



**Council
Communication**
Office of the City Manager

Date

July 10, 2006

Agenda Item No. 74
Roll Call No. 06-
Communication No. 06-445
Submitted by: Jeb E. Brewer, P.E.
City Engineer

AGENDA HEADING:

Hearing on Greenwood Park Street Improvements: Resolution approving plans, specifications, form of contract documents, engineer's estimate, receive and file bids, and designating lowest responsible bidder as Grimes Asphalt & Paving Corp., J M Yonker, President, \$123,016.75.

SYNOPSIS:

Public hearing to allow for input on the Greenwood Park Street Improvements and necessary actions (approve the proposed plans, specifications, form of contract documents and engineer's estimate, receive and file bids, and designation of lowest bidder) to authorize a contract for construction of the proposed project. The present condition of 45th Street in Greenwood Park needs significant repair and improvements from years of normal wear and tear; including new curbing, storm drainage improvements, and resurfacing. This work was recommended in the 2002 Greenwood Park Master Plan approved by the Des Moines Park and Recreation Board.

FISCAL IMPACT:

Amount: \$123,016.75 Construction Contract

Funding Source: 2006-2007 CIP, Page Park-17, Park Redevelopment, PKS100, Being: FY-2007 G. O. Bonds

ADDITIONAL INFORMATION:

On June 5, 2006, under Roll Call No. 06-1076, the City Council received and filed plans, specifications, form of contract documents, and City Engineer's estimate for the construction of the Greenwood Park Street Improvements. Before the City Council can enter into a contract, it must hold a public hearing and approve the proposed plans, specifications, and form of contract documents and engineer's estimate for the construction of the Greenwood Park Street Improvements, 11-2004-010. The improvement includes removal of curb and gutter, pavement scarification, construction of PCC curb and gutter, HMA overlay, storm sewer, intakes, backfill of curb and site restoration all in accordance with the contract documents

including Plan File Nos. 463-28/37 at Greenwood Park, 45th Street and Grand Avenue, Des Moines, Iowa.

Sealed bids for said improvement were submitted by the following bidders:

Grimes Asphalt & Paving Corp., Grimes, IA
 Des Moines Asphalt & Paving Co., Des Moines, IA

The bids were received and opened at a public meeting presided over by the City Engineer in the City Council Chambers, 2nd Floor, City Hall, 400 Robert D Ray Drive, Des Moines, Iowa at 11:00 a.m. on June 27, 2006. After the bid opening during the tabulation of the bid received from Grimes Asphalt & Paving Corp., J M Yonker, President, 12021 NW 54th Avenue, Grimes, IA, 50111, Engineering Department Staff discovered that Grimes Asphalt & Paving Corp. had made errors in completing Proposal Attachment: Part C-Bid Items, Quantities, and Prices in that Grimes Asphalt & Paving Corp. had entered unit bid prices for Items 9, 10, and 11 that when multiplied by the estimated quantities did not equal the extended amount shown on its proposal as shown below:

<u>Item</u>	<u>Description</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Amount</u>
9.	Storm Sewer, 12" RCP, Class II	35.0 L.F	\$80.50	\$2,415.00
10.	Flared End Section, 12", Class II	2.0 Each	\$310.00	\$310.00
11.	Backfill of Curbs	150.00 CY	\$3,125.00	\$3,125.00
Total Bid Amount for Items 1-16 as shown on the proposal				\$122,304.25

Grimes Asphalt & Paving Corp. total bid amount of \$122,304.25 is equal to the sum of all sixteen of the extended bid items on its proposal.

Section 1020, 1.07 D, Request for unit prices, of the Urban Standard Specifications states:

“When unit prices are requested, they shall be submitted on each and every item of work included for which bids are requested. The format for unit prices will be in dollars and whole cents only. In case of discrepancy, the unit price figure shall govern.”

