CITY COUNCIL MEETING COMMUNICATION

DATE: **September 3, 2019**

ITEM: Resolution – Claim for reimbursement – South 60th Street Improvements Phase II –Pheasant Ridge Drive to Mills Civic Parkway Project

FINANCIAL IMPACT: $36,484.74

SYNOPSIS: As part of the South 60th Street Improvements Project, the City reconstructed Lydia and Jay Liedman's ("the Liedmans") gravel driveway at 930 South 60th Street. In order to accommodate the new urban cross section for the roadway, a new gravel driveway approximately 220 feet in length was constructed at approximately the same location as the previous gravel driveway, but in some locations approximately 8 feet lower in elevation. The Liedmans elected to later pave approximately 50 feet of their driveway closest to the road. The Liedmans notified City Staff that heavier rain events over the past couple years have resulted in rutting of the gravel driveway, frost/mud boils, as well as cracked concrete panels. The property owners feel that the gravel driveway was not constructed properly. The property owners have already incurred $1,354.52 in expenses for temporary repairs that they wish to be compensated for. In addition, the Liedmans wish to be reimbursed for the initial construction cost of the 50-foot stretch of concrete driveway adjacent to the road in the amount of $2,150.00. Lastly, the Liedmans have submitted a quote in the amount of $32,980.22 to cover costs associated with replacement of the concrete driveway, replacement of the gravel driveway, and addition of drainage pipe/intakes. The total request for compensation is $36,484.74.

The Liedmans have indicated that they would settle the claim for $36,484.74 and drop any further claims related to the manner in which the area of their property affected by the Project was restored. The Public Services subcommittee, however, has recommended payment of $36,484.74 to the Liedmans in exchange for a full release from the Liedmans regarding restoration of their property.

OUTSTANDING ISSUES (if any): None.

RECOMMENDATION: Approve the Release and Settlement Agreement between the City of West Des Moines and Lydia and Jay Liedman.

Lead Staff Member: Jessica D. Spoden, Assistant City Attorney JDS

STAFF REVIEWS

Department Director	Richard J. Scieszinski, City Attorney
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services		
Date Reviewed	July 8, 2019 August 12, 2019		
Recommendation	Yes		

RESOLUTION APPROVING SETTLEMENT AND RELEASE BY AND BETWEEN LYDIA AND JAY LIEDMAN AND THE CITY OF WEST DES MOINES, IOWA

WHEREAS, in conjunction with the South 60th Street Improvements Project Phase I – Grand Avenue to Pheasant Ridge Drive, Project No. 0510-021-2014, Lydia and Jay Liedman have made a claim for damages related to the gravel driveway at their property 930 South 60th Street; and

WHEREAS, the City of West Des Moines and Lydia and Jay Liedman have reached an agreement that provides payment of the claim and release of any and all future claims; and

WHEREAS, approval of the Settlement and Release is in the best interest of the City of West Des Moines.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:

1. The Agreement by and between Lydia and Jay Liedman and the City of West Des Moines is hereby approved.

2. The Mayor is authorized to sign the Agreement and the City Clerk is directed to attest to the Mayor's signature.

3. The West Des Moines Finance Department is authorized to make appropriate payment as provided by the terms of the Agreement.

PASSED AND ADOPTED this 3rd day of September, 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

SETTLEMENT AND RELEASE AGREEMENT BY AND BETWEEN LYDIA AND JAY LIEDMAN AND THE CITY OF WEST DES MOINES, IOWA

This Settlement and Release is made this _____ day of _____, 2019, by Lydia and Jay Liedman, and the City of West Des Moines, an Iowa municipal corporation.

Lydia and Jay Liedman ("Owners"), as owners of property located at 930 South 60th Street, West Des Moines, Iowa ("Property"), in consideration of receipt of $36,484.74, hereby release and forever discharge the City of West Des Moines, its officials, employees, contractors and assigns from any and all claims, demands, causes of action of any kind, known and unknown, which the Owners may have now or in the future related to or arising from the design, construction, reconstruction, grading, regrading, seeding, reseeding or any other matter done in conjunction with the restoration of the Property related to the South 60th Street Improvement Project, Project No. 0510-021-2014.

Dated this 19 day of August, 2019.

Lydia Liedman
Lydia Liedman

Jay S. Liedman
Jay Liedman

STATE OF IOWA)
) ss
COUNTY OF Polk)

This record was acknowledged before me on the 19th day of August, 2019, by Lydia Liedman and Jay Liedman.

Katie Johnson
Notary Public in and for the State of Iowa

KATIE JOHNSON
Commission Number 787901
My Commission Expires
January 14, 2021

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

_____

Steven K. Gaer, Mayor

ATTEST:

_____

Ryan T. Jacobson, City Clerk

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this ____ day of _____, 2019, before me a Notary Public in and for said County, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of West Des Moines, Iowa, a Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing record is the seal of said Municipal Corporation, and that said record was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council as contained in the Resolution adopted under Roll Call No. 19-_____, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said Municipal Corporation by it voluntarily executed.

_____

Notary Public in and for the State of Iowa