

The Agenda Review Session of the Board of Public Works was convened at 10:31 a.m. on September 22, 2022, by Board President Elizabeth A. Maradik, Vice President Joseph Molnar, and Board Members Gary Gilot, Jordan Gathers, Murray Miller, and Board Attorney Michael Schmidt present. Board of Public Works Clerk, Theresa Heffner, presented the Board with a proposed agenda of items presented by the public and by City Staff.

AGENDA REVIEW SESSION ACTION ITEMS

APPROVAL OF REQUEST TO REJECT BIDS/QUOTATIONS – SHERIDAN & RIVERSIDE PARKING LANE RESURFACING – PROJECT NO. 122-056 (PR-00019271)

In a memorandum to the Board, Mr. Scott Kreeger, Engineering, requested permission to reject all quotations for the above referenced project because quotes exceeded the project budget. Therefore, upon a motion made by VP Joseph Molnar, seconded by Murray Miller and carried by roll call, the above request was approved.

VP Molnar asked if the quote was changed to get a better response. Project Engineer, Scott Kreeger responded that the quote was not changed; originally the only company that responded back for the quote was Reith Riley for \$229,840. The other companies were not familiar with public bidding/quotation process, so he has reached out to them to answer any questions they have.

Board members discussed the following item(s) from the agenda.

CHANGE ORDERS

Project Engineer Scott Kreeger was present to answer questions about item 6.D.: Installation of School Zone Flashing Beacons. He noted that it is an INDOT project that is one hundred percent (100%) federally funded and the change order is asking the City for five (5) additional flashing beacons that will be nonparticipating items since it is outside the scope. The additional five (5) will be for resupply for any knockdowns or replacement parts. There is a purchase order set up through INDOT, so the City will work through INDOT's current contract with Michiana to acquire them.

President Maradik stated that this change order involves a large percent increase and recalled that a previous change order included the large increase. Project Engineer Kreeger explained that the previous change order was to set up for the additional thirty-eight (38) flashing beacons and the installation whereas the current change order is for five (5) additional beacons which is only a three percent (3%) increase. President Maradik asked that there be a memo included in the file to explain the percentage increases in case the State Board of Accounts reviews the paperwork, they will be able to see the documentation.

Attorney Schmidt explained that this is a supply purchase with no installation. This allows the City to buy supplies through the state contract that has already negotiated this particular rate. It's similar to a back door QPA. Mr. Gilot noted that on signals that are safety sensitive electronic equipment he recommended loading the contract with a critical spare parts inventory that is part of the upfront contract instead of change ordering it in. Project Engineer Kreeger explained that with the INDOT process it is not typically possible since it's federally funded. Mr. Gilot recommended using the term "critical spare part inventory".

CHANGE ORDERS

Project Engineer Scott Kreeger was present to answer questions about item 6.E.: 2022 Contractor Paving Round II. He added that it is for additional mill and resurfacing on Ironwood and Ireland roads.

RESOLUTIONS

City Controller Dan Parker was present to answer questions about item 9.A.: Authorization the purchase of Real Property from the South Bend Community School Corporation. The South Bend Community School Board approved the sale of the building at a meeting on Monday, September 19, 2022 with this resolution being the approval for the City to purchase the building. The resolution authorizes the City to sign the purchase agreement as well as a lease of the building back to the South Bend Community School Corporation while they are building out their new space at Brown Intermediate School.

President Maradik added that the resolution authorized City Controller Parker to execute the purchase agreement, the Lease Agreement, and any other document necessary to effect the City's acceptance of the Property from the South Bend Community School Corporation.

Mr. Gilot asked if the legal challenge of the one-dollar (\$1) transfer to a charter school is resolved. City Controller Parker stated that the Attorney General issued an opinion that stated the Brown School where the School Corporation will be moving did not meet the criteria that was being challenged for the one-dollar (\$1) transfer, so the School Corporation can retain the building since they are renovating that building for future use of administrative offices. If the building had been vacant, it would have met the criteria for the one-dollar (\$1) transfer.

Mr. Miller asked if the School Corporation will only be paying the utilities and the maintenance on the building. City Controller Parker explained that the lease portion of the agreement runs through July 31, 2024, during that time the School Corporation will not pay any rent, just the ongoing operating expenses. If they are unable to vacate the building by July 31, 2024, then they would be required to pay rent of three hundred dollars (\$300) per day.

