



---

**Title:** Award of contract for Six Mile Marsh Prairie Trail construction

**Resolution number:** 22-022

**Prepared by:** Name: Anna Brown  
Phone: 952.641.4522  
abrown@minnehahacreek.org

**Reviewed by:** Chuck Holtman, MCWD Counsel

**Recommended action:** Board awards the construction contract for the Six Mile Marsh Prairie trail to G. Urban Construction Co.

**Schedule:** April – June 2022: Project construction  
July 1, 2022: Substantial Completion  
June 30, 2023: Final Completion

**Budget considerations:** Fund name and code: Six Mile Marsh Prairie 3-3106  
Fund budget: \$347,861 (Construction budget \$274,400)  
Expenditures to date: \$59,274  
Requested amount of funding:  
Base bid of \$242,714.75 + plus cost of add alternates and contingency to be determined by Board at the April 14, 2022 meeting

**Past Board action:** 08-092 Halsted Bay Wetland Restoration Project, Project Ordering  
13-027 Six Mile Marsh Prairie Restoration Project Construction Contract Award  
21-034 Six Mile Marsh Prairie trail and interpretation design contract  
21-062 90% design approval and authorization to solicit bids  
21-076 Authorization to reject bids for the Six Mile Marsh Prairie trail project  
21-087 Authorization to Amend Six Mile Marsh Prairie Trail Design Contract  
22-007 Authorization to solicit bids for Six Mile Marsh Prairie Trail Construction

**Summary:**

Beginning in 2008, the Minnehaha Creek Watershed District (MCWD) began to identify opportunities for wetland restorations that would reduce external phosphorus loading to Six Mile Creek and downstream Halstead Bay. These efforts led to the 2011-2012 purchases of three adjacent parcels that total 210 acres and are positioned on the north edge of Six Mile Marsh. In 2013, the MCWD undertook restoration of these former agricultural properties, collectively known as the Six Mile Marsh Prairie Restoration. The restoration of the site as a whole has been aimed at both reducing nutrient loading and improving upland prairie, wetland, and woodland habitat within the site. Included in original design plans for the restoration of the site was a proposed future trail alignment that would serve as a spur trail from the Dakota Rail Regional Trail which lies on the property's western boundary. However, construction of the spur trail was deferred to allow the restoration time to establish prior to providing public access on the site.

On May 13, 2021, the Board of Managers authorized execution of a contract with Damon Farber Landscape Architects for design of a pedestrian trail and an interpretive program. Design reached the 90% design phase in September 2021,

and the Board of Managers subsequently approved those plans on September 23, 2021 and authorized staff to solicit construction bids.

The bid solicitation returned only two bids, and both bids exceeded the project budget by more than \$200,000. The Board directed staff to reject the submitted bids on November 18, 2021 with the understanding that an improved bid response was possible if specific elements of the bid package were refined and if the bid period was lengthened and held during a more opportune time.

In reviewing the design and specification package, the design team made the following changes to the bid package:

- Converted the bid form to a line-item bid to minimize contractor’s contingency costs
- Modified the base bid trail surfacing to a less expensive class V limestone gravel and made the decomposed granite an add alternate
- Modified the design of the “transect” interpretive feature to achieve costs savings

At the February 10, 2022 Board Meeting, the Board Authorized staff again to solicit bids for the Six Mile Marsh Prairie Trail project. The bid structure consisted of a base bid to include the trail and entry signage, add alternates for four interpretive features, and a fifth add alternate for an alternative trail surfacing material. The bid period ran from February 11, 2022 to March 18, 2022. MCWD received four responses. The table below summarizes the responses by base bid and total bid. The bid tabulation will be circulated to the Board in advance of the April 14, 2022 Meeting and made publicly available after the contract award.

