 <p>CITY OF ST. CHARLES ILLINOIS • 1834</p>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 4g-h
	Title:	<p>- Recommendation to approve a Resolution Authorizing the Mayor to Demand Payment Under a Letter of Credit – The Reserve of St. Charles Subdivision Phase 2</p> <p>- Recommendation to Waive the Formal Bid Procedure and approve a Resolution to Authorize a Construction Contract with Geneva Construction for Street Pavement Work in The Reserve of St. Charles Subdivision Phase 2</p>	
	Presenter:	Russell Colby, Community Development Director	
Meeting: Planning & Development Committee		Date: September 11, 2023	
Proposed Cost: \$385,318 contract, Requires \$42,569 in City Funds		Budgeted Amount: \$343,249 available from Developer Letter of Credit	Not Budgeted: <input checked="" type="checkbox"/>
TIF District: None			
Executive Summary (if not budgeted, please explain):			
<p><u>Background</u></p> <p>The Reserves Subdivision, located on the north end of the City along Route 31, was approved in 2005 and subdivision site improvements were installed by the original developer in 2006-2008. Phase 2, the western portion of the site, was purchased by the current developer, Omni-Tech, LLC, in 2009. The houses in Phase 2 were constructed by Meritus Homes and the build out was recently completed. At this time, the only remaining subdivision improvement to be completed are the streets in Phase 2, which includes curb/sidewalk repair and final paving surface. Completion of the street is the responsibility of Omni-Tech, LLC per their 2009 Land Improvement Agreement with the City.</p> <p>Staff determined that because the base/binder course was exposed to the elements for nearly 15 years, the pavement has deteriorated and needs to be removed and new base/binder course installed before the final paving surface. The developer has informed the City that they are not willing to complete this full work scope, as they are not willing to fund any additional improvements over the remaining financial guarantee for the project, which is a Letter of Credit in the amount of \$343,249.</p> <p><u>Proposal</u></p> <p>The unwillingness of the developer to complete the full street improvements has left the City with 2 bad options; either attempt to force the developer to fulfill their obligation to construct all required public improvements—which would push the completion timeline into 2024—or assume the responsibility and expense to complete the required work. After discussion, staff concluded that City completion of the work this year is preferable, as the streets need maintenance prior to winter. Additionally, the residents of the “new” subdivision have been living with incomplete streets for a number of years, and are understandably frustrated.</p> <p>The City requested quotes from 5 different street-paving contractors and the lowest quote to complete the required work is \$385,818. This quote is from Geneva Construction, the low bidder on the City’s 2023 Street Rehabilitation work. If the City decides to complete the work, the ‘shortfall’</p>			

between the available security funds and the project cost is \$42,569, but may be slightly more or less than this exact amount pending the final quantities needed for the work.

Geneva Construction has indicated that they can mobilize to complete this project during the current paving season *if the city commits to hire them for this project no later than the end of September.*

Should the Committee recommend that the City draw on the Letter of Credit and proceed with completion of the project, a Bid Waiver and Contract will be presented for City Council approval. This approval would be contingent upon the City successfully obtaining the Letter of Credit funds, and would require an additional budget add of \$42,569 to complete the project.

