



City of Grand Forks Staff Report

APPROVED & ACCEPTED
by City Council

05/06/2019

Maureen Storstad
Maureen Storstad
City Auditor

City Council – May 6, 2019

Agenda Item: Amended Cost Participation and Maintenance Agreement with the NDDOT for City Project No. 7750 – Reconstruction of Demers Avenue from the Sorlie Bridge to 6th Street

Submitted by: Engineering Department, Mark S. Walker, PE (Assistant City Engineer)

Staff Recommended Action: Approve Amended Cost Participation and Maintenance Agreement with the NDDOT for City Project No. 7750 – Reconstruction of Demers Avenue from the Sorlie Bridge to 6th Street

Committee Recommended Action:

Council Action:

BACKGROUND:

In March 2019, Council approved a Cost Participation and Maintenance Agreement with the North Dakota Department of Transportation (NDDOT) which provided for use of federal funds on this project. At that time, the total project cost estimate (including engineering) was as follows:

\$7,883,216	Total Project Cost
\$6,366,497	Less Federal Share
<u>\$ 713,507</u>	Less State Share
\$ 803,211	City Share (excludes \$88,010 for streetscape design fees)

In April 2019, the NDDOT received bids for this project. A single bid was received from Strata Corporation which was approximately 32% above the NDDOT's Engineer's Estimate. Based on the bid amount, the total project cost estimate (including engineering) was as follows:

\$9,911,577	Total Project Cost
\$8,001,276	Less Federal Share
<u>\$ 896,720</u>	Less State Share
\$1,013,581	City Share (excludes \$88,010 for streetscape design fees)

Because the bid exceeded the Engineer's Estimate by such a large amount (\$1,977,003) and because only one bid was received, the NDDOT has been contemplating whether to award the project or to rebid it for construction in a subsequent year in hopes of getting a lower bid. As the NDDOT contemplated this decision, they sought input from City staff regarding impacts of delaying construction. City staff recommended proceeding with construction this year expressing concerns that much effort has been expended by many to develop the project to this point. There is a public expectation that the project will take place this year and plans and summer events have been altered based on that expectation. If the Demers Avenue Reconstruction Project is to be constructed in 2020 it would conflict with the University Avenue Mill and Overlay and N 5th Street Mill and Overlay projects also planned to be constructed in 2020, and both streets are planned to be utilized as detour routes for the Demers Avenue Reconstruction Project. There are also conflicts with the redevelopment of the Lyon's property which is adjacent to the detour route, negative impacts associated with opening the Alerus/Hugo's complex while Demers Avenue is under construction, as well as other negative impacts.

During discussions with the NDDOT, they expressed concern that they would need to find additional funding if the project is awarded. City staff suggested that the City may be able to participate in the cost overrun if deemed necessary to award the project for construction this year. The NDDOT has suggested that 10% beyond the Engineer's Estimate is considered acceptable and they routinely evaluate bids that are in excess of 10% over. In some cases, they may elect to rebid a project that is in excess of 10% over the Engineer's Estimate in hopes of receiving a lower bid. Based on this discussion, the NDDOT has suggested that the City fund half of the overage that is beyond the 10%. City staff has preliminarily approved the NDDOT proposal and agreed to forward to City Council for final approval. On this basis, the total project cost estimate (including engineering) would be as follows:

\$9,911,577	Total Project Cost
\$7,377,663	Less Federal Share
<u>\$ 826,831</u>	Less State Share
\$1,707,084	City Share (excludes \$88,010 for streetscape design fees)

As of the date this staff report was prepared, the NDDOT has not yet decided to award the project nor have they determined the amount the City is to cost share. Assuming the project is awarded and the NDDOT requests additional City funding participation, an amended Cost Participation and Maintenance Agreement or an Amendment to the existing Cost Participation and Maintenance Agreement will need to be approved. The appropriate document including the actual project cost shares, if produced, will be forwarded to the Council before the May 6 Council meeting.

This project has been considered at a number of previous Council/Committee/Public meetings, some of which are as follows:

- This project has been programmed for several years and has been included on the ND Department of Transportation's listing for projects eligible for Federal Highway Urban Funding
- August 2014 - Council passed a motion recommending that this section of Demers Avenue be reconstructed in lieu of a rehabilitation project to mill and overlay the street. This decision was made, in part, with the assumption that the deck of the Sorlie Bridge needed to be removed and replaced. The thought was that the deck work would cause the Sorlie Bridge to be completely closed for most of the construction season and that would

be a good time to reconstruct Demers Avenue. As it turned out, it was determined that the Sorlie Bridge deck was in good condition and did not require replacing, and construction of the Sorlie Bridge project has since been completed.

