



Title: Status of MCWD Campus Improvement Project

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Purpose:

To frame a progress and status report on the proposed 2025 MCWD Campus Improvement Project that staff will provide at the November 7, 2024, meeting of the Operations and Programs Committee.

Background:

In 2019, design was advanced to reconstruct parking lots at MCWD's office building located at 15320 Minnetonka Boulevard. The purpose of the project is to sustainably reconstruct failed pavement and heaved sidewalks that create winter slip and fall hazards, by creating positive drainage and correcting pavement subgrade.

The proposed work requires a minor amendment to the planned unit development of which MCWD's campus is a part. So, the project also addresses specific municipal code requirements such as providing an enclosure for on-site refuse containers, creating acceptable grades for handicapped parking access, and providing for stormwater management by reconfiguring the existing stormwater pond.

The project included three bid alternates of interest to MCWD at the time, including: (1) additional drainage layer in the subgrade for the northern parking lot and driveway, to provide additional structural support and drainage given poor underlying historically wetland soils, (2) native landscaping on the west side of the building, and (3) a stormwater reuse cistern that would harvest rainwater and be used to irrigate the potential native landscaping.

The project was ultimately not put out for public bid after MCWD could not secure concurrence from the neighbor to the west, Campbell-Sevey, Inc. A 1990 cross-easement for shared driveway use extends 30 feet on each side of the shared parcel boundary, which runs approximately down the middle of the driveway. The easement stipulates that the easement area be available for both property owners' use, and that both owners must concur in any expenditure for driveway repair within that area exceeding \$1,000. At the time Campbell-Sevey expressed concern over financially participating in the project and access disruptions during construction. It also questioned the need for pavement rehabilitation on the driveway, and did not support any change in driveway dimensions.

Shortly thereafter MCWD moved its operations remote due to COVID-19, and the project was placed on indefinite hold. The MCWD team returned to the office in Q3 of 2022, and in 2024 the MCWD Board requested the Administrator reinstate the project or remove it from the budget.

2024 Progress and Status:

2025 Budget:

The 2025 budget, adopted by the Board in September 2024, includes \$598,372 for the construction of this project. As discussed with the Board during 2025 budget adoption, this estimate of probable cost is an update that reflects increases in material and labor costs since 2019. It also includes contingency, if elements of the project require adjustment due to unknowns, such as changes to municipal code since 2019, or the outcome of negotiations with MCWD's neighbor.

MCWD staff undertook to explore municipal requirements and to engage Campbell-Sevey, to inform and refine the proposed 2025 budget prior to the Truth in Taxation comment period and the Board's final consideration of the 2025 budget, scheduled for November 21, 2024. Some progress has been made in this area. After regulatory discussions

with the City of Minnetonka, staff has refined contingencies and recommends eliminating bid alternates for the stormwater cistern and landscaping. Campbell-Sevey tentatively has agreed to contribute \$20,000 to project cost, if in fact it consents to the work (which may not occur, see below).

With this information, the base project budget may be able to be set at approximately \$414,465. Retaining the bid alternate for additional drainage layer in the pavement subgrade costing \$63,558, and a 5% contingency, the total project budget may be able to be set at approximately \$481,924. This preliminary estimate for the 2024 base project is a \$68,312 increase over the 2019 estimate.

City Permitting:

MCWD staff have met with the City of Minnetonka's planning and zoning and environmental staffs to discuss the project scope and associated municipal requirements. MCWD now understands requirements for parking counts, drive aisle widths, front and side yard setbacks, fire truck turn templates, refuse containers, floodplain, tree inventory and replacement, stormwater management, and wetland protection. Based on this city guidance, MCWD will need to modify the final design for permit application submittal. This application will require planning commission approval. The total length of time from submittal to the city to planning commission consideration is estimated at 90 days. The design team has not yet initiated revisions to address city feedback, pending the conclusion of negotiation with Campbell-Sevey.

Campbell-Sevey Negotiation:

MCWD staff reinitiated engagement with Campbell-Sevey in July 2024, when the MCWD Administrator and Administrative Services Manager met with Campbell-Sevey's president, Steve Graves. (Note: the Campbell-Sevey property is actually owned by B-S Equity, LLC, of which Mr. Graves is, we believe, the sole manager.) In this initial meeting, we stepped through the proposed project plans as they relate specifically to past concerns raised by Campbell-Sevey. After the MCWD presentation, Mr. Graves advised – subsequently memorialized in email from MCWD- that Campbell-Sevey did not object to MCWD's proposed work within the cross-easement, and that it would work in partnership to move the project forward in a reasonable way.

In 2020, MCWD sought Campbell-Sevey's engagement to replace the 1990 cross-easement with a narrower easement that would benefit both parties and allow MCWD to reconfigure paved portions of our property outside of the drive area. In July, we again suggested this. Campbell-Sevey, in consultation with its attorney, asked that MCWD draft a revised easement, which it delivered to Campbell-Sevey in late September.

Campbell-Sevey then advised that, in fact, it did not wish to collaborate in revising the cross-easement for the purpose of the project. Instead, it asked that MCWD draft a letter that would specify its concurrence in the MCWD work, subject to appropriate terms. MCWD, with counsel, prepared and transmitted the proposed letter with exhibits visually depicting the work in accordance with plans previously presented to Mr. Graves and Campbell-Sevey's attorney. Campbell-Sevey apparently did not review MCWD's draft letter, and instead transmitted a proposed agreement drafted by its attorney. MCWD counsel finds the agreement to be poorly drafted and problematic in a number of respects. Campbell-Sevey also redlined the MCWD exhibit depicting the proposed work, opposing changes to the curblines where the driveway connects to Minnetonka Boulevard, and further north where a bump out both accommodates handicapped parking grades and protects the proposed parallel parking west of the building. In its markup, Campbell-Sevey, at least, concurred in the proposed parallel parking. However, in ensuing written exchanges, in late October and early November, Campbell-Sevey now opposes the proposed parallel parking spaces.

As the above suggests, the relationship with Campbell-Sevey again has deteriorated and it has reverted to its prior position that it will not agree to any changes to the existing driveway configuration on MCWD land. For part, we have worked carefully at all times to provide graphic and explanatory materials to Campbell-Sevey, to memorialize conversations, and to work in good faith with Campbell-Sevey as a partner.

Next Steps:

Staff will provide a presentation at the November 7, 2024, Operations and Programs Committee covering background and options for moving forward.