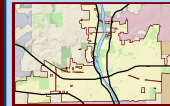
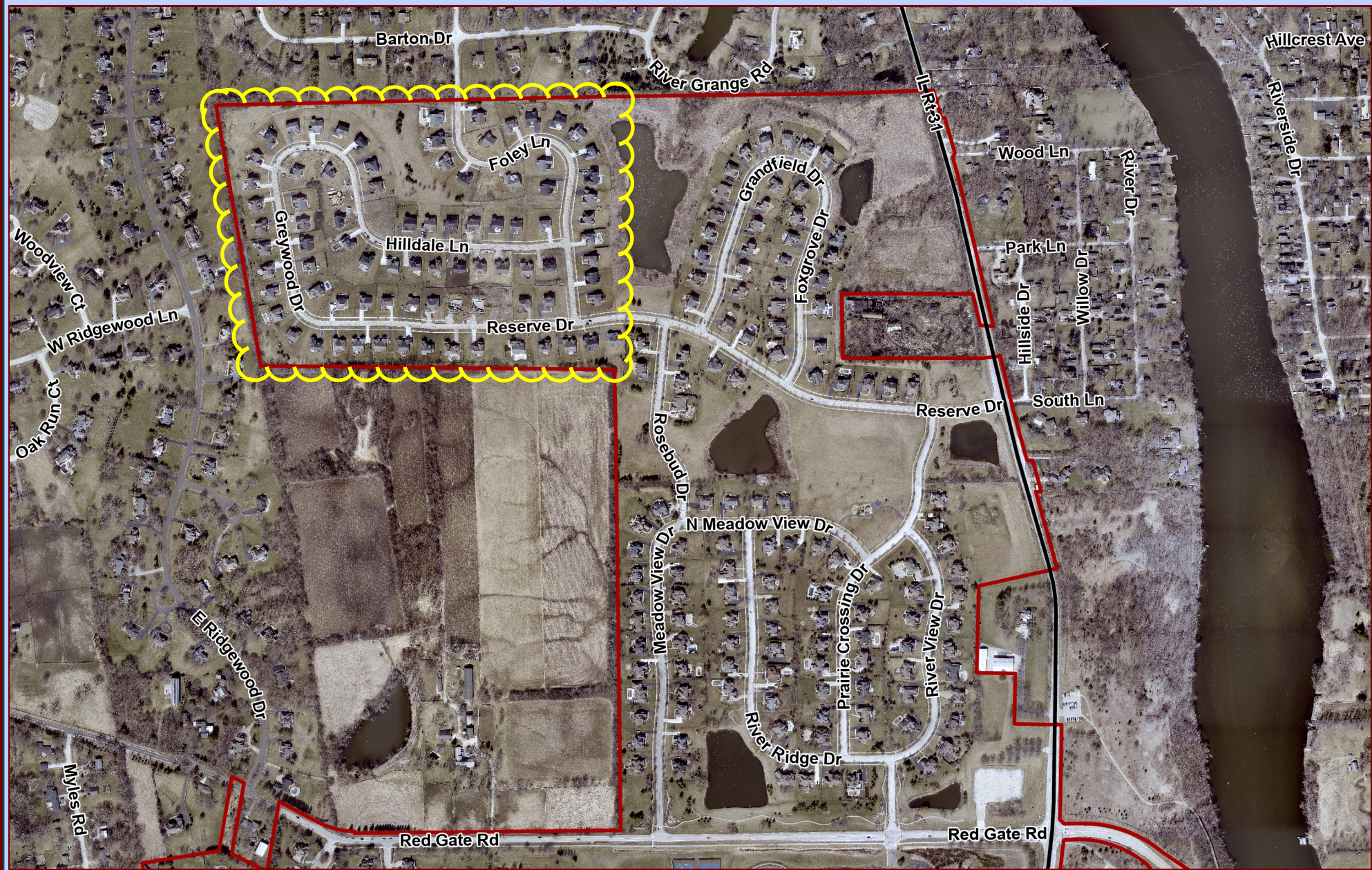
The developer, Omni-Tech, LLC, has indicated that they would not dispute the City drawing on the Letter of Credit. However, staff has not agreed to waive any rights under the Land Improvement Agreement to seek reimbursement from the developer, if possible.

Attachments (please list):

Aerial photo, Resolutions, Bid Waiver, Quote

Recommendation/Suggested Action (briefly explain):

- Recommendation to approve a Resolution Authorizing the Mayor to Demand Payment Under a Letter of Credit – The Reserve of St. Charles Subdivision Phase 2
- Recommendation to Waive the Formal Bid Procedure and approve a Resolution to Authorize a Construction Contract with Geneva Construction for Street Pavement Work in The Reserve of St. Charles Subdivision Phase 2



Data Source:
 City of St. Charles, Illinois
 Kane County, Illinois
 DuPage County, Illinois
 Projection: Transverse Mercator
 Coordinate System: Illinois State Plane East
 North American Datum 1983
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 Prepared by Precision GIS

City of St. Charles, Illinois
Resolution No. 2023- ____

Resolution Authorizing the Mayor to Demand Payment Under a Letter of Credit- The Reserve of St. Charles Subdivision, Phase 2

WHEREAS, the City of St. Charles approved the final plat of subdivision entitled "The Reserve of St. Charles", and had the same recorded in the recorder of Deeds Office, Kane County, Illinois, on February 14, 2006, as Document No. 2006K01694; and

WHEREAS, pursuant to a Land Improvement Agreement (the "Agreement") dated July 20, 2009 and amended November 19, 2012, Omni-Tech, LLC (the "Developer") was required to complete the required Land Improvements by October 31, 2016 (the "Completion Date"); and

WHEREAS, as required by the Agreement, the Developer has provided Irrevocable Letter of Credit No. 70505, dated July 22, 2009, as amended, from Morton Community Bank in order to secure completion of the Land Improvements; and

WHEREAS, the Developer has failed to satisfactorily complete the work of the installation and construction of the required Land Improvements, and the subdivision is now fully built out; and

WHEREAS, City staff has made contacts and met with the Developer regarding said failure, without resolution; and,

WHEREAS, the Developer's failure to complete the Land Improvements constitutes a default of the Agreement; and,

WHEREAS, the City further finds and determines that the public interest requires that the City construct or cause the construction of the Land Improvements; and,

WHEREAS, the City further finds and determines that it is necessary to draw on the Letter of Credit to pay for the construction of the Land Improvements, all in accordance with the Agreement and Letter of Credit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois that the Mayor is hereby authorized and directed to demand payment pursuant to the Agreement and Letter of Credit and to take such other and further actions as may be necessary.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September, 2023.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September, 2023.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September, 2023.