When Engineering Department Staff tabulated Grimes Asphalt & Paving Corp. bid based on this specification, Items 9-11 are calculated as follows (*Engineering Department changes are in italics*):

<u>Item</u>	<u>Description</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Amount</u>
9.	Storm Sewer, 12" RCP, Class II	35.0 L.F	\$80.50	\$2,817.50
10.	Flared End Section, 12", Class II	2.0 Each	\$310.00	\$620.00
11.	Backfill of Curbs	150.00 CY	\$3,125.00	\$468,750.00
Total Bid Amount for Items 1-16 as shown on the proposal				\$588,641.45

Grimes Asphalt & Paving Corp. has made an obvious error in Item 11, as \$468,750 is unrealistic for the cost to backfill behind the curb with soil; especially when this amount is compared to the City Engineer's estimate of \$3,000 and the \$3,450 bid of the other bidder for the work.

The Engineering Department staff has tabulated the bid using the extended amounts as shown on the proposal originally submitted by Grimes Asphalt & Paving Corp. and calculated unit prices accordingly as follows (*Engineering Department changes are in italics*):

<u>Item</u>	<u>Description</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Amount</u>
9.	Storm Sewer, 12" RCP, Class II	35.0 L.F	\$69.00	\$2,415.00
10.	Flared End Section, 12", Class II	2.0 Each	\$155.00	\$310.00
11.	Backfill of Curbs	150.00 CY	\$20.83	\$3,125.00

Total Bid Amount for Items 1-16 as shown on the proposal \$122,304.25

The language in the Section 1020, 1.07 D, Request for unit prices, of the Urban Standard Specifications, which states, "In case of discrepancy, the unit price figure shall govern." has been a standard in the bid process for many years. This policy was developed when the bidders were actually manually preparing their bids on the proposal form by entering the unit price and then multiplying by the estimated quantity to calculate the extended amount. Most bidders are now preparing their bids electronically using software created specifically for estimating construction, or using spreadsheets to do the calculations. The numbers are then typed or manually handwritten into the appropriate spaces in the proposal. Staff is discovering more errors on the proposal forms that appear to be errors in manually transferring the bid numbers to the printed proposal form, instead of calculation errors, as has been the situation in the past.

As a result, Engineering and Legal Department Staff have reviewed these past practices; and after further review, recommend that the City Council approve a change to said Section 1020, 1.07 D which would delete the following sentence:

"In case of discrepancy, the unit price figure shall govern."

And as a matter of revised policy, replace it with the following sentence on all future projects:

"In the case of discrepancy, the unit price shall govern; except in the case of an obvious, serious, clerical error where the City Engineer is able to determine the bidder's intent from the proposal; in which case, the Des Moines City Council may waive irregularities that are in best interest of the City of Des Moines, as long as the integrity of the bid process can be maintained."

This policy change would allow the City Engineer to examine the bidder's proposal; and if there are obvious, serious, clerical errors in the proposal, adjust the unit bid prices; if the bidder's intent could be clearly established from the proposal document. Upon the City Engineer's recommendation, the City Council could then waive irregularities (errors in bid unit prices and/or amounts) that are in the City's best interest, as long as the integrity of the bid process can be maintained; and there is no competitive advantage given to one bidder over another.

The City Engineer has applied this proposed policy to the bid from Grimes Asphalt & Paving Corp. as discussed above and calculated unit prices accordingly as follows (*Engineering Department changes are in italics*):

<u>Item</u>	<u>Description</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Amount</u>
9.	Storm Sewer, 12" RCP, Class II	35.0 L.F	\$80.50	\$2,817.50
10.	Flared End Section, 12", Class II	2.0 Each	\$310.00	\$620.00
11.	Backfill of Curbs	150.00 CY	\$20.83	\$3,125.00
Total Bid Amount for Items 1-16 as revised in according to the proposed Policy				\$123,016.75

The City Engineer has applied the proposed rule individually to each of the three errors made by Grimes Asphalt & Paving Corp. (Items 9, 10, and 11) as follows:

- Item 9. On this item, the unit price as bid was \$80.50, but the extended amount as bid was \$2,415.00; NOT \$2,817.50 as calculated by multiplying 35.0 X \$80.50. This amounts to a difference of \$402.50 on a bid of \$122,304.25; which is not "an obvious, serious, clerical error". Since this is not a serious error, the City Engineer would recommend that the unit price of \$80.50 govern and the extended amount be calculated as \$2,817.50.
- Item 10. On this item, the unit price as bid was \$310.00, but the extended amount as bid was \$310.00; NOT \$620.00 as calculated by multiplying 2 X \$310.00. This amounts to a difference

of \$310.00 on a bid of \$122,304.25; which is not “an obvious, serious, clerical error”. The \$310.00 is within unit prices of the other bidders and less than the original engineer’s estimate. Since this is not a serious or obvious error, the City Engineer would recommend that the unit price of \$310.00 govern and the extended amount be calculated as \$620.00.

- Item 11. On this item, the unit price as bid was \$3,125.00, but the extended amount as bid was \$3,125.00; NOT \$468,750.00 as calculated by multiplying 150 X \$3,125.00. This amounts to a difference of \$465,625.00 on a bid of \$122,304.25; which is “an obvious, serious, clerical error”. \$468,750 is unrealistic for the cost to backfill behind the curb with soil; especially when this amount is compared to the City Engineer’s estimate of \$3,000 and the \$3,450 bid of the other bidder. Grimes Asphalt & Paving Corp. extended amount of \$3,125.00 is more realistic amount. Grimes Asphalt & Paving Corp. total bid amount of \$122,304.25 is equal to the sum of all sixteen of the extended bid items on its original proposal. The \$468,750.00 for Item 11 as calculated is almost four times the amount of the total bid of \$122,304.25. Since this is a serious error, the City Engineer would recommend that the extended price of \$3,125.00 govern and that a unit price be calculated by dividing \$3,125 by the 150 units to obtain \$20.83 as the proposed contract unit price.

By signing the contract, which includes the revised bid amounts, the low bidder will be accepting the bid as tabulated by the City Engineer.

The City Council has several options regarding these bids as follows:

1. Apply the proposed policy, accept the \$122,304.25 total bid as revised to \$123,016.75, and adjust the unit prices as discussed above, thereby Grimes Asphalt & Paving Corp. remains the low bidder.
2. Apply the existing policy with unit prices governing and recalculate Grimes Asphalt & Paving Corp. bid from \$122,304.25 to \$588,641.45, thereby making Grimes Asphalt & Paving Corp. the high bidder and Des Moines Asphalt & Paving Co. the low bidder with a bid of \$167,287.50. This does not appear to be in the best interest of the City in that the low bid of \$167,287.50 would cost the City an additional \$44,983.25 (or 37%) over the \$122,304.25 bid that Grimes Asphalt & Paving Corp. bid. The \$167,287.50 bid is also 15.4% over the City Engineer’s Estimate of \$145,000.
3. Reject all bids and re-bid the project later. If the project were re-bid, the construction industry would recommend that the City wait at least 90 days before re-bidding the project to allow the bid climate to change and not further expose the bids received. If the project is re-bid, the construction will not be completed this year. Activities at the Park have already been scheduled in anticipation of construction this year.

After further review, the Engineering and Legal Departments recommend that the City Council accept Option 1 to accept the revised \$123,016.75 total bid from Grimes Asphalt & Paving Corp. and further recommend that this was a minor irregularity that could be waived based upon the proposed policy. The City Engineer recommends acceptance of the bid from Grimes Asphalt & Paving Corp. in the amount of \$123,016.75 as the lowest responsible, responsive bid for the construction of said improvement, and said bid should be accepted. The Finance Director has determined that funds are available as stated above.

PREVIOUS COUNCIL ACTION(S):

Date: June 5, 2006

Roll Call Number: 06-1076

Action: Greenwood Park Street Improvements – Receiving of bids, (6-27-06), and Setting date of hearing, (7-10-06). (Construction Estimate - \$145,000). ([Council Communication No. 06-338](#)). Moved by Kiernan to adopt. Motion Carried 6-1.

BOARD/COMMISSION ACTION(S): NONE

Date:

Roll Call Action:

Action:

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Partial payments to the contractor and final acceptance of work.