



---

<b>Title:</b>	Award of Construction Contract for the Minnehaha Preserve Boardwalk Reconstruction	
<b>Resolution number:</b>	22-070	
<b>Prepared by:</b>	Name: Tiffany Schaufler Phone: 952.641.4523 tschaufler@minnehahacreek.org	
<b>Reviewed by:</b>	Name/Title: Chuck Holtman, Legal Counsel	
<b>Recommended action:</b>	Board awards the construction contract for the Minnehaha Preserve Boardwalk Reconstruction to JTS Construction.	
<b>Schedule:</b>	November 2022-March 2023: Project construction March 15, 2023: Substantial completion June 30, 2023: Final completion	
<b>Budget considerations:</b>	Fund name and code: Project Maintenance and Land Management 2-2003 Fund budget: \$1,974,212 Expenditures to date: \$376,703 Requested amount of funding: \$1,858,182 + 10% contingency	
<b>Past Board action:</b>	Res # 17-028	Approval of Minnehaha Preserve Operations and Maintenance Plan
	Res # 20-089	Authorize Seasonal Closure of the Minnehaha Preserve Boardwalk
	Res # 21-022	Adoption of a Revised Interim Maintenance Protocol for the Minnehaha Preserve Boardwalk
	Res # 21-079	Authorize Seasonal Closure of the Minnehaha Preserve Boardwalk
	Res # 22-005	Authorization to Release the Request for Proposals for Engineering and Design Services for Minnehaha Creek Preserve Boardwalk Reconstruction
	RES # 22-015	Authorization to Execute a Contract for Engineering and Design Services for Minnehaha Preserve Boardwalk Reconstruction
	Res # 22-031	Adoption of a Revised Interim Maintenance Protocol for the Minnehaha Preserve Boardwalk
	RES # 22-047	Approval of 100% Design Plans for the Minnehaha Preserve Boardwalk Reconstruction Project and Authorization to Solicit Bids

**Summary:**

In 2014, as part of the Minnehaha Preserve (Reach 20) Restoration capital project, construction of the Minnehaha Creek Preserve Boardwalk began. In April of 2017, the Minnehaha Preserve Operations and Maintenance Plan (O&M Plan) was approved by the MCWD Board of Managers to fulfill conditions of the Second Cooperative Agreement between the MCWD and the City of St. Louis Park. The O&M Plan outlines specific roles and responsibilities for the periodic and long-term maintenance of project elements associated with the project. Maintenance of the boardwalk is solely the responsibility of MCWD, as owner, and provides MCWD discretion in elements such as seasonal maintenance and public access.

After the boardwalk began to show signs of deterioration, the Board of Managers adopted an interim maintenance protocol (Res # 19-094) to increase the frequency of staff inspections and replacement of damaged decking sections to maintain user safety. As the rate of decay of the boardwalk system accelerated, the Board adjusted the interim maintenance protocol as needed (Res # 20-048, 21-022 and 22-031), to provide for patch repairs instead of replacement to maintain a safe and usable facility while preserving public use of the boardwalk, all while efficiently using public funds and exploring a long-term resolution of the boardwalk materials issue.

The Board of Managers authorized seasonal closures of the boardwalk system over the winters of 2020-2021 (Res # 20-089), 2021-2022 (Res # 21-079), and 2022-2023 (Res # 22-069) to protect against safety risk posed by ice and snow accumulating on top of safety markings, and patched boardwalk decking creating an uneven surface not visible to potential users.

On September 30, 2021, in accordance with Board direction, MCWD served a lawsuit on the project designer, H.R. Green, and the general contractor, Blackstone Contractors, alleging design and construction errors and seeking relief including payment of costs for replacement work. That litigation is in its discovery stage.

On March 24, 2022, the Board of Managers authorized an engineering and design services contract with SRF Consulting Group (SRF) to design the reconstruction of the Minnehaha Creek Preserve Boardwalk (Res # 22-015).

