

The Agenda Review Session of the Board of Public Works was convened at 10:31 a.m. on April 6, 2023, by Board President Elizabeth A. Maradik, Vice President Joseph Molnar, and Board Members Gary Gilot, Jordan Gathers (absent), Murray Miller, Board Attorney Michael Schmidt (absent) and Assistant City Attorney Jenna Throw present. The Board of Public Works Clerk, Theresa Heffner, presented the Board with a proposed agenda of items presented by the public and by City Staff.

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

#### NOTICE OF INTENT TO SELF PERFORM

Murray Miller asked about item 2.A: 2023 Annual Paving Program saying that he thought that the inspections were to be handled the same way as a contractor. President Maradik noted that the memo in the file shows that Engineering has created an app for inspections. It is a way for them to track the inspections that occur onsite.

Mr. Miller asked if it was an independent inspection or done by the City. President Maradik added that the inspections are done by the City.

Mr. Gilot asked if Engineering or the Streets Department perform the inspections. Assistant City Engineer Leslie Biek advised that the Street Department will be self-performing the inspection. President Maradik added that they have created a system or database that allows the foreman on site to go in and record that the internal inspection was performed.

Mr. Gilot stated that when projects over \$100,000 that would normally require a contractor, Engineering decided to self-perform. He continued saying that street projects over \$100,000 warranted an independent inspection. President Maradik stated that she remembers having this conversation last year, but believed it was determined that it is not required by state statute. Assistant City Attorney Jenna Throw advised that she reviewed that statute and the items that Project Engineer Scott Kreeger included in his memo, hit the items required.

Mr. Miller asked if work done by a contractor is done by an independent inspector or if it is done by the City. Project Engineer Kreeger responded that it depends. Some of them are consulted out and some of them are self-performed. Mr. Miller stated that he interpreted the statute differently. He assumed that the City has to perform the same as a contractor by having an independent inspection.

Project Engineer Kreeger stated that the City has a foreman that typically does the City's contracted work, but they also inspect our internal crews as well. They'll include the date and time when they do the inspection and include any issues that occurred onsite and then they will take a before and after picture which will be saved in a database. This allows us to look at last year's information to see who did the inspection and see how far the milling depth was and how much surface was placed.

Mr. Miller asked if the milling depth is the same for the contractor and the City, or will it be different. Project Engineer Kreeger responded that it depends on the location of the road that needs to be addressed. Some roads we've been pushing for three-inch (3") mill depth consistently in the City, however some require full depth and those are the ones contracted out. Depending on what the road needs, we do anywhere from half inch (1/2"), three inch (3"), or full mill depth.

Mr. Miller asked if the City uses the same INDOT specs as required by a contractor. Project Engineer Kreeger answered yes and the same specs for the material and workmanship.

#### AWARD BIDS AND APPROVE CONTRACTS

President Maradik had a few questions about item 5.A: 2023 Street and Sewer Material Bid. She noted that in a couple places it states that we are going to proceed to open market, but it does not say that on the memo. She also noted that there are a few items missing from the memo that she wanted clarification on.

Project Engineer Kreeger said he will submit a corrected memo, and that he is waiting to hear back from legal on the open market item. He also noted that for Division F, it would be better to

go out to bid later in the year since K-Tech Specialty Coatings will only hold their prices for thirty (30) days.

Mr. Gilot advised that the spec Engineering could reference an index so that after the time of the award price adjustments will be based on the index. This is a way to deal with fluctuating commodity pricing and volatile markets.

#### LICENSES AND PERMITS

President Maradik noted that item 12.B: Encroachment/Revocable Permits stated that there is a memo included but there is not one in the file. She noted that there is only the application and an internal memo.

Mr. Gilot asked from a zoning perspective if there is an issue with the height of the fence. President Maradik added that even if BPW approved the encroachment for the fence, it would still need a variance from zoning because of the height. She stated that the owner submitted the paperwork for the variance, but it was put on hold until the encroachment issue was resolved.

#### PRIVILEGE OF THE FLOOR

#### ADJOURNMENT

There being no further business to come before the Board, President Maradik adjourned the meeting at 10:46 a.m.

