

DATE August 20, 2007

PUBLIC HEARING, APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT DOCUMENTS, AND ENGINEER'S ESTIMATE ON EAST SIDE NEIGHBORHOOD SKATE PARK; RECEIVE AND FILE BIDS; AND DESIGNATION OF LOWEST RESPONSIVE, RESPONSIBLE BIDDER AS CASTLE CONCRETE SERVICES INC., ANTHONY CASTELLANO, PRESIDENT, \$220,831.00

WHEREAS, on July 23, 2007, under Roll Call No. 07-1383, plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost were filed with the City Clerk, for the construction of the following improvement:

East Side Neighborhood Skate Park, 11-2007-012

The improvement is construction of a neighborhood skateboard park including earthwork, reinforced concrete slabs, shotcrete, sidewalk construction, and other incidental items; in accordance with the contract documents, including Plan File Nos. 479-152/164 at the East Side Skate Park located west of the Four Mile Community Center, 3711 Easton Boulevard, Des Moines, Iowa

WHEREAS, notice of the hearing on the plans, specifications, form of contract documents, and Engineer's estimate of construction cost was published as required by law.

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WHEREAS, on August 7, 2007, sealed bids for said improvement were received and opened at a public meeting presided over by the City Engineer, and bids were received from Proshot Concrete, Inc., Timothy McDougle, President, 4158 Musgrove Drive, Florence, Alabama, in the amount of \$215,803.82; and Castle Concrete Services Inc., Anthony Castellano, President, P. O. Box 993, Johnston, Iowa in the amount of \$220,831.00; and

WHEREAS, Mr. Pat Moody, Senior Estimator for Proshot Concrete, Inc. notified the City Engineer on August 17, 2007, that Proshot Concrete, Inc. may not be able to provide insurance as required by the City of Des Moines, and wanted to discuss options; and

WHEREAS, on August 17, 2007, Donald J. Barnes, Secretary/Treasurer of Proshot Concrete, Inc. submitted the attached letter to the City Engineer requesting that its bid be withdrawn and bid security returned because of they could not provide insurance as required by the City of Des Moines; and

WHEREAS, in the past the City Council has allowed bidders to withdraw their bid and return bid security if the bidder has made a significant error in its bid. The rationale is that had the bid been accurately calculated, the City would not have received the low bid amount; but would have instead received a higher bid from the same bidder, or the low bid would have been the second low bidder. As such, the City should not profit from the bidder's mistake and the City should not attempt to recover the difference between the mistaken low bid and the next low bid from the mistaken low bidder's bid security; and.

WHEREAS, Proshot Concrete, Inc has not made a significant calculation error in its proposal, but instead is unable to provide insurance in accordance with the standard specifications. In the past the City Council has allowed bidders to withdraw their bid and return bid security if the bidder is unable to provide insurance acceptable to the City. The most recent case was January 8, 2007, under Roll Call 07-078, where the City Council allowed Whitewater West Industries from British Columbia, Canada, to withdraw its bid because they could not provide insurance. If the bidder cannot provide acceptable insurance, the bidder should not be considered responsible and the City of Des Moines should not award a contract to a non-responsible bidder; and

WHEREAS, the City Engineer recommends that since there is only \$4,727.18 additional cost between the bids submitted by Proshot Concrete, Inc. and Castle Concrete Services Inc., the City should proceed with award to Castle Concrete Services Inc. Rebidding would not be necessary and the construction schedule would not be impacted; therefore, the actual damages to the City are minimal, and Proshot Concrete, Inc. bid bond should be returned; and.

WHEREAS, the City Engineer recommends that Proshot Concrete, Inc., be allowed to withdraw its bid and its bid security be returned subject to Castle Concrete Services Inc. entering into contract for this project; and

WHEREAS, the City Engineer further recommends that Castle Concrete Services Inc., Anthony Castellano, President, P. O. Box 993, Johnston, Iowa be designated as the lowest responsible, responsive bidder with a bid \$220,831.00. This skate park project contains irregular-shaped, freeform curves that will be constructed by using "shotcrete", which is a field process whereby concrete with fine aggregate is sprayed from a nozzle onto reinforcing steel and shaped to create the irregular curves, which cannot be formed. Proshot Concrete, Inc. is one of the few companies nation-wide that does "shotcrete" work. Castle Concrete Services Inc. on its original proposal had listed Proshot Concrete, Inc. as its "shotcrete" subcontractor on this project. Castle Concrete

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Services Inc. insurance as the general contractor will cover Proshot as a subcontractor to Castle Concrete Services, Inc. By separate resolution, the City Council will be requested to approve Proshot as a subcontractor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the hearing on the plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost for said improvement be closed; and that said plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost are hereby approved as the plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost for said improvement.

BE IT FURTHER RESOLVED: That the City Council concurs in the recommendation of the Engineering Department and the Legal Department regarding withdrawal of the bid submitted by Proshot Concrete, Inc., and return of bid security subject to Castle Concrete Services Inc. entering into contract for said improvement.

