

★ Roll Call Number
09-174

Agenda Item Number
13A

DATE February 9, 2009

**ACCEPTING COMPLETED CONSTRUCTION AND APPROVING FINAL PAYMENT
FOR CENTRAL BUSINESS DISTRICT TRAFFIC SIGNAL UPGRADE, THE WALDINGER
CORPORATION**

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 Central Business District Traffic Signal Upgrade, 04-1998-002, in accordance with the contract approved between The Waldinger Corporation, Tom Koehn, President, 2601 Bell Avenue, Des Moines, IA 50321, under Roll Call No. 03-1360, of June 9, 2003, and the City of Des Moines, and recommending the acceptance thereof, be and the same is hereby approved, and accepted, and

BE IT FURTHER RESOLVED: That \$2,394,965.21 is the total cost, of which \$2,364,965.21 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 \$30,000.00 is to be paid at the end of thirty days, provided no claims or liens have been filed against said contract. Said remaining balance of \$30,000.00 is to be paid at the end of thirty days, also provided that a release of this payment has been approved by the Iowa Department of Transportation through the Des Moines Engineering Department. Said Engineering Department shall not release this payment until all projects audits have been completed, and any monetary penalties resulting from audit deficiencies shall be deducted from said balance of \$30,000.00 before being released to the Contractor. The Mayor be and is hereby authorized and directed to sign the Iowa Department of Transportation Certificate of Completion and Final Acceptance of Agreement Work. 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.

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.

BE IT FURTHER RESOLVED: That the Des Moines Finance Director be and is hereby authorized to release said retainage if suit is not filed as above provided.

Moved by Vlassis to adopt.

FORM APPROVED:

Kathleen Vanderpool

Kathleen Vanderpool
Deputy City Attorney

FUNDS AVAILABLE

Allen McKinley *scs*

Allen McKinley
Des Moines Finance Director

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Funding Source: 2008-2009 CIP, Page Traffic-8, Signal System Reconstruction - Central Business District, TFC093, Various Funding, Being:
 \$406,993.04 in TIF Funds from TFC093, \$360,000.00 in Traffic Safety Funds under Iowa DOT Agreement 97-TS-011 (\$360,000.00 maximum) for Division 1 Construction Cost only, \$1,627,972.17 in Congestion Mitigation and Air Quality Improvements Funds under Iowa DOT Agreement 95-AU-82 (maximum \$2,400,000.00 for 80% Design and 80% Construction less \$360,000.00 TSF for Division 1)

JFB

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

MOTION CARRIED APPROVED
T. M. Franklin
 Mayor

I, Diane Rauh, City Clerk of said City Council, hereby certify that at a meeting of the City Council, 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