CITY OF SOUTH BEND, INDIANA  
BOARD OF PUBLIC WORKS



Elizabeth A. Maradik, President



Joseph R. Molnar, Vice President



Gary A. Gilot, Member



Jordan V. Gathers, Member



Attest: Theresa M. Heffner, Clerk

Murray L. Miller, Member

Date: April 25, 2023

#### REGULAR MEETING

APRIL 11, 2023

The Regular Meeting of the Board of Public Works was convened at 9:31 a.m. on Tuesday, April 11, 2023, by Board President Elizabeth A. Maradik in the 13<sup>th</sup> Floor Conference Room of the County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana. The meeting was also streamed live to the public via Microsoft Teams. Board Clerk Theresa Heffner confirmed the presence of Board President Elizabeth A. Maradik, Vice President Joseph Molnar, and Board Members Gary Gilot, Jordan Gathers (arrived at 9:50 a.m.), Murray Miller (absent), and Board Attorney Michael Schmidt, with a roll call. President Maradik reminded virtual attendees to mute their microphones and turn off their cameras when not speaking, and to save their questions and comments for the Privilege of the Floor.

#### APPROVE MINUTES OF PREVIOUS MEETING

Upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the minutes for the Agenda Review Session and Regular Meetings of the Board held on March 23, 2023 and March 28, 2023, were approved. Jordan Gathers was not present to vote.

#### NOTICE OF INTENT TO SELF PERFORM – 2023 ANNUAL PAVING PROGRAM (MVH-R, LRS)

Mr. Scott Kreeger, Engineering, advised that this was the date set for a discussion of the City's Notice of Intent to Self-Perform with its own qualified workforce, for paving 32<sup>nd</sup> St.

(Mishawaka Ave. to the railroad) in the amount of \$106,401.54, York Rd. (Ireland Rd. to the dead end) in the amount of \$154,618.98. In a memorandum to the Board, he stated the city has published its paving list, and these were the only two (2) of the sixty (60) streets that exceeded the \$100,000 limit. He noted the costs include the labor, rental equipment, and asphalt material. Therefore, upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the above request was approved. Mr. Gathers was not present to vote.

**OPENING OF BIDS – 2023 GUARDRAIL INSTALLATION AND REPLACEMENT – PROJECT NO. 122-043 (PR-00022501)**

This was the date set for receiving and opening of sealed bids for the above referenced project. The Clerk tendered proof of publication of Notice in the South Bend Tribune, which was found to be sufficient. The following bids were opened and publicly read:

**NO BIDS RECEIVED**

Upon a motion made by VP Molnar seconded by Mr. Gilot and carried by roll call, the above project was approved to be readvertised since no bids were received. Mr. Gathers was not present to vote.

**OPENING OF BIDS – 2023 TRAFFIC CALMING – PROJECT NO. 122-014C (PR-00023274)**

This was the date set for receiving and opening of sealed bids for the above referenced project. The Clerk tendered proof of publication of Notice in the South Bend Tribune, which was found to be sufficient. The following Bids were opened and publicly read:

**MILESTONE CONTRACTORS NORTH, INC.**

24358 State Road 23  
South Bend, IN 46614  
[akrueger@milestonelp.com](mailto:akrueger@milestonelp.com)  
Bid was signed by Mr. Dustin Hilary  
Non-Collusion, Non-Discrimination Affidavit Form was completed.  
Five percent (5%) Bid Bond was submitted.  
Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.  
Two (2) of Two (2) Addendum(s) Acknowledgement received.

BID:

Division 1	\$290,140.00
Alternate Division 1	\$35,200.00
Division 2	\$342,900.00
Alternate Division 2	\$14,400.00
Division 3	\$320,910.00
Alternate Division 3	\$15,600.00
Division 4	\$313,870.00
Alternate Division 4	\$43,600.00
Division 5	\$305,960.00
Alternate Division 5	\$1,600.00
Division 6	\$276,060.00
Alternate Division 6	\$13,600.00

**PREMIUM CONCRETE SERVICES, INC.**

712 Richmond St.  
Elkhart, IN 46516  
[rbecker@premiumconcreteonline.com](mailto:rbecker@premiumconcreteonline.com)  
Bid was signed by Mr. Max A Yeakey  
Non-Collusion, Non-Discrimination Affidavit Form was completed.  
Five percent (5%) Bid Bond was submitted.  
Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.  
Two (2) of Two (2) Addendum(s) Acknowledgement received.