On July 28, 2022, the Board of Managers approved the 100% design plans for the Minnehaha Preserve Boardwalk Reconstruction project and authorized staff to solicit bids for the project. The bid period ran from September 2, 2022, to October 13, 2022. A mandatory pre-bid meeting was held on September 13, 2022 and was attended by 10 potential bidders. An Addendum to the bid package was issued on September 23, 2022. On October 13, 2022, the bids were opened, and MCWD received responses from four bidders. The table below summarizes the bid responses. In accordance with the requirements of the Minnesota Data Practices Act, the bid tabulation will be circulated to the Board separately, in advance of the November 3, 2022 Board meeting, and made publicly available after the contract award.

<b>Company Name</b>	<b>Total Bid</b>
JTS Construction	\$1,858,182.00
Pember Companies	\$1,877,412.00
Peterson Companies	\$2,227,145.11
S.M. Hentges & Sons	\$2,636,190.35

The low bid for the project was submitted by JTS Construction (JTS). The JTS bid submittal contained several irregularities: a certificate confirming submittal of the bid bond was not executed; the non-collusion and responsible contractor affidavits were signed but the signatures were not notarized; JTS did not specify the preservative used in certain wood materials included in its bid; and it omitted from its submittal certain pages of the bid form that did not require any content from the bidder. Staff consulted with MCWD counsel, who instructed that JTS should be asked to correct these defects before the contract is awarded and advised that it is legally acceptable for the Board to waive these irregularities and award the contract to JTS as the low bidder. JTS has addressed these items.

In accordance with counsel's direction, MCWD staff and SRF find that the JTS bid is responsive. SRF also finds JTS to be a responsible contractor based on SRF's construction management experience, in which they oversaw JTS' construction of the Three Rivers Park District's Hyland Ski Hill Race Lane project.

Staff recommends that the Board award the construction contract to JTS Construction for the Minnehaha Preserve Boardwalk Reconstruction project in the amount of \$1,858,182 and that it authorize the District Administrator to execute change orders in an aggregate amount not to exceed 10 percent of the bid price, for a total not-to-exceed construction amount of \$2,044,000.

**Attachment:**

SRF Consulting Group's Bid Award Recommendation



## RESOLUTION

---

**Resolution number:** 22-070

**Title:** Award of Construction Contract for the Minnehaha Preserve Boardwalk Reconstruction

- WHEREAS the Minnehaha Creek Watershed District (MCWD) engages in regional capital improvement projects as described in its Water Resources Management Plan and in 2015 completed construction of the Minnehaha Preserve project ("Project") on the Minnehaha Greenway in St. Louis Park; and
- WHEREAS through PMLM staff inspections, it was observed that the decking of the boardwalk was deteriorating at a higher rate than expected, warranting bulk replacement and increased inspection frequency; and
- WHEREAS the Board of Managers adopted interim maintenance protocols in 2019, 2020, 2021, and 2022 to inspect, mark, repair and sign the boardwalk to maintain public use while addressing safety risks that might be posed by deteriorating decking and railing; and
- WHEREAS the interim maintenance protocol recognizes the MCWD's effort to determine and implement a long-term resolution of the Minnehaha Preserve boardwalk materials deterioration concern, by considering the nature and extent of the materials failure, public use of the boardwalk, public safety risk and cost, and the options to manage the issue until resolved; and
- WHEREAS the Board of Managers authorized seasonal closure of the Minnehaha Preserve boardwalk system during the winters of 2020-2021, 2021-2022, and 2022-2023 in consideration of the MCWD's long term maintenance plan, its interim maintenance protocol and the considerations reflected in that protocol, based on limited winter use and the importance of protecting public safety during winter months; and
- WHEREAS the MCWD, on the basis of its examination of construction procedures and documentation, and analysis by retained experts in facility design and wood materials, concluded that the accelerated deterioration of boardwalk materials is due to improper materials specification and incorrect installation, and requires replacement; and
- WHEREAS the Board of Managers determined to replace the boardwalk's wood materials, while utilizing the existing helical piers, which will preserve the investment in the pier structural system and maintain the current alignment of the boardwalk system, while also preserving the user experience through a limited redesign and engineering process, with a materials specification appropriate for the facility environment; and
- WHEREAS the Board of Managers desires a safe and open facility for public use, and in recognition of the continuing deterioration of the boardwalk's wood materials, asked staff to initiate a replacement process by developing a request for proposals (RFP) for professional services to engineer and design the replacement of the Minnehaha Preserve boardwalk's above ground structure including wood supports, decking and railing elements; and
- WHEREAS on March 24, 2022, the Board of Managers approved an engineering and design services contract with SRF Consulting Group for the reconstruction of the Minnehaha Preserve Boardwalk; and

