

COUNCIL ACTION FORM

SUBJECT: 2014/15 SHARED USE PATH MAINTENANCE (S. 4TH STREET)

BACKGROUND:

The City's shared use path transportation system has continued to expand throughout the community. These shared use paths have typically been constructed with five inches of asphalt or concrete pavement. Structural failure, drainage problems, and vegetation infringement create a need to periodically improve these pavements. This annual program addresses these needs.

This specific project involved reconstruction of the shared use path on S. 4th Street from the Squaw Creek Bridge east to Oak Avenue. This section was prioritized after a survey of shared use path pavement conditions. The S. 4th Street project also coordinated with an Electric Services project to install street lighting conduit from the Squaw Creek Bridge to east Hazel Avenue.

On June 10, 2014, City Council awarded this project to A&D Contracting LLC of Sioux City, IA in the amount of \$100,753. No change orders have been processed for this project. The City of Ames has an email indicating A&D Contracting LLC's concurrence with the final pay quantities. The City of Ames has attempted numerous times to get a signature on the balancing change order, but the company can no longer be reached. The balancing change order serves an accounting function, but is not necessary to ensure closure on the project. Construction was completed in the amount \$97,730.67. Engineering and construction administration costs totaled \$15,000 bringing overall project costs to \$112,730.67.

Funding for this project includes:

2014/15 Shared Use Path Maintenance	\$ 50,000
Shared Use Path Maint. – Project Carryover	\$ 85,477
2013/14 Sidewalk Safety Funds	<u>\$ 27,320</u>
	\$162,797

Any remaining funds will be used on future Shared Use Path Maintenance projects.

CONTRACTOR PERFORMANCE/BOND CLAIM:

A&D Contracting struggled to maintain progress during this project. City staff spent many additional hours working with the contractor to ensure completion and quality of workmanship.

In the process of negotiating the balancing change order, the City of Ames was put on notice of an Iowa Code Section 573 Claim. This code section outlines regulatory requirements for labor and materials on public improvement projects as it pertains to

bonds and retained funds. A vendor used by A&D Contracting LLC on this project had not been paid and thus filed the claim in the amount of \$26,570.29. Iowa Code Section 573 states that the public agency must withhold two times the amount claimed. By the time the claim was received by the City, only \$7,110.17 had been unpaid by the City of Ames, thus we were unable to meet the requirement of the Code. City of Ames staff has attempted to contact A&D Contracting LLC on multiple occasions to help resolve the claim, but have been unsuccessful in getting any response since November of 2014. The vendor that submitted the claim has requested that the City of Ames accept the project so that the vendor may proceed with the claim against A&D Contracting LLC's bonding company. Until the claim is resolved, the City will withhold the remaining \$7,110.17 due to A&D Contracting LLC.

ALTERNATIVES:

- 1a. Accept the 2014/15 Shared Use Path Maintenance Project (S. 4th Street) as completed by A&D Contracting LLC of Sioux City, IA in the amount of \$97,730.67.
- b. Hold final payment in the amount of \$7,110.17 due to A&D Contracting of Sioux City, IA pending resolution of the bond claim.
2. Direct staff to pursue changes to the project.

MANAGER'S RECOMMENDED ACTION:

The project has now been completed in accordance with approved plans and specifications, and is within the approved budget. The bond claim is between the vendor, A&D Contracting LLC, and A&D Contracting LLC's bond company, thus final acceptance will allow the bond claim to continue while the City still meets the requirement of Iowa Code Section 573 by withholding the final payment.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1a and b, thereby accepting the 2014/15 Shared Use Path Maintenance Project (S. 4th Street) as completed by A&D Contracting LLC of Sioux City, Iowa, in the amount of \$97,730.67 and withhold final payment in the amount of \$7,110.17 until the bond claim is resolved.