VP Molnar asked if Assistant City Attorney Jenna Throw could clarify who would be liable if someone was injured in the building, the School Corporation as the lessee or the City as the lessor? Assistant City Attorney Throw noted that the City would likely be named if something were to happen but noted that there are indemnification provisions that if it was caused by the School Corporation's negligence then there would be some recourse.

Mr. Gilot stated that the City pays a common area maintenance fee on this building to occupy about one-quarter of the building. Mr. Gilot asked if there will be legal challenges about take or pay when the City vacates the building. City Controller Parker responded that he would let Assistant City Attorney Throw answer the legal questions but added that the City pays \$620,000 for the building in common area maintenance which anticipated to keep going down. Currently, the School Corporation pays about \$400,000 to operate that building a year, so that's where we're seeing the payback of the 2.8 million purchase price. Assistant City Attorney Throw noted that the county anticipates the City leaving the County-City Building, so as we go through the process with the School Corporation on their timeline, that will allow us to inform the County on when we will formally be ending our time at the County-City Building and moving to the School Corporation Building.

Mr. Gilot asked if there will be room for the other external departments within the City in the new building. City Controller Parker stated that he doesn't believe there has been a full decision on whether all of the operations will be moving to the new building and that will be an agreement with the architect to do the full space planning. He restated that every operation in the County-City Building will be moving, but the Building Department and Water Works are still up in the air. Relocation depends on whether the space can be configured in such a way to accommodate them properly as well as properly accommodate the needs of the public, for instance paying their water bill. Mr. Gilot asked if the City still rents the office space across from Water Works. City Controller Parker stated yes, that is ideal to move because it does not require public access and moving them to the School Corp. Building would save the City \$65,000 dollars a year in rent.

VP Molnar asked if the City will have access to the School Building or if the City will need to get permission to access the building. Assistant City Attorney Throw noted that the lease does contemplate that the City has access to the building for the City's needs, but in practice, we may still coordinate with the School Corporation as a courtesy.

Mr. Gilot asked about the parking for the new building. City Controller Parker explained that the City owns the attached Wayne Street parking garage and we currently lease spaces in the building to the School Corporation, so we will take over those spaces for the employees. Depending on the timing of the move, the City will no longer have to lease the current parking lot that employees park in on Lafayette and Wayne Street.

AWARD BIDS AND APPROVE CONTRACTS

Mr. Miller asked if the 4.B.: Morris Performing Arts Center Theatre Lighting was just material or also included installation. Mr. Miller noticed that there were not any MWBE goals for this. Attorney Schmidt noted that the installation was not included because there is a separate group

Indiana (the "City") pursuant to I.C. § 36-9-6-3, and is authorized to receive such property from another governmental entity pursuant to I.C. § 36-1-11-8; and

WHEREAS, the South Bend Community School Corporation (the "School Corporation") owns certain real property in South Bend, Indiana, commonly known as 215 Dr. Martin Luther King, Jr. Boulevard, South Bend, Indiana 46601, and more particularly described in attached **Exhibit A** (the "Property") and wishes to transfer its interests in that real estate to the City of South Bend as further described in the Purchase Agreement attached hereto as **Exhibit B** after determining a transfer to a governmental entity rather than a sale or lease to a nongovernmental entity would be in the best interests of School Corporation and the public; and

WHEREAS, the South Bend Community School Corporation (the "School Corporation") is authorized to transfer property to another governmental entity pursuant to I.C. § 36-1-11-8 upon terms and conditions agreed upon by the entities as evidenced by adoption of a substantially identical resolution by each entity; and

WHEREAS, the School Corporation desires to sell and the City desires to acquire the Property, in exchange for the transfer of Two Million Eight Hundred Thousand Dollars (\$2,800,000.00) from the City to the School Corporation.

WHEREAS, in order for the City and the School Corporation to execute the Purchase Agreement and Closing Documents, the Board of Public Works desires to authorize the City's purchase of the Property from the School Corporation pursuant to I.C. § 36-1-11-8 and subject to the terms of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SOUTH BEND BOARD OF PUBLIC WORKS AS FOLLOWS:

1. The Board of Public Works hereby approves the purchase of the Property from the School Corporation in accordance with I.C. § 36-1-11-8. The City Controller, Daniel T. Parker, is authorized and directed, in the name of the City, to execute a Purchase Agreement in a form substantially similar to the document attached hereto as Exhibit B, in a final form approved by the City of South Bend Department of Law. The City Controller, Daniel T. Parker, is also authorized to execute a Lease Agreement for the School Corporation's lease of the Property, in a form substantially similar to the document attached in Exhibit C, in a final form approved by the City of South Bend Department of Law.
2. The Board of Public Works hereby authorizes City Controller, Daniel T. Parker, in the name of the City, or his designee to execute any other document necessary to effect the City's acceptance of the Property from the School Corporation.
3. This Resolution will be in full force and effect upon its adoption by the Board of Public Works.

