



Roll Call Number

08-1375

Agenda Item Number

56

Date July 28, 2008

APPROVAL OF EMERGENCY PROCEEDINGS AT VARIOUS LOCATIONS FOR  
EMERGENCY REPAIRS AND APPROVAL OF EMERGENCY PURCHASE ORDERS  
WITH THE LOWEST RESPONSIBLE BIDDER

**WHEREAS**, recent flooding on the Des Moines and Raccoon Rivers and heavy local rains resulting in surcharge of the sanitary and storm sewers have caused damage to the public improvements as listed below.

**WHEREAS**, the scope of these emergency repairs required the services of a private contractor because of the urgent nature of the required repairs; and the delay of advertising and a public letting might cause serious loss or injury to the city; and

**WHEREAS**, local private contractors were contacted for their services, said contractors and asked to submit bids for the repair work, and

**WHEREAS**, Section 384.103(2) of the Iowa Code provides for emergency repairs as follows:

When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the City, the governing body shall, by resolution, make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent registered professional engineer or architect, not in the regular employ of the City, certifying that emergency repairs are necessary.

In that event the governing body may contract for emergency repairs without holding a public hearing and advertising for bids, and the provisions of Chapter 26 do not apply.

**WHEREAS**, H.R. Veenstra, Jr., P.E., of Veenstra & Kimm has inspected the sites and has recommended in the attached letters that emergency repair actions be taken.

**WHEREAS**, on Monday, June 9, 2008, the City Manager declared an operating emergency related to the anticipated flooding in the City of Des Moines and departments were authorized under Section 2-709 (b) (Public and Operating Emergencies) Municipal Code of the City of Des Moines to procure in the open market, without filing a requisition, purchase order, or request for proposals or estimate therefore and without advertisement, any goods and/or services that could have not been reasonably foreseen or anticipated, for immediate delivery or furnishing to meet such operating emergency when necessary. Goods and services should be acquired using normal procedures when feasible.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:** That the emergency actions of the City Manager and the City Engineer regarding emergency repairs to the following public improvements are hereby approved, ratified, and confirmed; and the City Council hereby makes a finding that emergency repairs were necessary because a public letting might have caused serious loss or injury to the City; and the

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City Council hereby makes a finding that the emergency repairs were necessary in accordance with Subsection 384.103(2) of the Code of Iowa for the following work:

- Birdland Levee Opening @ 2<sup>nd</sup> Repair: Activity ID 14-2008-073: This work shall include providing all materials, labor, and equipment necessary to reconstruct the Birdland levee where an opening was created to drain the flood waters. The opening is located approximately 200 feet west of 2<sup>nd</sup> Avenue. The Contractor shall furnish the clay fill material, backfill, and compact the closure. The Contractor shall also remove the existing levee material which was excavated and placed at the south edge of the levee at this location. Also included is seeding the disturbed area of this repair and the disturbed area at the Birdland levee breach location. The Birdland levee breach location is just west of New York Avenue along the Des Moines River.

**BE IT FURTHER RESOLVED:** That the City Council approves, ratifies, and confirms the actions of the Procurement Administrator to issue purchase orders to the following contractors for the referenced work:

- Birdland Levee Opening @ 2<sup>nd</sup> Repair: Activity ID 14-2008-073: : Four bids were received on July 8, 2008 for the work being:
  - \$15,599.99 from Elder Corporation.
  - \$18,435 from Reilly Construction Co., Inc.
  - \$30,000 from The Underground Company.
  - \$31,180 from Corell Contractor Inc.

Purchase Order No. 21521 was issued to Elder Corporation, Jared R. Elder II, President, 5088 E. University Avenue, Des Moines, IA 50327 in the amount of \$15,599.99.

(Council Communication Number 08-447 is attached)

Moved by Coleman to adopt.

FORM APPROVED: Kathleen Vanderpool  
 Kathleen Vanderpool, Deputy City Attorney

**M** Funding Source: 2008-089 Operating Budget, SP854, ENG982008, OPR 178, 2008 Storms Mitigation/Recovery

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VCLASSIS	✓			
TOTAL	7			

**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.

MOTION CARRIED APPROVED  
T. M. Franklin Course Mayor

Diane Rauh City Clerk