BID:

Division 1	\$287,380.00
Alternate Division 1	\$44,000.00
Division 2	\$339,300.00

Alternate Division 2	\$18,000.00
Division 3	\$317,970.00
Alternate Division 3	\$19,500.00
Division 4	\$311,290.00
Alternate Division 4	\$54,500.00
Division 5	\$303,320.00
Alternate Division 5	\$2,000.00
Division 6	\$274,020.00
Alternate Division 6	\$17,000.00

**SELGE CONSTRUCTION CO., INC.**  
2833 South 11<sup>TH</sup> St.  
Niles, MI 49120  
[aswinehart@selgeconstruction.com](mailto:aswinehart@selgeconstruction.com)  
Bid was signed by Mr. Justin Butler  
Non-Collusion, Non-Discrimination Affidavit Form was completed.  
Five percent (5%) Bid Bond was submitted.  
Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.  
Two (2) of Two (2) Addendum(s) Acknowledgement received.

BID:

Division 1	\$223,400.00
Alternate Division 1	\$35,200.00
Division 2	\$308,475.00
Alternate Division 2	\$14,400.00
Division 3	\$308,220.00
Alternate Division 3	\$15,600.00
Division 4	\$278,965.00
Alternate Division 4	\$43,600.00
Division 5	\$265,800.00
Alternate Division 5	\$1,600.00
Division 6	\$241,710.00
Alternate Division 6	\$13,600.00

**HRP CONSTRUCTION, INC.**  
5777 Cleveland Rd., P.O. Box 266  
South Bend, IN 46624-0266  
[jeredb@hrpconstruction.com](mailto:jeredb@hrpconstruction.com)  
Bid was signed by Mr. Matthew D. Cain  
Non-Collusion, Non-Discrimination Affidavit Form was completed.  
Five percent (5%) Bid Bond was submitted.  
Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.  
Two (2) of Two (2) Addendum(s) Acknowledgement received.

BID:

Division 1	\$383,860.00
Alternate Division 1	\$35,200.00
Division 2	\$454,350.00
Alternate Division 2	\$14,400.00
Division 3	\$424,340.00
Alternate Division 3	\$15,600.00
Division 4	\$414,430.00
Alternate Division 4	\$43,600.00
Division 5	\$404,240.00
Alternate Division 5	\$1,600.00
Division 6	\$364,040.00
Alternate Division 6	\$13,600.00

Upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the above bids were referred to Public Works for review and recommendation. Mr. Gathers was not present to vote.

OPENING OF BIDS – 2023 VPA ATHLETIC COURT RENOVATIONS, PHASE III – PROJECT NO. 123-040 (PR-00023268)

This was the date set for receiving and opening of sealed bids for the above referenced project. The Clerk tendered proof of publication of Notice in the South Bend Tribune, which was found to be sufficient. The following bids were opened and publicly read:

**MILESTONE CONTRACTORS NORTH, INC.**

24358 State Road 23

South Bend, IN 46614

[akrueger@milestonelp.com](mailto:akrueger@milestonelp.com)

Bid was signed by Mr. Dustin Hilary

Non-Collusion, Non-Discrimination Affidavit Form was completed.

Five percent (5%) Bid Bond was submitted.

Three (3) Forms MWBE- 2.0, 2.1 were completed.

One (1) of One (1) Addendum(s) Acknowledgement received.

BASE BID PLUS ALTERNATES TOTAL: \$1,196,595.55

Upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the above bids were referred to VPA and Public Works for review and recommendation. Mr. Gathers was not present to vote.

OPENING OF BIDS – 2023 CONTRACTOR PAVING, ROUND I – PROJECT NO. 123-021 (PR-00023335)

This was the date set for receiving and opening of sealed bids for the above referenced project. The Clerk tendered proof of publication of Notice in the South Bend Tribune, which was found to be sufficient. The following bids were opened and publicly read:

**MILESTONE CONTRACTORS NORTH, INC.**

24358 State Road 23

South Bend, IN 46614

[akrueger@milestonelp.com](mailto:akrueger@milestonelp.com)

Bid was signed by Mr. Dustin Hilary

Non-Collusion, Non-Discrimination Affidavit Form was completed.

Five percent (5%) Bid Bond was submitted.

Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.

Two (2) of Two (2) Addendum(s) Acknowledgement received.

