



Legislation Text

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City Council Meeting Date: May 30, 2023

To: Mayor and City Council

From: Ben Martig, City Administrator
David Bennett, Public Works Director/City Engineer
Sean Simonson, Engineering Manager
Lynette Peterson, City Clerk

Review 2023 Reclamation and Overlay Project Bids and Pending Actions.

Action Requested:

Review 2023 Reclamation and Overlay Project Bids and Pending Actions.

Summary Report:

The City Council is being asked to discuss the upcoming actions related to the 2023 Reclamation and Overlay Project (STRT2023-A69). The Plans and Specifications were completed by Short Elliot Hendrickson, Inc., and at the April 4, 2023 City Council Meeting, the Council authorized the advertisement for bids via Resolution 2023-032. The ad for bid was published in the Northfield News, on the MnDOT eAdvert site, and the City of Northfield website.

The project scope includes work on the following streets (Attachment 2):

- Harrison Court (Mill and Overlay)
- Johnson Court (Mill and Overlay)
- Drive (Mill and Overlay)
- Grant Court (Mill and Overlay)
- Hayes Drive from Fillmore Street to Johnson Street (Mill and Overlay)
- Carter Drive - Fillmore Street to Northfield Middle School (Mill and Overlay)
- Heritage Drive - Hidden Valley Apartments to Lincoln Street (Pavement Reclamation)
- Hidden Valley Road - Jefferson Road to Heritage Drive (Pavement Reclamation)
- Peterson Drive - Hidden Valley Road to Lincoln Street (Pavement Reclamation)
- Lincoln Street- Heritage Drive to Peterson Drive (Pavement Reclamation)
- Thomas Court (Pavement Reclamation)
- Adams Street - Lincoln Street to Roosevelt Drive (Pavement Reclamation)
- Taylor Court (Pavement Reclamation)
- Adams Court (Pavement Reclamation)
- Tyler Court (Pavement Reclamation)
- Nevada Street/Ninth Street - Bike Boulevard

- Maple Street - Protected Two-Way Bikeway
- Maple Street - Off Street Trail
- Roosevelt Drive - Protected Two-Way Bikeway
- Heritage Drive/Lincoln Street/Adams Street - Off-Street Two-Way Bikeway
- Peterson Drive /Hidden Valley Road - New Sidewalk Installation
- Roosevelt Drive and Woodridge Apartments - Pedestrian Crossing Improvement
- Adams Street at Roosevelt Park Pedestrian Crossing Improvement
- Heritage Drive at Hidden Valley Road - Pedestrian Crossing Improvement
- Heritage Drive at Valley Drive - Pedestrian Crossing Improvement

Due to funding restraints at the time of Feasibility approval, the following project areas and improvements were recommended to be included in the project as a Bid Alternate. The bid alternate was favorable and sufficient funding is available; staff is recommending awarding the alternate.

- Anderson Drive from TH 246 to Aspen Street (Mill and Overlay)
- Sunny View Drive from Sunny View Lane to Sibley View Lane (Mill and Overlay)
- Sunny View Lane from Sunny View Drive to Arbor Street (Mill and Overlay)
- Arbor Street from TH 246 to Aspen Street (Mill and Overlay)
- Aspen Street/Aspen Court South Dead End to Cul-de-sac (Mill and Overlay)
- TH 246 - Anderson Drive to the Roundabout - Off Street Trail

The City received three (3) competitive bids (Attachment 3), which were publicly opened and tabulated on May 4, 2023 at 2:00 p.m. The bids ranged from \$4,847,581.68 to \$5,384,597.60 with the lowest responsible bidder being Ims Contracting, LLC with a total bid amount of \$4,847,581.68 (note: this includes the alternate \$481,080.95). This compared to the engineers estimate of \$4,714,064.80. This project is identified in the 2023 - 2027 Capital Improvement Plan (CIP), and funding for the project is a combination of enterprise funds, franchise fees, and bonding as outlined in Attachment 4.