<b>Company Name</b>	<b>G. Urban Companies</b>	<b>Sunram</b>	<b>Peterson</b>	<b>Parkstone</b>
<b>Base Bid</b>	\$242,714.75	\$329,973.00	\$325,281.14	\$309,619.07
<b>Add 1: Transect</b>	\$55,000.00	\$54,050.00	\$50,580.00	\$65,000.00
<b>Add 2: Barn</b>	\$10,000.00	\$18,900.00	\$11,485.00	\$19,000.00
<b>Add 3: Loungers</b>	\$16,000.00	\$19,500.00	\$15,300.00	\$20,000.00
<b>Add 4: Map</b>	\$10,000.00	\$18,500.00	\$7,500.00	\$18,000.00
<b>Add 5: Trail Surface</b>	\$19,131.20	\$42,393.00	\$37,027.57	\$35,871.00
<b>Total Bid</b>	\$352,845.95	\$483,316.00	\$447,173.71	\$467,490.07

The low bid for the base bid, and for any combination of add alternates, is Urban Companies. Staff has spoken with a large public parks agency for which Urban Companies has performed a number of projects, and which spoke favorably as to their work. Staff and Damon Farber both find Urban Companies to be a responsible bidder.

Staff and Damon Farber also find the Urban Companies bid to be responsive. The bid was irregular in several respects:

- The request for bids (RFB) required that bidders submit evidence of three prior projects involving fabrication and installation of similar signage; identify major subcontractors to be used; and supply its state license number. Urban Companies did not supply these.
- Urban Companies supplied a copy of its bid bond, and not the original.

After the bid opening, the District requested and received from Urban Companies all of the omitted materials: prior relevant signage project evidence; a list of subcontractors with copies of all subcontractor bids (all dated prior to the bid opening date); its completed license form; and the original bid bond.

The RFB reserved the District’s right to waive irregularities in the bids. District staff has consulted with counsel as to these irregularities. Counsel advises that despite this reservation, a bidder may not be allowed to change or complete a bid if: (a) this involves a change to the substance of a bid, i.e., that affects the price, quality or quantity of the services, or manner of performance; or (b) has the effect of giving a substantial competitive advantage to the bidder, as compared with the other bidders.

Counsel observes: (a) that all of the irregularities concern Urban Companies' failure to supply information in its possession, or the original of the bid bond that it held; (b) that the District's acceptance of the information after the bid opening does not alter Urban Companies' timely submitted bid price or the work that, by its bid, it has bound itself to perform; and (c) that the omissions did not give Urban Companies an advantage in pricing its bid or in any other respect of competing for the work. According to counsel, the courts have emphasized the public interest in obtaining the lowest price for public work, and that this interest should not be sacrificed due to defects in a bid that don't affect its substance. Counsel concludes that the Board may waive the indicated irregularities and consider the Urban Companies bid to be responsive.

Staff are recommending that the construction contract be awarded to Urban Companies.

**Budget Discussion:**

The construction budget for this project is \$275,400. By strategically adding select bid alternates, the construction contract can be kept within the construction budget while still integrating certain interpretive elements into the site. Alternatively, The Board may elect to proceed with the base bid and all add alternates, and award the contract in the amount of \$352,845.95. This would require, as well, that the Board amend the project budget.

Staff have structured the resolution to allow the Board to make a decision at the April 14, 2022 meeting as to whether to award the contract based on the established construction budget or to amend the construction budget and implement all add alternates. Staff will guide the Board in a discussion of alternatives at the Board meeting in order to facilitate the contract award. In the event of a construction budget amendment, staff will recommend funding sources and bring back a resolution to amend the budget and transfer funds at a subsequent Board meeting.