WHEREAS on July 28, 2022, the Board of Managers approved the 100% design plans for the Minnehaha Preserve Boardwalk Reconstruction project and authorized staff to solicit bids for construction;

WEHREAS MCWD published the request for bids and received four (4) bids for the work, which on October 13, 2022, were opened and read aloud;

WHEREAS JTS Construction submitted the low bid in the amount of \$1,858,182;

WHEREAS the JTS Construction bid contained several irregularities not affecting bid price or substance and that the Board of Managers, on advice of counsel, finds may be waived;

WHEREAS MCWD staff and SRF Consulting find that the JTS Construction bid is responsive, and that JTS Construction is a responsible contractor, and the Board concurs in these findings.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers finds the bid submitted by JTS Construction is the low bid, and is responsive, and JTS Construction is a responsible contractor; and awards the construction contract to JTS Construction for a contract price of \$1,858,182, and directs the District Administrator to issue the notice of award, and administer the bid bonds of other bidders in accordance with the terms of the request for bids;

BE IT FURTHER RESOLVED that the MCWD Board of Managers establishes a contract budget in the not-to-exceed amount of \$2,044,000 and authorizes the District Administrator, in his judgment and on the recommendation of the construction manager, to authorize change orders obligating the MCWD up to that amount;

BE IT FINALLY RESOLVED that the District Administrator is authorized to issue a notice to proceed to JTS Construction in accordance with the terms of this resolution, on advice of counsel and after receipt of a signed contract and required bonds and insurance documentation.

Resolution Number 22-070 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 11/3/2022

\_\_\_\_\_  
Secretary Date: November 3, 2022



October 31, 2022

Ms. Tiffany Schaufler  
Sr. Project Maintenance Coordinator  
Minnehaha Creek Watershed District  
15320 Minnetonka Blvd.  
Minnetonka, MN 55345

Subject: MCWD Preserve Boardwalk Reconstruction Bid Award Recommendation

Dear Ms. Schaufler:

Bids were opened for the project referenced above on Tuesday, October 13<sup>th</sup>, 2022, at an in-person meeting. A total of four (4) bids were received. All bids have been reviewed and checked. The bids are tabulated below in order of value:

1. JTS Construction	\$1,858,182.00
2. Pember Companies, Inc.	\$1,877,412.00
3. Peterson Companies, Inc.	\$2,227,145.11
4. S.M. Hentges & Sons, Inc.	\$2,636,190.35
<b>Engineer's Estimate</b>	<b>\$1,550,199.50</b>

The low bid is 19.9 percent above the final Engineer's Estimate. It is our opinion that the range and number of bids represent a normal and reasonable bidding distribution.

The bid package and qualifications of JTS Construction, the apparent low bidder, were reviewed in detail. In our review of the JTS Construction bid, we did identify several minor irregularities, which were referred to District counsel who has advised that these do not make the bid non-responsive. On this basis, we do conclude that the bid was responsive. Per the advertised Project Manual, JTS Construction's qualifications meet the Minimum Contractor Qualifications. JTS Construction was the selected contractor for the Three Rivers Park District's Hyland Ski Hill Race Lane project, designed by SRF and found JTS Construction to be a responsible contractor. Thus, JTS Construction was deemed to be a responsive and responsible bidder.

We recommend the Contract be awarded to the apparent low bidder, JTS Construction, in the amount of \$1,858,182.00. Please contact us with any questions or concerns regarding this project.

Client First and Last Name  
Client

October 31, 2022  
Page 2

Sincerely,

SRF CONSULTING GROUP, INC.

A handwritten signature in blue ink, appearing to read "K. D. Bigalke".

Kevin D. Bigalke  
Senior Project Manager

kdb

Enclosure(s)/Attachment(s): n/a

cc: n/a