Petition Review

A “reverse referendum” petition was received by the city clerk on Monday, May 15, 2023 (Attachment 4). The petition contained approximately 1,100 signatures. Following receipt of the Petition, the city clerk was required to determine the validity and sufficiency of the Petition within 10 working days. Based on the governing law and Rules, the city clerk in fact began review of the filed reverse referendum petition on May 15, 2023. The city clerk subsequently on May 16, 2023, within 24 hours of receiving the Petition, provided the petitioners an initial written response identifying multiple errors and deficiencies in the filed petition (Attachment 5).

The city clerk responded to the petitioners as soon as reasonably possible on May 16 identifying the deficiencies in the petition in order that the petitioners would have notice and an opportunity to correct the deficiencies in the petition prior to the filing deadline of May 18, 2023. The Petitioners did not correct and refile the Petition even after having been notified and given the opportunity to correct the legal deficiencies in the Petition. Following May 18, 2023, based upon the form of the Petition on file with the city clerk, the city clerk subsequently mailed another letter to the petitioners on May 25, 2023 within the statutory 10 working day review period, containing the city clerk’s final determination as to sufficiency of the Petition and rejecting the Petition as insufficient under the law (Attachment 6).

Based on the governing Rules that the city clerk is required to follow, the city clerk in the May 25 letter notice of insufficiency to the petitioners, properly and timely determined that the Petition was deficient on six of the nine required criteria contained in the governing Rules.

The city clerk identified deficiencies included, but were not limited to, the following material defects:

- Each petition page must have a signer's oath stating "I swear (or affirm) that I know the contents and purpose of this petition and that I signed this petition only once and of my own free will." The Petition filed did not contain the required oath on each page.
- Each petition page must include the following statement: "All information must be filled in by person(s) signing the petition unless disability prevents the person(s) from doing so." The Petition did not contain this required statement on each page.
- Each signature line must have each signatory's year of birth; printed middle name; and residence county, among other requirements. The Petition did not contain any of the signatory's dates of birth, middle names, or county of residence. This failure of the Petition directly prevents, impedes and interferes with the City Clerk's legal obligation and ability to verify the accuracy and veracity of the petition and eligible voter signatures.
- Each petition page must include the following statement: "All information on this petition is subject to public inspection." The Petition did not contain this statement.

In sum, the Petition is deficient in several material respects as it fails to meet legal requirements for a petition stated in clauses A, C, F, G, H and I of the governing Rules. The Petition lacks such information as an oath, middle names, birth years and counties of residence. The Petition also lacks a signer's oath attesting that the Petition was signed only once by each signer and was signed knowingly and voluntarily. These required, rule-based criteria go right to the heart of any petition process and cannot be ignored by the city clerk. The rules are the rules, and they must be complied with by everyone. In this case, the city clerk followed the law, but the Petition does not, despite timely notice provided to the petitioners of the Petition's deficiencies. As a result, the city clerk had no other determination, except to find the Petition insufficient and correspondingly reject the Petition as not being legally compliant.

City Attorney Chris Hood, Flaherty & Hood, City Bond Counsel Jenny Boulton and Senior Municipal Advisor and Vice President with Ehlers Nick Anhut will be in attendance to answer questions or clarifications related to the petition and bond issuance that is pending.

Summary Council Direction Sought for Tuesday, June 6th

We have continued to follow the public process for the project. Staff is recommending that the project be awarded with the alternate at the June 6th meeting. These streets are deteriorated beyond routine patching and maintenance. We are not intending to go through the project scope again as it has been presented at length in the past and we are now on to consideration of bid award phase.

Staff is seeking direction from the City Council next week on the alternatives below or if there are other options not contemplated to consider. While there isn't any voting prepared, we would like the opportunity for discussion and to get individual input from each council member on their preferred option as we prepare the actions. There must be a decision to award the project, or not, at the June 6th meeting to avoid project delays and related financial penalties that would be pursued by the contractor related to delays in project scheduling.

