



City of Harrisonburg, Virginia

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STREET MAINTENANCE
TRAFFIC ENGINEERING
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REFUSE/ RECYCLING
CENTRAL STORES

TO: Eric D. Campbell, City Manager
FROM: Thomas Hartman, PE, Assistant Director of Public Works
DATE: July 10, 2018
RE: Northend Greenway Shared Use Path with Blacks Run Stream Restoration Comprehensive Agreement

Summary: City staff and Momentum Earthworks, LLC have finalized a comprehensive agreement in furtherance of an unsolicited PPEA proposal from Momentum Earthworks, LLC for a Northend Greenway Shared Use Path with Blacks Run Stream Restoration Project. Council has previously accepted the proposal and authorized the City to enter into an interim agreement and to negotiate a comprehensive agreement and associated documents that address both stream restoration work and shared use path construction along a portion of the Northend Greenway. Council has also opened a 30-day public comment period, which meets PPEA requirements, and that comment period is scheduled to close on July 12, 2018. Both components of this proposal are included in the City's Capital Improvement Plan and have funding allocated in the FY2017-2018 budget for implementation. Staff recommends proceeding with this project and requests the Council authorize City Manager Campbell to enter into this Comprehensive Agreement.

Background: A proposed shared use path linking the Parkview area of northern Harrisonburg with the downtown central business district, now labeled the Northend Greenway, has been in the idea stage for over a decade and has been in planning stages for more than 5 years. This Greenway was amended into the City's adopted Bicycle & Pedestrian Plan in 2011. An active citizens group known as The Northend Greenway, which is an initiative of New Community Project Harrisonburg, has been promoting this project since 2010. The group is continuing fundraising efforts to provide for certain amenities along the Shared Use Path.

Momentum Earthworks, LLC submitted the initial proposal in December 2016. Council accepted the proposal at the conceptual stage and solicited competing proposals. Receiving no competing proposals, Council directed staff to negotiate a draft interim agreement, which was approved by City Council on July 27, 2017. Staff has now finalized a comprehensive agreement to move the project to the next phase. The Comprehensive Agreement document includes the following; Comprehensive Agreement, Nutrient Credit Purchase & Sale Agreement, General Conditions of the Design-Build Contract, and Contract Between Owner and Design Build Contractor. Below is a brief summary of each document.

Comprehensive Agreement – This document is the overall agreement for this PPEA project. It sets the general framework for the project.

Nutrient Credit Purchase & Sale Agreement – This document details the amount, cost, and time frame by which the City will purchase the nutrients produced by the Stream Restoration Project. There will be an initial purchase of nutrients immediately following completion of the Stream restoration. After this point the restoration will be monitored as outlined in a DEQ approved

action plan. If it is found that the restoration is performing as designed additional nutrient credits will be available for purchase. This agreement provides the annual amount, cost, and time frame for purchase of those additional nutrients.

Also, there is a clause in this agreement that following complete stabilization, as confirmed by a third-party Engineer, which will be in accordance with the DEQ approved action plan the property will be transferred to the City. This will ensure that the stream restoration is not impacted or damaged, and that the City is in control of any access across the stream in this area. The only regulatory requirement that the City will need to continue is to perform an inspection of the stream once every five (5) years.

General Conditions of the Design-Build Contract – This document outlines the general conditions of this contract, such as schedule of work, and construction administration items.

Contract Between Owner and Design Build Contractor – This document outlines the time for completion of the project, compensation amount of the Northend Greenway Shared Use Path, and payment terms.

All of these documents have been reviewed and approved by the City Attorney.

Key Issues: The route of the proposed Shared Use Path includes mostly privately-owned property. Therefore, this project is a prime candidate for a public-private partnership.

The City is mandated to achieve significant nutrient and sediment reductions in accordance with its MS4 permit and its TMDL action plan. This Comprehensive Agreement offers the City an opportunity to reduce phosphorous, nitrogen, and sediment to help it get closer to mandated benchmarks.

This agreement addresses two important goals that the City of Harrisonburg hopes to achieve combined within one project.

Environmental Impact: The proposed Northend Greenway project will have minor environmental impacts. The proposing project team seeks to avoid and minimize impacts to nontidal wetlands and waters of the US and will also design and install proper erosion and sediment controls throughout the project area during construction. Strict adherence to erosion and sediment control measures and stormwater permit requirements will seek to mitigate these impacts. The Shared Use Path will provide citizens with opportunities to bike and walk to destinations instead of driving, and the Blacks Run Stream Restoration improvements will improve local water quality by reducing nutrient and sediment loads.

Fiscal Impact: City Council previously allocated \$600,000 of capital funds for the development of the Northend Greenway Shared Use Path project. An additional \$600,000 of matching funds has been provided by VDOT for this project through its Revenue Sharing Program for the Shared Used Path Project. City staff is operating under the direction that \$1.2 million is the maximum available for this project at this time. This Comprehensive Agreement sets the total cost of the NEG at \$X,XXX,XXX, which is below the available funding for this project.

The City of Harrisonburg has also budgeted funding for the Blacks Run Stream Restoration identified in this proposal. The City's FY16-17 Capital Budget allocated \$825,000 to be utilized for this project. An

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additional \$859,000 is included in the FY17-18 Capital Budget. These funds are sufficient to purchase the initial nutrients, and staff will request in subsequent budgets funds to purchase additional nutrients produced by the project.

Prior Actions: City Council endorsed the concept of a Northend Greenway Shared Use Path in 2011 as part of Harrisonburg’s Bicycle & Pedestrian Plan. Momentum Earthworks, LLC submitted the initial proposal in December 2016. Council accepted the proposal at the conceptual stage and solicited competing proposals. Receiving no competing proposals, Council directed staff to negotiate a draft interim agreement. The interim agreement was approved by Council on July 27, 2017, and Council directed staff to negotiate a comprehensive agreement.

Alternatives:

- (a) Support the Comprehensive Agreement and allow City Manager Campbell to enter into the agreement
- (b) Do not support the Comprehensive Agreement.

Community Engagement: Three formal periods of public comment have been opened and widely publicized. The initial proposal was presented to City Council in a public meeting and a 45-day period was opened for competing proposals. After an interim agreement was drafted, it was posted for 30 days on www.harrisonburgva.gov and also BeHeardHarrisonburg.com. The current public comment period is open and will close on July 12, 2018.

Recommendation: Staff recommends Alternative A – Support the Comprehensive Agreement and City Manager Campbell to enter into the agreement.

Attachments:

Review:

The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

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