

★ Roll Call Number

08-1737

Agenda Item Number

14

DATE October 13, 2008

**ACCEPTING COMPLETED CONSTRUCTION, AND APPROVING
FINAL PAYMENT REGARDING PURCHASE ORDER NO. 21521
FOR THE BIRDLAND LEVEE OPENING @ 2ND AVENUE REPAIR,
ELDER CORPORATION**

Whereas, on July 28, 2008, under Roll Call 08-1375, the City Council made a finding that the emergency repairs were necessary in accordance with Subsection 384.103(2) of the Code of Iowa and approved Purchase Order No. 21521 which 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 for the Birdland Levee Opening @ 2nd Avenue Repair: Activity ID 14-2008-073. This work includes providing all materials, labor, and equipment necessary to reconstruct the Birdland levee where an opening was created to drain the flood waters. The opening was located approximately 200 feet west of 2nd Avenue. The Contractor shall furnish the clay fill material, backfill, and compact the closure. The Contractor also removed 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, which is just west of New York Avenue along the Des Moines River, and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the attached report of the Jurisdictional Engineer, showing the cost of the construction of the Birdland Levee Opening @ 2nd Avenue Repair: Activity ID 14-2008-073, in accordance with Purchase Order Number 21521 approved between Elder Corporation, Jared R. Elder II, President, 5088 E. University Avenue, Des Moines, IA 5032, under Roll Call No. 08-1375, of July 28, 2008, and the City of Des Moines, and recommending the acceptance thereof, be and the same is hereby approved, and accepted.

BE IT FURTHER RESOLVED: That \$15,599.99 is the total cost of Purchase Order No 21521, of which \$14,819.99 has been paid the Contractor, and \$0.00 is now due and is hereby approved as final partial payment for the above project, the remaining balance of \$780.00 is to be paid at the end of thirty days, provided no claims or liens have been filed against said contract. In the event that at the end of said thirty (30) day period, claims are on file as herein provided, the City of Des Moines shall continue to retain from said unpaid funds, a sum not less than double the total amount of all claims on file, or the full Chapter 573 Code of Iowa retainage amount, whichever is lesser.

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BE IT FURTHER RESOLVED: That the Engineering Department be and is hereby authorized and directed to notify all persons and firms with outstanding Chapter 573 claims against said project, that the project has been given final acceptance as completed by this City Council, that they have 60 days from such acceptance within which to initiate suit to collect on their claims, and that if suit is not commenced within that time, the City of Des Moines will be required to release the retainage which it is now holding.

Moved by Hensley to adopt.

FORM APPROVED:

Kathleen Vanderpool

Kathleen Vanderpool
Deputy City Attorney

FUNDS AVAILABLE

Allen McKinley BB

Allen McKinley
Des Moines Finance Director

Funding Source: Anticipated to be no City Cost for this emergency repair work with funding anticipated to be 90% FEMA and 10% State funds, 2008-2009 Operating Budget, SP854, ENG982008, OPR 178, 2008 Storms Mitigation/Recovery.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
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