BASE BID TOTAL: \$1,238,400.00

**RIETH-RILEY CONSTRUCTION CO., INC.**

25200 State Road 23

South Bend, IN 46614

[hgritton@rieth-riley.com](mailto:hgritton@rieth-riley.com); [ralvarado@rieth-riley.com](mailto:ralvarado@rieth-riley.com)

Bid was signed by Mr. Ruben Alvarado

Non-Collusion, Non-Discrimination Affidavit Form was completed.

Five percent (5%) Bid Bond was submitted.

Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.

Two (2) of Two (2) Addendum(s) Acknowledgement received.

BASE BID TOTAL: \$1,060,700.00

Upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the above bids were referred to Public Works for review and recommendation. Mr. Gathers was not present to vote.

OPENING OF QUOTATIONS – CENTURY CENTER PARKING LOT SEAL AND STRIPE – PROJECT NO. 122-060B (PR-00024012)

President Maradik advised that this was the date set for the receiving and opening of sealed quotations for the above referenced project. The following quotations were opened and read:

**NATIONAL PAVEMENT MAINTENANCE**

1928 N. Campbell Ave.  
Indianapolis, IN 46218

[garry@npm.us.com](mailto:garry@npm.us.com)

Quotation was submitted by Mr. Garry Newman

Non-Collusion, Non-Discrimination Affidavit Form was completed.

Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.

QUOTATION: \$60,504.00

**ASPHALT RESTORATION SERVICES, LLC**

P.O. Box 2484

South Bend, IN 46680

[arsllc@comcast.net](mailto:arsllc@comcast.net)

Quotation was submitted by Mr. Jamie Brown

Non-Collusion, Non-Discrimination Affidavit Form was completed.

Three (3) Forms MWBE-1.0, 2.0, 2.1 were completed.

QUOTATION: \$38,646.80

Attorney Schmidt noted that the quote was submitted as a link to an iCloud maildrop account. President Maradik stated that because the file can be edited and was not actually sent to the BPW bids folder, it will need to be reviewed by Legal. Attorney Schmidt downloaded and saved the file to his personal computer so that what he read into the record matches the file he saved. Upon a motion made by VP Molnar, seconded by Mr. Gilot and carried by roll call, the above quotations were referred to VPA and Public Works for review and recommendation. Mr. Gathers was present to vote.

**OPENING OF QUOTATIONS – GEMINI-COLFAX APARTMENTS - CHIMNEYS & SIDEWALKS – PROJECT NO. 119-103CS (PR-00024017)**

President Maradik advised that this was the date set for the receiving and opening of sealed quotations for the above referenced project. The following quotations were opened and read:

**NO BIDS RECEIVED**

Project will be reviewed by Engineering and rebid at a later date.

**AWARD BID AND APPROVE CONTRACT – 2023 STREET AND SEWER MATERIAL BID – PROJECT NO. 123-019 (PR-00022956)**

Mr. Scott Kreeger, Engineering, advised the Board that on March 28, 2023, bids were received and opened for the above referenced project. After reviewing those bids, Mr. Kreeger recommended that the Board award the contract to the lowest responsive and responsible bidders, Smith Ready Mix - Division A: Klink Trucking Inc. - Division B, Items B-1, B-3, B-4 and B-6: Division B, Item B-2 no bids received, City may proceed to open market: Rieth-Riley Construction Co., Inc. - Division B, Item B-5: Ferguson Waterworks - Division C: American Highway Products - Division D: Division E - No bids received, will proceed; City may proceed to open market. Division F, Items F-1 through F-7: Bid rejected as non-responsive; will proceed to re-advertise and rebid at a later date. K-Tech Specialty Coatings - Division F, Item F-8: Bit-Mat Products of Indiana - Division G. Therefore, VP Molnar made a motion that the recommendation be accepted, and the bid be awarded, and the contract approved as outlined above. Mr. Gathers seconded the motion, which carried by roll call.

**AWARD BID AND APPROVE CONTRACT – 2023 ASPHALT MATERIALS BID – PROJECT NO. 123-020 (PR-00022957)**

Mr. Scott Kreeger, Engineering, advised the Board that on March 28, 2023, bids were received and opened for the above referenced project. After reviewing those bids, Mr. Kreeger recommended that the Board award the contract to the lowest responsive and responsible bidder, Milestone Contractors North, Inc., in the amount of Unit Prices; A-1 \$72, A-2 \$72, A-3 \$62.75, A-4 \$52, A-5 \$130, A-6 \$130. Therefore, VP Molnar made a motion that the recommendation be accepted, and the bid be awarded, and the contract approved as outlined above. Mr. Gathers seconded the motion, which carried by roll call.



