

★ Roll Call Number
09-1199

Agenda Item Number
12B

DATE July 13, 2009

**ACCEPTING COMPLETED CONSTRUCTION AND APPROVING FINAL PAYMENT
FOR CLOSES CREEK WATERSHED - 26TH STREET DETENTION AND STORM
IMPROVEMENTS, ELDER 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 Closes Creek Watershed - 26th Street Detention and Storm Improvements, 08-2005-007, in accordance with the contract approved between Elder Corporation, Jared R. Elder II, President, 5088 E. University Avenue, Des Moines, IA 50327, under Roll Call No. 06-563, of March 20, 2006, 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 \$2,689,065.77 is the total cost, of which \$2,554,612.48 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 \$134,453.29 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.

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 City Manager be and is hereby authorized and directed to certify the Pollution Prevention Plan Inspection Summary and the NPDES Stormwater General Permit Notice of Discontinuation for the above referenced project on behalf of the City of Des Moines and submit said documents to the Iowa Department of Natural Resources.

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 Kiernan to adopt.

FORM APPROVED:

Kathleen Vanderpool by AD

Kathleen Vanderpool
Deputy City Attorney

FUNDS AVAILABLE

Allen McKinley

Allen McKinley
Des Moines Finance Director

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SEB Funding Source: 2009-20010 CIP, Page Storm-5, Closes Creek Watershed Improvements, STE068, Storm Water Utility Funds

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

MOTION CARRIED

APPROVED

T. M. Franklin Cooney

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