The worksession provides an added opportunity for advance discussion and deliberation so there is more clear direction on the planned course of action for June 6th. The following alternative actions are proposed for

discussion and direction at the meeting.

Alternative Options:

For discussion, staff has three possibly actions that could be taken at the June 6 Council Meeting:

1. Action 1 - Award project as is with the alternate. Recommended option.
2. Action 2 - Award the project but seek a change order to alter the project scope. Alternate option. This option would be to remove the street improvement project on Heritage Drive and Lincoln Street south of Adam St. The remainder of the project would proceed as proposed when plans were authorized. The improvements on these streets would be programmed sometime in the future. The presumed reasoning for the amendment relates to responding to the one primary area that has been publicly raised as a concern for off-street bike trail by the project area of concern and “sponsoring committee” who organized and submitted the petition process that reside on South Lincoln Street. If Council wanted to proceed in this direction we would have a change order prepared to consider an option for removal of this section of the project.
3. Action 3 - Reject the Bids. This isn’t recommended as bids were competitive and costs for this work will increase in the future.
 - a. Direct to move forward to explore a Council directed voluntary public referendum question to be on the 2024 general election; or
 - b. Plan to not have a referendum but explore inclusion in future Capital Improvement Plan (CIP) scheduling, or not, that commences in the coming months. The future scope could include the project remaining as-is or being modified.

City Administrator Martig is preparing a “plus/delta” summary assessment tool to reflect on the considerations for the alternate options presented. The “pluses” refer to the positives or what brings value. The delta help identifies the things that may need to be improved or dropped. That document is forthcoming and will be submitted to the City Council as a supplemental memo.

Financial Impacts:

The funding tables at the time of contract award are shown below. In addition, funding for the 1% for the arts is included with the project. The award resolution includes transferring the 1% for the arts to the Arts and Culture Fund at this time.

ESTIMATED PROJECT COSTS			
	Award Project Costs Base Bid	Award Project Costs Alternate Bid	Award Base + Alternate
Street	\$3,384,416	\$422,131	\$3,806,547
Storm Sewer	\$713,785	\$30,250	\$744,035
Sanitary Sewer	\$61,050	\$12,900	\$73,950
Watermain	\$207,250	\$15,800	\$223,050
Construction Subtotal	\$4,366,501	\$481,081	\$4,847,582
Construction Contingency (10%)	\$436,650	\$48,108	\$484,758
Art (1%)	\$48,032	\$5,292	\$53,323
Total with Art	\$4,851,182	\$534,481	\$5,385,663
Overhead (11.5 %)	\$557,886	\$61,465	\$619,351
Total Project Costs	\$5,409,068	\$595,946	\$6,005,015

ESTIMATED TOTAL PROJECT FUNDING			
	Award Project Costs Base Bid	Award Project Costs Alternate Bid	Award Base + Alternate
Bonding	\$3,397,951	\$523,249	\$3,921,200
Franchise Fees	\$800,000		\$800,000
Storm Fund	\$880,247	\$37,305	\$917,551
Sanitary Fund	\$75,287	\$15,908	\$91,196
Watermain Fund	\$255,583	\$19,485	\$275,067
Total Project Costs	\$5,409,068	\$595,946	\$6,005,015

Art (1%) Funding Allocation			
FUNDING SOURCE	Approve Plans Project Costs Base Bid	Approve Plans Project Costs Alternate Bid	Approve Plans Base + Alternate
Capital Reserve Fund (Street Share)	\$37,229	\$4,643	\$41,872
Storm Fund	\$7,852	\$333	\$8,184
Sanitary Fund	\$672	\$142	\$813
Water Fund	\$2,280	\$174	\$2,454
TOTAL FUNDING	\$48,032	\$5,292	\$53,323

Tentative Timelines:

See the Project Process (Attachment 7) for upcoming project milestones.