APPROVE CHANGE ORDER NO. 1 – MARTIN LUTHER KING JR. CENTER DEMOLITION – PROJECT NO. 121-066 (PO-0020807)

President Maradik advised that Ms. Rebecca Plantz, Engineering, has submitted change order number 1 on behalf of Ritschard Brothers, Inc., indicating the contract amount be increased by \$26,882 for a new contract sum, including this change order, in the amount of \$318,992. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the change order was approved.

APPROVE CHANGE ORDER NO. 2 – NORTH WATER TREATMENT PLANT IMPROVEMENTS – PROJECT NO. 119-011 (PO-0016353)

President Maradik advised that Ms. Rebecca Plantz, Engineering, has submitted change order number 2 on behalf of Bowen Engineering Corporation, indicating the contract amount be decreased by \$45,673 for a new contract sum, including this change order, in the amount of \$3,551,640. Upon a motion made by VP Molnar seconded by Mr. Gathers and carried by roll call, the change order was approved.

APPROVE CHANGE ORDER NO. 1 – MORRIS PERFORMING ARTS CENTER GUARANTEED ENERGY SAVINGS CONTRACT – PROJECT NO. 121-030 (PO-0014130)

President Maradik advised that Ms. Rebecca Plantz, Engineering, has submitted change order number 1 on behalf of Ameresco, Inc., indicating the contract amount be increased by \$25,410 for a new contract sum, including this change order, in the amount of \$5,386,410. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the change order was approved.

APPROVE CHANGE ORDER NO. 2 (FINAL) AND PROJECT COMPLETION AFFIDAVIT – 2022 CONTRACTOR PAVING, ROUND II – PROJECT NO. 122-032 (PO-0018048)

President Maradik advised that Mr. Scott Kreeger, Engineering, has submitted change order number 2 (final) on behalf of Rieth-Riley Construction Co., Inc., indicating the contract amount be decreased by \$106,579.17 for a new contract sum, including this change order, of \$2,051,402.83. Also submitted was the project completion affidavit indicating this new final cost of \$2,051,402.83. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, change order number 2 (final) and the project completion affidavit were approved.

APPROVE PROJECT COMPLETION AFFIDAVIT – DREWRY'S BREWERY FENCE REPLACEMENT – PROJECT NO. 119-031B (PR-00020167)

President Maradik advised that Mr. Zach Hurst, Engineering, has submitted the project completion affidavit on behalf of Ritschard Bros., Inc., for the above referenced project, indicating a final cost of \$118,260. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the project completion affidavit was approved.

APPROVAL OF REQUEST TO ADVERTISE FOR THE RECEIPT OF BIDS – THE HILL TIF PROJECT – PROJECT NO. 123-030 (PR-00024021)

In a memorandum to the Board, Mr. Zach Hurst, Engineering, requested permission to advertise for the receipt of bids for the above referenced project. Therefore, upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the above request was approved.

APPROVAL OF REQUEST TO ADVERTISE FOR THE RECEIPT OF BIDS AND TITLE SHEET – SMALL DRAINAGE IMPROVEMENTS - BEALE STREET & CHAPIN STREET – PROJECT NO. 121-006B (PR-00024002 & PR-00024004)

In a memorandum to the Board, Ms. Rebecca Plantz, Engineering, requested permission to advertise for the receipt of bids for the above referenced project. Also presented at this time for approval and execution was the title sheet. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the above request to advertise was approved, and the title sheet was approved and signed.

APPROVAL OF REQUEST TO ADVERTISE FOR THE RECEIPT OF BIDS – 2023-2024 WATER TREATMENT WASTEWATER CHEMICALS (PR-00024147)

In a memorandum to the Board, Mr. Jacob Klosinski, Engineering, requested permission to advertise for the receipt of bids for the above referenced project. Therefore, upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the above request was approved.

APPROVAL OF REQUEST TO ADVERTISE FOR THE RECEIPT OF BIDS AND TITLE SHEET – JOHNSON & FELLOWS INTERSECTION DRAINAGE IMPROVEMENTS – PROJECT NO. 122-016A (PR-00024005)

In a memorandum to the Board, Ms. Rebecca Plantz, Engineering, requested permission to advertise for the receipt of bids for the above referenced project. Also presented at this time for approval and execution was the title sheet. Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the above request to advertise was approved, and the title sheet was approved and signed.

