

May 19, 2014

To: Mayor Bemrich and City Council
From: David Fierke, City Manager
**Subject: Memorandum of Understanding
Ziegler Fort Dodge LLC**



ACTION: For vote Tuesday, May 27, 2014

Brief History

Plans and specifications for the Menards Traffic Signal Project are being prepared by Snyder and Associates. The drive entrance off of 5th Avenue South into the Ziegler Cat property, located at 3366 5th Avenue South, will need to be moved to the east to line up with the shared drive entrance into 3377 and 3405 on the south side of 5th Avenue South.

Analysis of Issue

Moving this drive entrance to the east will create a safer intersection.

Budget Impact

If approved, the City would relocate the Ziegler drive entrance as part of the Menards Traffic Signal Project. In addition, payment in the amount of \$50,000 will be made to Ziegler to offset the cost of replacing their drive aisle adjacent to the new entrance. All costs will be paid from a Traffic Safety Fund grant, awarded by the Iowa Department of Transportation.

Strategic Plan Impact

Policy D.4.2: Advanced planning for all infrastructure facilities shall be supported and routinely updated. Facilities benefited by advanced planning shall include, at minimum, schools, health care, residential areas, roads, water, sewer, storm water management, parks, recreation, and greenways.

Existing Plan Impact

Approving this agreement is consistent the Envision 2030 Plan.

Subcommittee or Commission Review / Recommendation

None

Staff Conclusions / Recommendations

Approve the attached agreement with Ziegler Fort Dodge LLC.

Alternatives

The only alternative would be to not approve the attached agreement, which would delay the Menards Traffic Signal Project.

Implementation and Accountability

If this resolution is approved, the agreement will be executed.

Signed

Approved



Vickie Reeck,
Community Development Mgr.

David R. Fierke
City Manager

RESOLUTION NO. _____

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF FORT DODGE AND ZIEGLER FORT DODGE LLC**

WHEREAS, the City of Fort Dodge is undertaking the Menards Traffic Signal Project;
and,

WHEREAS, as part of the project, the drive entrance to Ziegler Cat, located at 3366 5th
Avenue South, will need to be relocated to the east; and,

WHEREAS, as a result of the relocation of the drive entrance, Ziegler will incur costs to
replace the drive aisle adjacent to the drive entrance; and,

WHEREAS, the City desires to provide financial assistance to Ziegler to help offset
those costs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Dodge,
Iowa, hereby approves the attached Memorandum of Understanding with Ziegler Fort
Dodge LLC.

Passed this _____ day of _____, 2014.

Ayes: _____

Nays: _____

Other: _____

CITY OF FORT DODGE, IOWA

By: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE CITY OF FORT DODGE, IOWA
AND
ZIEGLER FORT DODGE LLC**

THIS AGREEMENT, made and entered into this _____ day of _____, 2014, by and between the City of Fort Dodge, Iowa, an Iowa Municipal Corporation (The "City") and Ziegler Fort Dodge LLC ("Ziegler").

WITNESSETH

WHEREAS, as part of the Menards Traffic Signal Project, the existing drive entrance off of 5th Avenue South to Ziegler Cat, located at 3366 5th Avenue South, will need to be moved to the east to create a safer distance from the intersection; and,

WHEREAS, Ziegler has agreed to allow the relocation of their existing drive entrance; and,

WHEREAS, as a result of the relocation of the drive entrance, Ziegler will incur additional costs to replace the existing drive aisle to accommodate truck traffic; and,

WHEREAS, the City is desirous of assisting in the replacement of the new drive aisle to accommodate this project.

NOW, THEREFORE, the parties agree to the following stipulations:

The City agrees to:

1. Design and construct a new replacement drive entrance off of 5th Avenue South to the Ziegler property at 3366 5th Avenue South. Said new drive entrance shall line up with shared drive entrance to properties at 3377 and 3405 on the south side of 5th Avenue South.
2. Close the existing drive entrance off of 5th Avenue South to the Ziegler property.
3. Contribute \$50,000 towards the cost of the replacement of the new drive aisle on the Ziegler property.

Ziegler agree to:

1. Allow the removal of the existing drive entrance and construction of new drive entrance as shown on attached site plan, Exhibit "A".

All parties of this agreement hereby and herewith agree to hold harmless and indemnify each of the other parties, their employees or representatives, from any and all liability to which they may be subject, arising out of the execution of this agreement.

This is the complete and final agreement of the parties and no statement not herein contained has been relied upon by any party in affixing their signature hereto.

All parties warrant that they have full and sufficient authority to execute this agreement and each party will sign whatever document is necessary to effectuate this agreement.

IN WITNESS WHEREOF, we have affixed our signatures hereto.

CITY OF FORT DODGE, IOWA

ATTEST

Matt Bemrich, Mayor

Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this ____ day of _____, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Notary Public in and for said State of Iowa

ZIEGLER FORT DODGE LLC

BY: Tary Draper, Director of Facilities

STATE OF _____, _____ COUNTY, ss:

On this ____ day of _____, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Tary Draper to me personally known, who being by me duly sworn, did say that he is the Director of Facilities of said corporation; that there is no seal for said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Director of Facilities as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Notary Public in and for said State of Iowa

