

May 19, 2014

To: Mayor Bemrich and City Council
From: David Fierke, City Manager
**Subject: Approval of Access Agreement –
Iowa SRF-Sponsored Project
Soldier Creek Bridge to Bridge Project**



ACTION: For Vote Tuesday, May 27, 2014

Brief History

The plans and specifications for the Soldier Creek Bridge to Bridge Project are being prepared by McClure Engineering and Wenck Engineering.

Analysis of Issue

In order to complete plans and specifications, McClure Engineering and Wenck Engineering will need access to the adjacent properties owned by Bruce and Dee Murman and Erland and Elaine Carlson.

Budget Impact

This project will be funded through the Iowa SRF.

Strategic Plan Impact

Policy D.4.2: Advanced planning for all infrastructure facilities shall be supported and routinely updated. Facilities benefited by advanced planning shall include, at minimum, schools, health care, residential areas, roads, water, sewer, storm water management, parks, recreation, and greenways.

Existing Plan Impact

Complies with 2013-2018 Capital Improvement Plan.

Subcommittee or Commission Review / Recommendation

None

Staff Conclusions / Recommendations

Staff recommends the approval of the access agreement with Murmans and Carlsons.

Alternatives

The only alternative would be to not approve the access agreement and delay the project, but it is not recommended.

Implementation and Accountability

If approved, documents will be executed with the affected property owners.

Signed



Vickie L. Reeck,
Community Development Manager

Approved

David R. Fierke, City Manager

RESOLUTION NO. _____

**RESOLUTION APPROVING AN ACCESS AGREEMENT WITH
BRUCE AND DEE MURMAN AND ERLAND AND ELAINE CARLSON**

WHEREAS, plans and specifications for the Soldier Creek Bridge to Bridge Project, funded through the Iowa SRF, are being completed by McClure Engineering and Wenck Engineering; and,

WHEREAS, in order to complete the design work, soils must be tested to determine the best course of action; and,

WHEREAS, the following adjacent property owners will need to grant access on their property in order to take soil samples:

- Bruce and Dee Murman – 1212 11th Avenue North; access to backyard to take soil samples, as well as access to shared driveway;
- Erland and Elaine Carlson – 1115 Forest Avenue; access to shared driveway;

and,

WHEREAS, the attached access agreement has been negotiated with the property owners.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Dodge, Iowa, hereby approve the attached access agreement with Bruce and Dee Murman and Erland and Elaine Carlson.

Passed this _____ day of _____, 2014.

Ayes: _____

Nays: _____

Other: _____

CITY OF FORT DODGE, IOWA

By: _____

Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk



NORTH

Approximate Bore
Rig Location



1115

Remove and Replace
Fence for Access



1212

1218

11th Avenue North



ACCESS AGREEMENT

COMES NOW, the City of Fort Dodge, Iowa, hereinafter referred to as “City” and Bruce and Dee Murman, hereafter referred to as “Murmans” and Erland and Elaine Carlson, hereinafter referred to as “Carlsons”, and enter into the following agreement:

WHEREAS, the Murmans own property locally known as 1212 - 11th Ave. North, Fort Dodge, Iowa; and

WHEREAS, the Carlsons own property locally known as 1115 - 11th Ave. North, Fort Dodge, Iowa; and

WHEREAS, the City owns property directly north of the property owned by the Murmans and the Carlsons; and

WHEREAS, there is currently an erosion to the property directly north of the Murman and Carlson properties; and

WHEREAS, the City is desirous of gaining access to the property of the Murmans to drill for soil samples; and

WHEREAS, the access would necessitate crossing a drive-way which is jointly shared by the Murmans and the Carlsons; and

WHEREAS, the City, Murmans and Carlsons desire to enter into an agreement allowing said access and providing for certain protections.

IT IS THEREFORE AGREED TO AS FOLLOWS:

1. That the City shall have access to the Murman property for the purposes of allowing a contractor to drill for soil samples in an effort to cure the eroding problem which is currently in existence.
2. That the access shall be gained by using the drive-way shared by the Murmans and the Carlsons located directly west of the Murman property.
3. That the drilling shall be conducted on a day with no precipitation.
4. That at City’s expenses, Midwest Fence Company will remove and replace fencing in order the access the property.

5. If necessary, at City's expense, the City or its contractor will remove and replace the basketball hoop in order to allow access to the property.

6. That upon completion of the drilling, the City agrees to employ Wayne Bruss of Specialized Turf and Irrigation Systems to determine whether or not there was any damage to the Irrigation system directly related to the access and drilling.

7. The City further agrees that if any damages are found which have resulted from the access or drilling that the City pay Mr. Bruss for said repairs.

8. The City shall be responsible for paying Dick Maier of Maier Landscaping for reasonable costs in repairing any damage to the lawn caused by said access and drilling.

9. The City agrees that the contractors shall place plywood on the yard prior to accessing the property to minimize damage to the yard and irrigation system.

10. The City agrees that the contractor shall take the necessary precautions in order to ensure that the retaining wall is not damaged while accessing the property.

11. The City further agrees that damages to the property including the drive-way which is directly related to the access of said property or the drilling shall be the responsibility of the City.

12. All parties agree that the City shall pay no fee for the access agreement.

Dated this ____ day of _____, 2014.

CITY OF FORT DODGE, IOWA

Matt Bemrich, Mayor

Attest:

Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this ____ day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk

as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa

Dated this ____ day of _____, 2014.

Dated this ____ day of _____, 2014.

Bruce Murman

Erland Carlson

Dee Murman

Elaine Carlson

STATE OF IOWA)
) SS.
COUNTY OF WEBSTER)

On this _____ day of May, 2014, before me, the undersigned, a Notary Public, personally appeared Bruce Murman and Dee Murman to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that she executed the same as his/her voluntary act and deed.

Notary Public in and for the State of Iowa

STATE OF IOWA)
) SS.
COUNTY OF WEBSTER)

On this _____ day of May, 2014, before me, the undersigned, a Notary Public, personally appeared Erland Carlson and Elaine Carlson to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that she executed the same as his/her voluntary act and deed.

Notary Public in and for the State of Iowa