Southeast Connector Project and associated roadway improvements; and

**WHEREAS**, approval of this Right-of-Way Agreement is required by MidAmerican to complete relocation of the overhead electric lines, and is necessary for the City to fulfill project grant deadlines for the Southeast Connector Project.

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

1. The City Council of the City of Des Moines, Iowa proposes to enter into a Right-of-Way Agreement with MidAmerican Energy Company for operation and maintenance of overhead electric lines upon the following City-owned property lying east of SE 22<sup>nd</sup> Street and north of Scott Avenue, subject to the terms set forth herein and to be included in the Agreement, for the right-of-way area described below:

A PORTION OF LOT 1, LAKE SHORE PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 68°(DEGREES) 01'(MINUTES) 29”(SECONDS) EAST, 101.32 FEET ON THE NORTHERLY LINE OF SAID LOT 1; THENCE SOUTH 61°28'47” EAST, 83.54 FEET; THENCE NORTH 00°00'08” EAST, 10.27 FEET TO THE NORTHERLY LINE OF SAID LOT 1; THENCE SOUTH 68°01'29” EAST, 10.78 FEET ON SAID NORTHERLY LINE; THENCE SOUTH 00°00'08” WEST, 11.67 FEET; THENCE SOUTH 61°28'47” EAST,

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22.76 FEET; THENCE SOUTH 00°00'40" EAST, 22.76 FEET; THENCE SOUTH 61°29'35" EAST, 29.65 FEET; THENCE SOUTH 28°30'25" WEST, 10.00 FEET; THENCE NORTH 61°29'35" WEST, 24.22 FEET; THENCE SOUTH 00°00'40" EAST, 285.50 FEET; THENCE NORTH 84°27'37" EAST, 29.79 FEET;

THENCE SOUTH 05°32'23" EAST, 10.00 FEET; THENCE SOUTH 84°27'37" WEST, 30.75 FEET; THENCE SOUTH 00°00'40" EAST, 20.09 FEET; THENCE SOUTH 84°27'37" WEST, 20.08 FEET; THENCE SOUTH 00°02'27" EAST, 40.75 FEET; THENCE SOUTH 89°57'33" WEST, 10.00 FEET; THENCE NORTH 00°02'27" WEST, 39.77 FEET; THENCE SOUTH 84°19'56" WEST, 169.34 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 00°08'00" EAST, 50.26 FEET ON SAID WEST LINE; THENCE NORTH 84°19'56" EAST, 149.11 FEET; THENCE NORTH 00°00'40" WEST, 274.71 FEET; THENCE NORTH 61°28'47" WEST, 167.83 FEET TO THE WEST LINE OF SAID LOT 1; THENCE

NORTH 00°08'00" EAST, 43.71 FEET ON SAID WEST LINE TO THE POINT OF BEGINNING, CONTAINING 0.79 ACRES (34,603 SQUARE FEET) MORE OR LESS;

2. A public hearing will be held on January 28, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of the proposal and hearing in the form hereto attached, all in accordance with Iowa Code Section 362.3.
4. There will be no proceeds associated with this right-of-way agreement.

Moved by Moore to adopt.

APPROVED AS TO FORM:

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

*PSW*

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

MOTION CARRIED

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