BE IT FURTHER RESOLVED: That sealed bids for said improvement were submitted by the following bidders:

Proshot Concrete, Inc.	Florence, AL
	Bid withdrawn by Bidder
Castle Concrete Services Inc.	Johnston, IA

which were received and opened at a public meeting presided over by the Jurisdictional Engineer in the City Council Chambers, 2nd Floor, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 11:00 a.m. on August 7, 2007. Said bids and the attached tabulation of bids for said improvement be and are hereby received and filed.

BE IT FURTHER RESOLVED: That the Jurisdictional Engineer has determined that the lowest responsive, responsible bid for the construction of said improvement was submitted by Castle Concrete Services Inc., Anthony Castellano, President, P. O. Box 993, Johnston, IA, 50131 in the amount of \$220,831.00, and said bid be and the same is hereby accepted.

BE IT FURTHER RESOLVED: That the bid security of the unsuccessful bidders be and is hereby authorized and directed to be returned.

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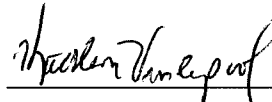
BE IT FURTHER RESOLVED: That the Jurisdictional Engineer is hereby directed to secure execution by the lowest responsible, responsive Bidder and its surety of the contract documents in the form heretofore approved by this Council; that the Jurisdictional Engineer is directed to thereafter present said contract documents to this Council for approval and authorization to the Mayor to sign; and that no contract shall be deemed to exist between the City of Des Moines and said Bidder until said contract has been executed by the Bidder, and shall have been approved by this Council and executed by the Mayor and attested to by the City Clerk.

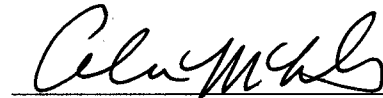
(City Council Communication Number \_\_\_\_\_ attached.)

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

FUNDS AVAILABLE

  
 Kathleen Vanderpool  
 Deputy City Attorney

  
 Allen McKinley  
 Des Moines Finance Director

Funding Source: 2007-2008 CIP, Page Park-25, Skate Park, PKS164, Being:  
 G. O. Bonds, with a \$40,000 transfer of G. O. Bonds from Page Parks-13, Neighborhood Park Improvements, PKS137

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

I, Diane Rauh, City Clerk of said City Council, hereby certify that at a meeting of the City Council, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

DEPARTMENT OF ENGINEERING  
CITY OF DES MOINES, IOWA

ACTIVITY ID 11-2007-012  
IDOT PROJ NO.: None  
BID DATE: 08/7/2007

TABULATED BY: D. Kamp  
CHECKED BY: *John F. Maska*

APPROVED BY: \_\_\_\_\_

**CONTRACTOR'S BID TABULATION**  
PROJECT: EAST SIDE SKATE PARK

ESTIMATE

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT	PROSHOT CONCRETE Florence, Alabama	CASTLE CONCRETE SERVICES Johnston, Iowa	CONTRACTOR City, State
1	Mobilization	1 LS	\$10,150.90	\$10,150.90			
2	Sign	1 EACH	\$5,000.00	\$5,000.00			
3	Class 10 Embankment	1020 CY	\$20.00	\$20,400.00			
4	Special Backfill	55 CY	\$30.00	\$1,650.00			
5	4-Inch Reinforced Concrete	82.8 SY	\$75.00	\$6,210.00			
6	6-Inch Reinforced Concrete	376.1 SY	\$81.00	\$30,464.10			
7	6-Inch Reinforced Shotcrete	132.1 SY	\$200.00	\$26,420.00			
8	Ledge	490 SF	\$100.00	\$49,000.00			
9	Retaining Wall	44 SF	\$100.00	\$4,400.00			
10	Type "B" Concrete Steps with Handrails	16 SF	\$100.00	\$1,600.00			
11	Sidewalk, 4" PCC	93 SY	\$40.00	\$3,720.00			
12	2" Round Steel Pipe	83 LF	\$65.00	\$5,395.00			
13	2" x 2" Square Steel Tube	137 LF	\$65.00	\$8,905.00			
14	Sod	15 SQ	\$50.00	\$750.00			
15	Compost Filter Tube Sock	430 LF	\$3.00	\$1,290.00			
16	Removal of Compost Filter Tube Sock	430 LF	\$1.50	\$645.00			
				\$176,000.00			
TOTAL CONSTRUCTION COST					\$215,803.82	\$220,831.00	
PERCENT OF ENGINEER'S ESTIMATE					+22.62%	+25.47%	
				Low			
				BID WITHDRAWN BY			
				THE BIDDER			
							LOW

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# PROSHOT CONCRETE INC.

SHOTCRETE CONTRACTORS AND ENGINEERS

Mr. John F McKee, P.E.  
Deputy City Engineer – Admin. Services  
City of Des Moines  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309

August 17, 2007  
Ph # 515-283-4920  
Fax # 515-283-4112

Subject: Bid Bond – Skate Park

Mr. McKee,

We are requesting to withdraw our Bid due to the fact that we cannot meet the insurance requirements for the job. We respectfully request that you return our Bid Security for the East Side Neighborhood Skate Park, 11-2007-012. We just renewed our annual insurance policies and the agent is not able to meet the requirements for this job.

