

★ Roll Call Number

09-2094

Agenda Item Number

14 D

DATE November 23, 2009

**ACCEPTING COMPLETED CONSTRUCTION AND APPROVING FINAL PAYMENT  
FOR SE 5TH STREET OVER YEADER CREEK BRIDGE REHABILITATION, HERBERGER  
CONSTRUCTION CO., INC.**

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 SE 5th Street over Yeader Creek Bridge Rehabilitation, 12-2006-003, in accordance with the contract approved between Herberger Construction Co., Inc., Dean Herberger, President, 2508 West 2nd Avenue, Indianola, IA 50125, under Roll Call No. 08-426, of March 10, 2008, 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 \$324,219.34 is the total construction cost of which \$304,887.81 has been paid to the Contractor, with a final partial payment of \$3,120.56 to be paid now, and the remaining balance of \$16,210.97 be paid at the end of thirty days, provided no claims or liens have been filed against said project, and provided that a release of this payment has been approved by the Iowa Department of Transportation through the Department of Engineering for the City of Des Moines, Iowa. Said Engineering Department shall not release this payment until all project audits have been completed, and any monetary penalties resulting from audit deficiencies shall be deducted from said balance of \$16,210.97 before being released to the Contractor.

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.

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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 Coleman to adopt.

FORM APPROVED:

*Kathleen Vanderpool*

Kathleen Vanderpool  
Deputy City Attorney

FUNDS AVAILABLE

*Allen McKinley*

Allen McKinley  
Des Moines Finance Director

Funding Source: 2009-2010 CIP, Page Bridge-14, SE Fifth Street Bridge over Yeader Creek, BRV038, Various Funding, Being: \$259,375.47 Federal funds (80% construction with maximum of \$336,000) and \$64,843.87 in Gaming Monies from the Agreement with Polk County and The Racing Association of Central Iowa

STP-U-1945(734)--70-77

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

*Diane Rauh*

City Clerk

MOTION CARRIED 7 APPROVED  
*T. M. Franklin* Mayor