ADOPTED at a meeting of the City of South Bend, Indiana, Board of Public Works held on September 27, 2022, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 and electronically.

CITY OF SOUTH BEND
 BOARD OF PUBLIC WORKS
 s/ Elizabeth A. Maradik
 s/ Joseph R. Molnar
 s/ Gary A. Gilot
 s/ Jordan V. Gathers
 s/ Murray L. Miller

ATTEST:
 s/ Theresa Heffner, Clerk

APPROVAL OF AGREEMENTS/CONTRACTS/PROPOSALS/ADDENDA

The following agreements/contracts/proposals/addenda were submitted to the Board for approval:

Type	Business	Description	Amount/	Motion/
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			Funding	Second
Amendment No. 1 to Owner-Engineer Agreement	Kil Architecture/Planning	Design Services to Incorporate Roof Replacement for Nexus Center Site Improvements Project No. 121-064	\$24,200; Adjusted Agreement Total: \$59,700 (PO-0015309)	Joseph Molnar/Jordan Gathers
Ratify Contracted Emergency Work	Selge Construction Co., Inc.	Emergency Repairs for CSO 27/28 Outfall Pipe and Water Main	Original Estimate \$155,000; Final Cost \$251,360.23 (PO-0017455)	Joseph Molnar/Jordan Gathers
Ratify Contracted Emergency Work	Selge Construction Co., Inc.	Emergency Repairs for Sewer Lines at 417 Napoleon	Original Estimate \$25,000; Final Cost \$23,519.23 (PO-0018024)	Joseph Molnar/Jordan Gathers
Ratify Contracted Emergency Work	Selge Construction Co., Inc.	Emergency Repairs for Utilities & Streets/Sewer at Quince Road & Edison Road	Original Estimate \$50,000; Final Cost \$41,686.84 (PO-0018236)	Joseph Molnar/Jordan Gathers
Amendment No. 3 to Owner-Engineer Agreement	Black & Veatch Corporation	Additional Services for Changed Scope for North Water Treatment Plant Improvements Project No. 119-011	Increase \$16,940; New Adjusted Total NTE \$250,731 (Hourly) (PO-005261)	Joseph Molnar/Jordan Gathers
Memorandum of Understanding	NIPSCO	Agreement with NIPSCO to complete underground work in the City ROW before Milestone Contractor's North, Inc., completes surfacing at the intersection of Sample and Mayflower Project No. 120-052R	\$6,800 (PO-0010526)	Joseph Molnar/Jordan Gathers

APPROVAL OF REVOCABLE PERMIT FOR ENCROACHMENT – 3030 NORTHSIDE BLVD.

President Maradik stated an application for an encroachment and revocable permit has been received from Ms. Beverly Steele, 3030 Northside Blvd., South Bend, IN 46615 for the purpose of allowing a seven (7) foot awning on the front of the house to be placed in the right-of-way. The encroachment shall remain in the right of way until the time as the Board of Public Works of the City of South Bend shall determine that such encroachment is in any way impairing or interfering with the highway or with the free and same flow of traffic. Upon a motion made by VP Joseph Molnar, seconded by Jordan Gathers and carried by roll call, the encroachment and revocable permit was approved.

FAVORABLE RECOMMENDATION - PETITION TO VACATE THE NORTH/SOUTH ALLEY RUNNING BETWEEN 912 AND 908 OAK STREET TO THE FIRST EAST/WEST ALLEY

President Maradik indicated that Ms. Aubrie Thornton, 912 W. Oak St., South Bend, IN 46616, has submitted a request to vacate the above referenced alley. Ms. Maradik advised the Board is in receipt of favorable recommendations concerning this vacation petition from the Public Works Department, Fire Department, Police Department, and Community Investment who all state the request does meet the criteria of I.C. 36-7-3-13. Therefore, VP Joseph Molnar made a motion for favorable recommendations to the Common Council subject to the removal of the approach and installing sidewalk and curb as appropriate. Jordan Gathers seconded the motion which carried by roll call.

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