## RESOLUTION

---

**Resolution number:** 22-022

**Title:** Award of contract for Six Mile Marsh Prairie trail construction

- WHEREAS in August 2011 and August 2012, the Minnehaha Creek Watershed District (MCWD) Board of Managers ("Board") authorized the purchase of three contiguous parcels north of the Six Mile Marsh totaling 210 acres to restore wetland basins and adjacent upland within the site;
- WHEREAS in January 2013, the Board approved the final design of the Six Mile Marsh Prairie Restoration project, which implemented 110 acres of wetland and adjacent upland restoration and developed concept plans for future construction of a spur trail to create public access to the property once the restoration was established;
- WHEREAS in December 2020, the Board amended the 2021 budget to increase the budget for the Six Mile Marsh Prairie Restoration project to \$347,861 for design and construction of a trail connecting the Dakota Rail Regional Trail to the Six Mile Marsh Prairie site and interpretive elements for the project;
- WHEREAS in March 2021, the Board authorized the release of the request for proposals for design services for the Six Mile Marsh Prairie trail and interpretation and in May 2021, following a competitive selection process, the Board authorized a design and construction oversight contract with Damon Farber Landscape Architects;
- WHEREAS Three Rivers Park District (TRPD), which manages the Dakota Rail Regional Trail to which the Six Mile Marsh Prairie trail will connect, reviewed and approved the location and design of the connection, and the TRPD Board of Commissioners approved the connection, with maintenance terms, in a Local Trail Agreement in August 2021;
- WHEREAS Hennepin County Regional Rail Authority (HCRRA), which owns the property on which the regional trail is located, reviewed and approved the location and design of the Six Mile Marsh Prairie trail connection to the regional trail, and HCRRA issued a permit for construction of the connecting trail in September 2021;
- WHEREAS on September 23, 2021, the Board approved 90% design plans and authorized staff to solicit bids for construction;
- WHEREAS on October 7, 2021, by publication, MCWD solicited sealed bids for a base project of trail construction and related improvements and bids for four interpretive features, which were bid as add alternates;
- WHEREAS MCWD received two bids by the submittal date of October 27, 2021, both responsive bids. The low bid exceeded the Damon Farber estimate by more than 65-percent and well exceeded the amount MCWD budgeted for construction;
- WHEREAS on November 18, 2021, the Board rejected submitted bids and directed staff to seek authorization to rebid the project when bid conditions improved;

WHEREAS after staff worked with Damon Farber to adjust the design and bid structure, on February 10, 2022, the Board authorized staff to rebid the project;

WHEREAS on February 11, 2022, by publication, MCWD solicited sealed bids for a base project of trail construction and related improvements, and add alternates for four interpretive features and an alternative trail surfacing material, and received four bids by the submittal date of March 18, 2022;

WHEREAS G. Urban Companies, Inc. ("G. Urban") submitted the low bid of \$242,714.75 for the base bid, and is the low bidder for any combination of add alternates;

WHEREAS the G. Urban bid submittal omitted several items, namely it did not name three prior projects involving fabricating and installing specialized signage, did not conform to the RFB requirement to name subcontractors, omitted the company's contractor's license number, and provided a copy of the bid bond and not the original, but after bid opening, on MCWD staff request, remedied these omissions, and has supplied subcontractor quotes submitted to G. Urban and dated prior to bid opening;

WHEREAS the request for bids reserved to the Board the discretion to waive irregularities in bids and the Board, on advice of counsel, finds that G. Urban's correction of its submittal neither allowed it the opportunity to alter its bid price, the work to be performed or the manner of performance; nor afforded it an advantage in determining its bid price or otherwise forming or submitting its bid; and therefore that these irregularities are not material and may be waived;

WHEREAS MCWD staff and Damon Farber find that with the irregularities waived, the G. Urban bid is responsive and, further, based on communication with prior project references and their knowledge, that G. Urban is a responsible bidder, and the Board concurs in these findings; and

WHEREAS on review of the add alternates, bid prices for each, the project budget and funds available, the Board finds that it is appropriate to proceed at this time with the project consisting of the base bid [and add alternates \_\_\_\_\_].

THEREFORE BE IT RESOLVED that the MCWD Board of Managers finds that the bid submitted by G. Urban Companies, Inc. is the low bid, and is responsive, and G. Urban Companies, Inc. is a responsible contractor; and awards the contract, consisting of the base bid [and add alternates \_\_\_\_\_] to G. Urban Companies, Inc., for a contract price of \$XXXXXX, and directs the District Administrator to issue the notice of award, return and otherwise administer bid bonds in accordance with the terms of the request for bids, and issue the notice to proceed, on advice of counsel and when all submittals prerequisite thereto have been made;

BE IT FURTHER RESOLVED that the MCWD Board of Managers establishes a contract budget in the not-to-exceed amount of \$XXXXXX, and authorizes the Administrator, on advice of counsel, to approve work change orders up to that aggregate amount.

[BE IT FINALLY RESOLVED that the MCWD Board of Managers directs the District Administrator to return to the Board with a proposed amendment to the construction budget and transfer of funds.]

Resolution Number 22-022 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 4/14/2022

\_\_\_\_\_  
Secretary Date: April 14, 2022