ADOPT RESOLUTION NO. 17-2023 – A RESOLUTION OF THE CITY OF SOUTH BEND, INDIANA BOARD OF PUBLIC WORKS APPOINTING BOARD PRESIDENT TO CONDUCT CERTAIN ADMINISTRATIVE ACTS RELATING TO OWNERSHIP OF PROPERTY

Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the following resolution was adopted by the Board of Public Works:

**RESOLUTION NO. 17-2023**

**A RESOLUTION OF THE CITY OF SOUTH BEND, INDIANA, BOARD OF PUBLIC WORKS APPOINTING BOARD PRESIDENT TO CONDUCT CERTAIN ADMINISTRATIVE ACTS RELATING TO OWNERSHIP OF PROPERTY**

WHEREAS, the City of South Bend, Indiana, Board of Public Works (the “Board”) exists pursuant to Indiana Code Section 36-4-9-5; and

WHEREAS, I.C. 36-9-6-3 provides that the Board holds real property owned by the City of South Bend, Indiana (the “City”); and

WHEREAS, over the preceding years, the City has acquired property for the purposes of neighborhood infill development; and

WHEREAS, City staff members have identified key areas where adjusting parcel property lines could expand opportunities for neighborhood infill development; and

WHEREAS, new subdivision plats adjusting parcel property lines for real property owned by the City need owner’s signature; and

WHEREAS, the Board’s President is familiar with the property owned by the Board; and

WHEREAS, the Board desires to expressly authorize the Board President to sign subdivision plats on the Board’s behalf for the purpose of adjusting parcel property lines.

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

1. The Board President is authorized to sign all subdivision plats related to Board owned property, on behalf of the Board, for the purpose of adjusting property parcel lines throughout the calendar year 2023.
2. This Resolution shall be in full force and effect after its adoption.

ADOPTED at a meeting of the City of South Bend, Indiana, Board of Public Works held on April 11th, 2023, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

CITY OF SOUTH BEND  
BOARD OF PUBLIC WORKS  
s/ Elizabeth A. Maradik  
s/ Joseph R. Molnar



s/ Gary A. Gilot  
s/ Jordan V. Gathers

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/ Funding	Motion/ Second
Deed of Dedication	806 Sample South Bend LLC	Dedicate Right-of-Way New Tree Lawn and Sidewalk at 806 Sample St. Project No. DP22-039	N/A	VP Molnar / Mr. Gathers
Real Property Transfer Agreement	Near Northwest Neighborhood Inc.	Transfer City Property at 701 N. Harrison St. for Development of Affordable Housing	N/A	VP Molnar / Mr. Gathers
Amendment No. 1 to Professional Services Agreement	McCormick Engineering, LLC	Design Services to Rescope Small Park at 35 <sup>th</sup> . St. Retention Basin Project No. 121-022	\$33,850 (PR-00023956) New Adjusted Amount: \$52,770	VP Molnar / Mr. Gathers
Amendment No. 1 to Professional Services Agreement	RATIO Architects, LLC	Design Services for Major Additions at Morris Performing Arts Center	\$470,950; New Adjusted Total: \$1,140,950 (PO-0013835)	VP Molnar / Mr. Gathers
Ratify Emergency Repair Contract	HRP Construction, Inc.	Ratify Time and Materials Contract for Emergency Repair Services for Collapsed Manhole in January 2023 at W. Marion St. between Leland Av. And W. Madison St.	\$48,613 (Final Cost) (PO-0021291)	VP Molnar / Mr. Gathers
Ratify Emergency Repair Contract	Selge Construction Co., Inc.	Ratify Time and Materials Contract for Emergency Repair Services for Collapsed Sanitary Sewer in January 2023 at Evergreen Ln. and Meadow Ln.	\$48,343.98 (Final Cost) (PO-0021931)	VP Molnar / Mr. Gathers
Amendment No. 1 to Professional Services Agreement	Donohue & Associates, Inc.	New Fellows Booster Pumping Station Improvements Project No. 121-070	NTE \$48,400: New Adjusted Total \$318,900 (Hourly) (PO-0012147)	VP Molnar / Mr. Gathers

APPROVAL OF LICENSE AND PERMIT APPLICATIONS

The following license and permit applications were presented for approval:

Applicant	Description	Date/Time	Location	Motion Carried
Therapeutic Indulgence	Massage Establishment - Renewal		903 E. Jefferson Blvd.	VP Molnar / Mr. Gathers

DENIAL OF REVOCABLE PERMIT FOR ENCROACHMENT – FENCING AT 1027 DE MAUDE AVE.