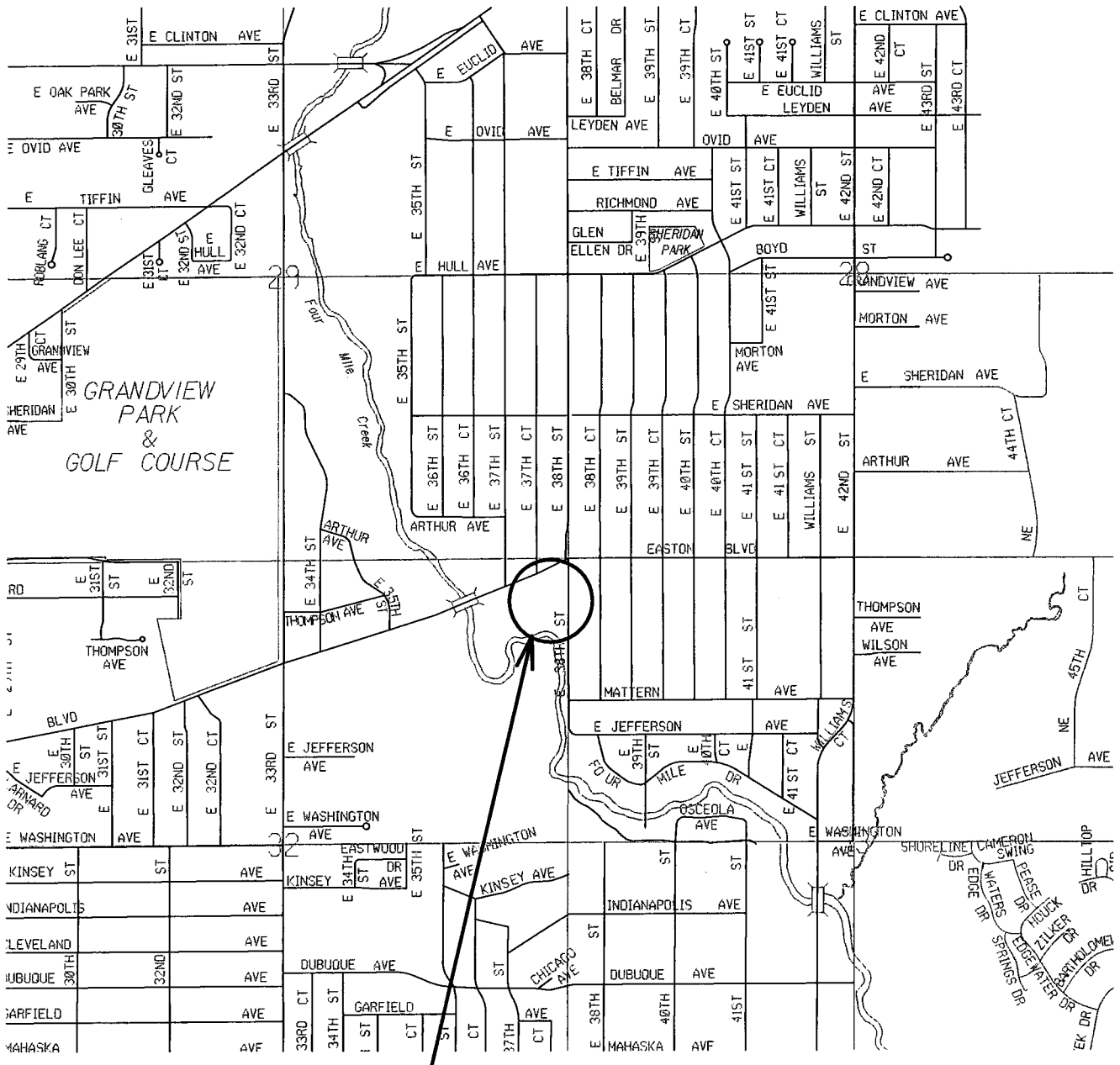
Sincerely,

Donald J. Barnes  
Secretary/Treasurer

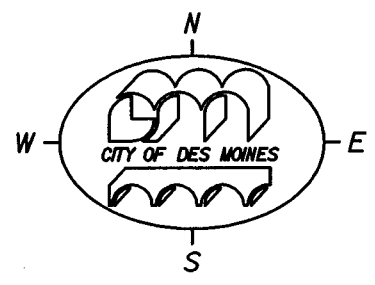
P.O. Box 1636 • 4158 Musgrove Drive • Florence, Alabama 35631-1636  
Telephone: (256) 764-5941 • Toll Free: (800) 633-3141 • Fax: (256) 764-5946

[www.proshotconcrete.com](http://www.proshotconcrete.com)

*We are an equal opportunity employer*



**PROJECT  
LOCATION**



**EAST SIDE SKATE PARK  
ACTIVITY I.D. 11-2007-012**