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MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: February 28, 2019
**RE: City Project No. 2018-01 (Charlton Road Improvements) and City Project
No. 2018-02 (Sunfish Lake Outlet Improvements); Resolution Accepting Bid
and Awarding Contract – March 5, 2019 City Council Meeting; Agenda Item
8(a)**

Section 1. Background. At the January 8, 2019, Council meeting, the Council ordered the advertisement of bids for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements). The advertisement was published twice in the *South-west Review* (the City's official newspaper) and twice in *Finance & Commerce* (trade newspaper). The advertisement specified the work to be done and stated that the deadline for submission of bids was 2:00 p.m. on Tuesday, February 26, 2019.

Section 2. Bid Opening. On Tuesday, February 26, 2019, at 2:00 p.m. the bids were opened and tabulated at the offices of WSB & Associates, Inc. Don Sterna and Jeff Sandberg, City Engineers, Mayor Dan O'Leary and Leah Rose of my office were present to act as designated officers and agents of the City at the opening and tabulation of the bids. The bids were opened and read aloud by Don Sterna. The initial bid results were as follows:

McNamara Contracting

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$908,788.64

Northdale Construction Company

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$863,330.60

Northwest Asphalt

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$840,928.34

Valley Paving

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$839,145.67

Attached to this Memo please find the minutes of the February 26, 2019 bid opening.

The initial bid results were then reviewed and scrutinized by the City Engineer and a discrepancy was noted in the bid by Valley Paving. The bid documents and instructions to bidders provide a methodology to resolve the discrepancy. The discrepancy was resolved and the corrected bid of Valley Paving is \$816,645.67, not \$839,145.67. The low bid is by Valley Paving for \$816,645.67.

Section 3. Lowest Responsible Bidder. Minnesota Statute § 412.311, subd. 1 and Minnesota Statute § 429.041, subd. 2 require cities to award contracts to the “lowest responsible bidder.” The phrase “lowest responsible bidder” does not mean the lowest bidder, but the lowest bidder who is most likely to do faithful, conscientious work and promptly fulfill the contract. In determining who the lowest bidder is, the courts have said that the council has reasonable discretion. The lowest bidder must be considered “responsible” to perform the proposed contract. “Responsibility” includes such things as the bidder’s financial responsibility, integrity, ability, skill, and likelihood of providing faithful and satisfactory performance.

The lowest responsible bidder among the bids received for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements) was Valley Paving in the amount of \$816,645.67. City Engineers, Don Sterna and Jeff Sandberg, are recommending that the contract be awarded to Valley Paving.

Section 4. Council Action. The bids will be considered by the City Council at the March 5, 2019 City Council meeting. At the March 5th Council meeting, the Council will be asked to consider the attached proposed Resolution Accepting the Bid and Awarding the Contract to Valley Paving for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements).

Attachments

**CITY OF SUNFISH LAKE
St. Anne's Episcopal Church
2035 Charlton Road
Sunfish Lake, Minnesota 55118**

Minutes of Bid Opening on Tuesday, February 26, 2019 relating to:

**CITY PROJECT NO. 2018-01 (CHARLTON ROAD IMPROVEMENTS)
AND
CITY PROJECT NO. 2018-02 (SUNFISH LAKE OUTLET IMPROVEMENTS)**

Pursuant to an advertisement for bids for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements), an administrative meeting was held on February 26, 2019 at WSB & Associates, Inc. at 701 Xenia Avenue South, Suite 300, Minneapolis, Minnesota, for the purpose of bid opening. Bids were opened by City Engineer Don Sterna from WSB & Associates, Inc. and read aloud.

Attending the meeting was:

Don Sterna, City Engineer for City of Sunfish Lake
Jeff Sandberg, City Engineer for City of Sunfish Lake
Dan O'Leary, Mayor of City of Sunfish Lake
Leah Rose, Paralegal for Sunfish Lake City Attorney
3 individuals representing 4 of the 4 bidders were also present

Bids were opened and read aloud by Don Sterna as follows:

First bid opened at 2:00 p.m.

McNamara Contracting

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$908,788.64

Second bid opened at 2:01 p.m.

Northdale Construction Company

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$863,330.60

Third bid opened at 2:03 p.m.

Northwest Asphalt

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$840,928.34

Fourth bid opened at 2:04 p.m.

Valley Paving

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$839,145.67

The lowest bid was Valley Paving at a total of \$839,145.67. The City Engineer's office will perform tabulations to confirm amounts and the final approval and award of the contract will be held before the City Council on or about March 5, 2019.

Submitted by:

Leah Rose, Paralegal
City of Sunfish Lake

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 19- _____

**RESOLUTION ACCEPTING BID AND AWARDING CONTRACT FOR
CITY PROJECT NO. 2018-01 (CHARLTON ROAD IMPROVEMENTS) AND
CITY PROJECT NO. 2018-02 (SUNFISH LAKE OUTLET IMPROVEMENTS)
TO VALLEY PAVING IN THE AMOUNT OF \$816,645.67**

WHEREAS, pursuant to an advertisement for bids for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements) bids were received, opened, read aloud, and tabulated according to law. The following bids were received complying with the advertisement:

McNamara Contracting

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$908,788.64

Northdale Construction Company

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$863,330.60

Northwest Asphalt

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$840,928.34

Valley Paving

Bid bond and associated paperwork received

Addendums 1-4 acknowledged

Total Bid: \$839,145.67

WHEREAS, the initial bid results were then reviewed and scrutinized by the City Engineer and a discrepancy was noted in the bid by Valley Paving. The bid documents and instructions to bidders provide a methodology to resolve the discrepancy. The discrepancy was resolved and the corrected bid of Valley Paving is \$816,645.67, not \$839,145.67. The low bid is by Valley Paving for \$816,645.67.

WHEREAS, Valley Paving is the lowest responsible bidder.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF
SUNFISH LAKE, MINNESOTA:**

1. The Mayor and Clerk are hereby authorized and directed to enter into a contract in the amount of \$816,645.67 with Valley Paving in the name of the City of Sunfish Lake for City Project No. 2018-01 (Charlton Road Improvements) and City Project No. 2018-02 (Sunfish Lake Outlet Improvements) according to plans and specifications therefore approved by the Council and on file at the office of the City Engineer; the contract for \$816,645.67 is hereby awarded to Valley Paving.
2. The City Engineer is hereby authorized and directed to return, forthwith, to all bidders, the deposits made with their bids except for the deposit of the successful bidder and the next lowest bidder shall be retained until the contract has been signed.

Adopted by the City Council of Sunfish Lake this 5th day of March, 2019.

Dan O'Leary, Mayor

ATTEST:

Catherine Iago, City Clerk