President Maradik stated an application for an encroachment and revocable permit has been received from Ms. Jill Sanders-Harris for the purpose of allowing fencing in the right-of-way at 1027 De Maude Ave. The encroachment was denied by the Board of Public Works of the City of

South Bend as the encroachment shall prejudice and/or preclude the City’s rights with respect to future use of the portion of the right-of-way.

VP Molnar asked how far the fence was into the ROW. Attorney Schmidt stated, that as he understands it, even though the fence is inches from the sidewalk, it is actually a couple of feet in the ROW. There would be no ability for the City to do work without disruption of the fence. Attorney Schmidt explained that there is no hard and fast rule under the city ordinance on how we should review the encroachment requests, but there was no way to make this work after multiple site visits.

VP Molnar asked if the Board denies the request, what would Ms. Sanders-Harris next steps be. President Maradik explained that the fence would have to be removed from the ROW but there were also building and zoning issues, so when she reinstalls, the fence would need to be in communication with the building department and zoning to be sure she is in compliance. Mr. Gilot noted that if there are any programs available to help her reinstall the fence. President Maradik advised that there are no programs available to assist with this.

Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the encroachment and revocable permit was denied.

APPROVE/DENY TRAFFIC CONTROL DEVICES

Upon a motion made by VP Molnar, seconded by Mr. Gathers and carried by roll call, the following traffic control device request was approved:

- NEW INSTALLATION:

LOCATION(S):

REMARKS:
- Handicapped Accessible Parking Space Sign

413 Altgeld St.  
913 Roosevelt St.

All Criteria Met
- REMOVAL:

LOCATION(S):

REMARKS:
- Handicapped Accessible Parking Space Sign

826 N. St. N. Louis Blvd.  
1442 E. Donald St.  
1813 Chapin St.  
2205 Roger St.

All Criteria Met

APPROVE CONSENTS TO ANNEXATION AND WAIVER OF RIGHTS TO REMONSTRATE

President Maradik stated that the Board is in receipt of the following consents to annexation and waivers of rights to remonstrate. The consents indicate that in consideration for permission to tap into public water/sanitary sewer system of the City, to provide water/sanitary sewer service to the below referenced properties, the applicants waive and release any and all rights to remonstrate against or oppose any pending or future annexations of the properties by the City of South Bend:

- A. Mr. Sieradski, 230 W. Catalpa Dr., Suite A, Mishawaka, IN 46545
1. 18021 Abington Ct. – Water/Sewer (Key No. 71-04-18-200-020.000-003)

Upon a motion by VP Molnar, seconded by Mr. Gathers and carried by roll call, the consents to annexation and waivers of rights to remonstrate were approved as submitted.

RATIFY APPROVAL AND/OR RELEASE CONTRACTOR, EXCAVATION, AND OCCUPANCY BONDS

The Division of Engineering Permit Department recommended that the following bonds be ratified pursuant to Resolution 100-2000 and/or released as follows:

Business	Bond Type	Approved/ Released	Effective Date
Crown Concrete Contractors	Contractor	Released	03/10/2023
DSN Ira LLC	Contractor	Released	04/26/2023
Michels Pipeline, Inc.	Excavation	Approved	03/06/2023
Michels Pipeline, Inc.	Occupancy	Approved	03/06/2023
Traffic Control Specialists, LLC	Occupancy	Approved	03/08/2023

7NT Enterprises LLC	Occupancy	Released	04/27/2023
7NT Enterprises LLC	Occupancy	Released	05/12/2023

VP Molnar made a motion that the bond’s approval and/or release as outlined above be ratified. Mr. Gathers seconded the motion, which carried by roll call.

REVIEW MEMORANDUM – DISCUSSION ON CONSTRUCTION MANAGER AS CONSTRUCTOR SERVICES

In a memorandum to the Board, Mr. Patrick Sherman, Engineering, advised that this was the date set for a review of the design, bid, and build procedures for this project.