Lora A. Vitek, Mayor

Attest:

City Clerk

Council Vote:

Ayes: _____

Nays: _____

Abstain: _____

Absent: _____

**City of St. Charles, Illinois
Resolution No. 2023-_____**

Resolution to Waive the Formal Bid Procedure and Authorize a Construction Contract with Geneva Construction for Street Paving Work in the Reserve of St. Charles Phase 2

**Presented & Passed by the
City Council on _____**

WHEREAS, the Community Development Department is seeking Construction Service to complete and anticipated subdivision developer obligation; and

WHEREAS, Geneva Construction has successfully provided this service to the City and was the low bidder for the City's 2023 Street Rehabilitation Program and is familiar with the City's requirements; and

WHEREAS, Geneva Construction provided the lowest of 5 quotes for this work and is able to complete the work during this current construction season; and

WHEREAS a request has been made to waive the Bid Procedure and proceed with entering a contract with Geneva Construction for these services.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, to Waive the Formal Bid Procedure and Authorize a Construction Contract with Geneva Construction for Street Paving Work in the Reserve of St. Charles Phase 2, the amount of \$385, 318.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September 2023.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September 2023.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this 18th day of September 2023.

Lora A. Vitek, Mayor

Attest:

City Clerk/Recording Secretary

Resolution No. _____

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Voice Vote:

Ayes:

Nays:

Absent:

Abstain:



Bid Waiver ■ One Time ■ Today through _____

Description: Reserve Subdivision Phase 2 Street Completion

Requested Vendor: Geneva Construction

Requested By: Bruce Sylvester Date: 9/11/2023

Approval: Russell Colby
Department Head Signature

Bid Waivers are required when there are unique circumstances related to a proposed procurement that has not been competitively solicited.

1. This procurement is valued at \$ 385,818 for this one-time order, and/or \$ _____ for a 12-month period.
2. This good/service has been competitively solicited within the past 24 months. ■ YES NO
If Yes, Was the solicitation published on the city website? ■ YES NO

3. Justification for Bid Waiver:

Emergency i.e. declared by the Mayor and applicable to EOC/FEMA procedures.

Urgent i.e. required to resolve an unanticipated problem that, if not resolved within 48 hours, may cause undue risk to individuals and/or extensive damage to property.

- Need for these goods/services were **not anticipated and procurement through normal channels would take too long.**

A responsible **contractor was on site** performing a related repair, and based on professional judgement; it was prudent to request this service/repair from said contractor.

These goods are replacement parts for a **warrantied item, and the warranty is still in place**, and purchase of a non-brand item will jeopardize warranty.

- These goods/services are **inherently related to, and an ongoing part of**, other goods/services previously provided by the Provider.

These goods utilize a **proprietary, patent, trademark, or customized programming** resulting in lack of competition.

These goods are **standardized** for operational safety and efficiency.

These goods are only available through the provider's **local distribution** channels.

These goods/services were purchased through a **Cooperative Purchasing Agreement**. _____

- **Other:** Provider was selected through competitive bid process to provide MFT street paving services in the the City this year, and this project will be contracted under the same terms and at comparable unit prices. Provider was also lowest quote of 5 local paving contractors.
Project had not been anticipated and is resulting from City taking over an incomplete developer obligation.



GENEVA CONSTRUCTION COMPANY

INDIAN TRAIL and Route 25 * P.O. Box 998 - AURORA, ILLINOIS 60507

Phone: (630) 892-4357 - Fax: (630) 892-7738

- * City Of St Charles
- * Bruce Sylvester
- * 2 E Main St
- * St Charles , IL 60174

DATE 8/15/2023

The Reserve of St. Charles

We propose to furnish the following described construction, including all labor, materials and equipment according to standard construction practices.

QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
587	LF	Remove and Replace Curb & Gutter, includes Backfill with Topsoil	\$65.00	\$38,155.00
25	SF	Remeove and Replace Sidewalk	\$20.00	\$500.00
10	SF	Detecable Warning	\$37.00	\$370.00
312	SY	Remove and Replace Asphalt Drive Aprons (ones where curb is being removed)	\$39.00	\$12,168.00
16648	SY	Mill off 2.25" existing asphalt binder	\$2.15	\$35,793.20
16648	SY	Sweep and Tack Milled Surface	\$0.50	\$8,324.00
16648	SY	2.25 HMA Binder Course IL 19.0 N50	\$10.00	\$166,480.00
16648	SY	1.5" HMA Surface Course IL 9.5 N50	\$7.45	\$124,027.60

TOTAL \$385,817.80

NOTES: If accepted, this work will not be scheduled for construction until one signed copy of the proposal has been received at our office.

* For information regarding scheduling of construction, please contact our Paving Department at (630) 892-4357.

TERMS: Final settlement will be based upon actual units of work completed at the bid price per unit.

* This proposal is subject to the terms, specifications and conditions of sale printed on the second page of this proposal hereof, which are made a part of this proposal.

* This proposal is made in DUPLICATE and will constitute a binding agreement providing it is accepted within 60 days from date hereof.

The above proposal is accepted:

GENEVA CONSTRUCTION COMI
Cass W. Price, Vice President

Name, Title, Date