- September 29, 2015 - Staff recommended to the Service/Safety Committee meeting, that a rehabilitation (mill and overlay) project be pursued as this type of project can renew the driving surface with minimal disruption at a relatively low cost as opposed to a reconstruction project that will not significantly change the lane configuration and will be very disruptive to the traveling public and to the downtown businesses. No action was taken at this meeting but rather the item was held in Committee and staff was asked to meet with members of the Downtown Development Association (DDA) to determine whether they prefer a reconstruction or rehabilitation project.
- October 2, 2015 - NDDOT and City staff met with the DDA Executive Director, President, and a board member to discuss the project. DDA staff was interested in learning what could be included in each project and if bicycle lanes could be incorporated into the rehabilitation project. DDA staff's intent was to relay this information to DDA members, downtown business owners, and downtown property owners at an upcoming meeting to determine whether the group preferred a reconstruction or rehabilitation project and if there is a desire to add bicycle lanes at the cost of losing on-street parking. The DDA held several meetings and conducted a survey which revealed there were a multitude of differing opinions regarding reconstruction, rehabilitation, bike lanes, parking, and width of sidewalks. In the end, the DDA decided to not form an organizational position on the matter but rather provide the survey results.
- October 13, 2015 – A project update was provided to the Service/Safety Committee.
- November 2, 2015 – Council recommended that the NDDOT retain current level of funding for reconstruction of Demers Avenue from the Sorlie Bridge to 6th Street in upcoming State Transportation Improvement Program budget and continue to research public opinion and further evaluate reconstruction versus rehabilitation options.
- Summer 2017 – NDDOT staff met with a number of organizations, downtown business owners, downtown property owners, City departments, etc. to gather public input on project options to consider.
- July 24, 2017 – A project update was provided to the Committee of the Whole by the NDDOT.
- January 8, 2018 - A project update was provided to the Committee of the Whole by the NDDOT.
- January 9, 2018 – A public input meeting was held
- March 5, 2018 – Council approved the Documented CATEX, concurred with the project concepts as proposed, and selected the option to reconstruct Demers Avenue without bike lanes, or wider sidewalks, or sharrows, but to include curb extensions on both Demers Avenue and side streets
- August 20, 2018 – Council approved installation of curb extensions on 3rd and 4th Street but not on Demers and to install a curb extension on the SW corner of 5th Street.
- September 4, 2018 – Council approved an agreement with KLJ for Streetscape Design Engineering Services in the amount of \$59,028.
- March 4, 2019 – Council approved a Cost Participation and Maintenance Agreement with the NDDOT and approved Amendment No. 1 with KLJ for Additional Engineering Services on the streetscape design in the amount of \$28,982.
- April 1, 2019 – Council approved the Plans and Specifications for this project.
- April 15, 2019 - Council Concurred in award of contract to low bidder and approved any necessary budget amendment

ANALYSIS AND FINDINGS OF FACT:

- Bids for this project were received by the NDDOT in Bismarck on April 12, 2019.
- A single bid was received and opened for this project.
- The lowest bid received was from Strata Corporation in the amount of \$8,116,433.95.
- The Engineer's Estimate for this project is \$6,139,430.75.
- The lowest bid received was approximately 32% above the Engineer's Estimate.
- If this project is to be awarded, the NDDOT will award the contract and enter into an agreement with the contractor since this is a Regional funded project.
- Funding for the City share will be from the Street/Infrastructure Fund 4815.
- Although the City share for this project is currently estimated to be greater than the amount included in the Street/Infrastructure Fund for this project, any additional funds needed for this project will be from unused money from the other projects listed in the Street/Infrastructure Fund that were not constructed or are under budget and a budget amendment will be processed to cover any additional shortfalls.
- If this funding proposal is approved by the City and the NDDOT, Construction will likely occur during the 2019 construction season otherwise, the project will likely be rebid and constructed in 2020 or a subsequent year.

SUPPORT MATERIALS:

- Pertinent pages of Amended Agreement or Amendment document (TO BE PROVIDED PRIOR TO MAY 6, 2019 COUNCIL MEETING)

North Dakota Department of Transportation
AMENDMENT TO CONTRACT NO. 38190103
Project No. NHU-6-002(125)911; NHU-6-297(011)003

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and city of Grand Forks, hereinafter known as the City, whose address is P.O. Box 5200, Grand Forks, North Dakota 58206-5200.

WHEREAS, the parties entered into a contract on March 18, 2019; and

WHEREAS, the projects were bid on April 12, 2019 with one bidder and a significant cost overage; and

WHEREAS, the City has agreed to participate in the cost of the overage with the NDDOT; and

NOW THEREFORE, the City and NDDOT agree that the City's cost share on these two projects will increase by \$838,562 from \$803,211 to \$1,641,773.

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

City of:

NAME (TYPE OR PRINT)

NAME (TYPE OR PRINT)

SIGNATURE

SIGNATURE

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

TITLE

DATE

WITNESS:

NORTH DAKOTA DEPARTMENT
OF TRANSPORTATION

NAME (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

APPROVED as to substance by:

DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

CLA 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03