President Maradik explained that there was one memo to Board members from Project Engineer Patrick Sherman in the file, and that there is an additional memo that was received today from Attorney Schmidt.

Attorney Schmidt advised that there has been a lot of due diligence between Board members and the Engineering team to make sure they are handling this process correctly. The Engineering team has reached out to other entities in Indiana that have gone through this process to make sure we tow the line. Attorney Schmidt told the Board they had a memo from Project Engineer Patrick Sherman that includes the statute and the memo from himself which covers some of the same issues, but one thing he wanted to point out is how the City is going to handle covering goals for this project. He continued by explaining that the state statute has set forth a requirement that we factor into the evaluation of potential CMCs based upon their history of trying to engage minority owned business, women owned business, veteran owned business, what their good-faith efforts have historically been, as it is a requirement of the state that we factor in those considerations when making our selection and the evaluation criteria. He pointed out the uniqueness of the inclusion of veteran owned businessess because of state law guidance which is different from the City ordinance. He also explained the plan to attack this is to set forth an aggregate goal for the project to hold CMCs accountable to these efforts to reach the aggregate goal and to use the City’s program plan and the guidance there when determining if a good faith waiver is appropriate from the aggregate goal. The ultimate goal is to try to get this project started at a price within the budget to remain true to the City’s commitment in getting the MLK Dream Center built and stay within budget.

Director Horvath noted that it would be impossible with the way they subcontract the work by work element by work element, so we will set forth an aggregate so they will still be required to meet those goals or make a good faith effort to. So maybe half of it is done by a women owned business or a minority owned business and other parts may not have any. This will also allow them to use local subcontractors and really be able to get greater utilization. Director Horvath added that it is similar to the way we handle bid projects because we use NAICS codes for all of the different work elements assigned, but then the bid itself is on the aggregate. They can use the women-owned business or minority-owned business wherever they want as long as they meet the goals.

Mr. Gilot asked if the first-tier subcontractor quotes will be solicited and opened by the CMC or the Board of Public Works. Attorney Schmidt advised that they should be opened by the Board and all of the typical standards will apply. Attorney Schmidt noted that we as a City are going to have to hold hands to provide the required scrutiny to make sure we are comfortable with the award of these first-tier subcontractors to make sure we are okay with how it fits into the picture of South Bend. This will also provide an opportunity for the CMCs to work with local contractors. There is a little bit of uncertainty as to how the CMC will work with a first-tier contractor to determine the hiccups and changes that will arise with a project of this scope. It is the City’s intention to make sure the first-tier contractors are being treated with the same respect and dignity that we hope any of the City’s prime contractors and subcontractors are treated with and not allow the CMC to beat the first-tier contractor into submission because there is a guaranteed maximum price in a contract.

Project Engineer Sherman added that the guaranteed maximum price will be determined within the contract and will include some level of contingency depending on how far along we are in the design at that time. Mr. Gilot asked if the guaranteed maximum price will be determined

before any bidding occurs. Project Engineer Sherman answered yes as there will be language in the contract documents that describes any cost adjustments or clauses.

President Maradik noted that this is a new process, and we will all work together to make this successful and if there are further questions, we can continue the conversation.

RATIFY PREAPPROVED CLAIMS PAYMENTS

VP Molnar stated the Board received notices of the following preapproved claim payments from the City’s Department of Administration and Finance:

Name	Date	Amount of Claim
City of South Bend Claims GBLN-53853	03/28/2023	\$1,868,995.86
City of South Bend Claims GBLN-53682, GBLN-53919	04/03/2023	\$445,802.53
City of South Bend Claims GBLN-53956, GBLN-54154	04/03/2023	\$3,734,749.30

Each claim is fully supported by an invoice; the person receiving the goods or services has approved the claims; and the claims have been filed with the City Fiscal Officer and certified for accuracy. Therefore, upon a motion by VP Molnar, seconded by Mr. Gathers, and carried by roll call, the Board ratified the preapproved claims payments.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

There being no further business to come before the Board, President Maradik adjourned the meeting at 10:26 a.m.

CITY OF SOUTH BEND, INDIANA  
BOARD OF PUBLIC WORKS



Elizabeth A. Maradik, President



Joseph R. Molnar, Vice President



Gary A. Gilot, Member



Jordan V. Gathers, Member



Murray L. Miller, Member



Attest: Theresa M. Heffner, Clerk

Date: April 25, 2023