**9. Resolution Approving Plans and Specifications and Ordering Advertisement for Bids**[[1]](#endnote-2)

WHEREAS, pursuant to a resolution passed by the council (month) (day) , (year) ,the city engineer (consulting engineer retained for the purpose) has prepared plans and specifications for Improvement No, \_\_\_\_\_\_\_\_\_, the improvement of \_\_\_\_\_\_\_\_\_ Street between the \_\_\_\_\_\_\_\_\_ line of \_\_\_\_\_\_\_\_\_ Street and the \_\_\_\_\_\_\_\_\_ line of \_\_\_\_\_\_\_\_\_ Street by \_\_\_\_\_\_\_\_\_ and has presented such plans and specifications to the council for approval;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF \_\_\_\_\_\_\_\_\_, MINNESOTA:

1.Such plans and specifications, a copy of which is attached hereto and made a part hereof, are hereby approved.[[2]](#endnote-3)

2. The city clerk shall prepare and cause to be inserted in the official paper (and in \_\_\_\_\_) an advertisement for bids upon the making of such improvement under such approved plans and specifications.[[3]](#endnote-4) The advertisement shall be published for \_\_\_\_\_ days[[4]](#endnote-5), shall specify the work to be done, shall state that bids will be received by the clerk until \_\_\_\_\_ a.m. (p.m.) on (month) (day) , (year) , at which time they will be publicly opened in the council chambers of the city hall by the city clerk and engineer, will then be tabulated, and will be considered by the council at \_\_\_\_\_ a.m. (p.m.) on (month) (day) , (year) , in the council chambers of the city hall.[[5]](#endnote-6) Anybidder whose responsibility is questioned during consideration of the bid will be given an opportunity to address the council on the issue of responsibility.[[6]](#endnote-7) No bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier’s check, bid bond or certified check[[7]](#endnote-8) payable to the clerk for \_\_\_\_\_ percent of the amount of such bid.[[8]](#endnote-9)

 Mayor

 \_\_\_\_\_\_\_\_\_\_\_

City Clerk

**END OF FORM**

1. For work by day labor, use Forms 28-32 instead of Forms 9-11. [↑](#endnote-ref-2)
2. If the council does not wish to let the contract until it knows how appeals of the special assessments, if any, will affect the available public funds or that improvement bonds to finance the project can be marketed at a reasonable rate of interest, in the specifications it may wish to condition receipt of bids on the basis that the municipality has 90 days within which to act upon them. During this 90-day period, the assessment hearing takes place and the time to appeal passes. Also, a private or public sale of bonds can be arranged, but the bonds should not actually be issued until the contract has been awarded. A similar 90-day provision will be found desirable if the council secures the bids in advance of the improvement hearing. [↑](#endnote-ref-3)
3. Section 429.041, subd. 1 requires that if the estimated cost exceeds $175,000, council shall advertise for bids for the improvement in the newspaper and such other papers. If the cost exceeds $350,000, in addition to official newspaper publication, an advertisement must be put in a trade paper (as defined by the statute) or a paper published in a first class city. Depending upon the improvement, various portions of an improvement may be separately advertised if appropriate.

Subdivision 2 of Minn. Stat. § 429.041 requires awarding the contract to the lowest responsible bidder if at all. At the same time, in 2007 the legislature provided an “alternative procurement method” which appears to allow a city to select a contract based on the best value to the city, rather than the lowest responsible bidder. This method has strict requirements that beg close work with a city’s attorney and may not be appropriate for smaller cities. [↑](#endnote-ref-4)
4. If the estimated cost exceeds $175,000 but not $350,000, the advertisement shall run for such length of time as council deems advisable, but the bids are to be opened not less than 10 days after the first publication. If the estimated cost exceeds $350,000, publication must be not less than 3 weeks before the last day to submit bids and the day the bids are opened. [↑](#endnote-ref-5)
5. Other officials may be substituted for the clerk or engineer but at least two must be designated. Preferably, the opening of bids and the council meeting should be on the same day, with only a sufficient time interval to permit the tabulation to be completed.

If bids are to be tabulated at the council meeting and not before, the clause in the text preceding the footnote number may be changed to read, “shall state that bids will be opened and that the responsibility of the bidders will be considered by the council at \_\_\_ a.m. (p.m.) on (month) (day), (year), in the council chambers of the city hall, \_\_\_\_.” [↑](#endnote-ref-6)
6. It is important that this resolution and solicitation state the time at which the bids and responsibility of bidders will be considered. Arguably, this provides due process to any bidder whose bid is rejected on the basis of non-responsibility, in that the bidder had an opportunity to attend (with attorney) and present evidence on the subject of responsibility. This opportunity may avoid § 1983 actions for damages to business reputation (property) without a hearing (due process). [↑](#endnote-ref-7)
7. The council may omit reference to those types of security it considers inadequate to give assurance to the municipality that the successful bidder will enter into a contract. [↑](#endnote-ref-8)
8. The amount is within the discretion of the council. [↑](#endnote-ref-9)