

08-1369

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DATE July 28, 2008

PUBLIC HEARING, APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT DOCUMENTS, AND ENGINEER'S ESTIMATE ON 2008 SIDEWALK REPLACEMENT PROGRAM; RECEIVE AND FILE BIDS; AND DESIGNATION OF LOWEST RESPONSIVE, RESPONSIBLE BIDDER AS TI-ZACK CONCRETE, INC., STEVE J. RUTT, PRESIDENT, \$229,190.00

WHEREAS, on June 23, 2008, under Roll Call No. 08-1093, 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:

2008 Sidewalk Replacement Program, 09-2008-002

The improvement includes reconstruction of Class A and Class B Portland cement concrete sidewalks four (4) inches thick, (six (6) inches thick at driveways), together with all appurtenances; in accordance with the contract documents at various locations City-wide. Sidewalk will be replaced at locations inspected by the Public Works Department. Handicapped accessible ramps will also be constructed in the vicinity where sidewalks will be replaced.

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.

WHEREAS, on July 15, 2008, sealed bids for said improvement were received and opened at a public meeting presided over by the Chief Civil Engineer, and the bid received from Ti-Zack Concrete, Inc., Steve J. Rutt, President, 39352 221st Avenue, LeCenter, MN, 56057, was read under advisement because Ti-Zack Concrete, Inc. submitted additional information with its Proposal; and

WHEREAS, On July 10, 2006, under Roll Call Number 06-1392, the City Council adopted a policy that changed Section 1020, 1.07 D of the Urban Standard Specifications to read as follows:

"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; and

WHEREAS, the City Engineer has reviewed the Proposal and additional information that was submitted by Ti-Zack Concrete, Inc., and determined that additional information submitted was work papers that Ti-Zack Concrete, Inc. used to prepare its bid. These work papers were handwritten documents used to calculate the bid prices that Ti-Zack Concrete, Inc. ultimately included in its Proposal Attachment: Part C-Bid Items, Quantities, and Prices. The City Engineer has determined that Ti-Zack Concrete, Inc. did submit a proposal that was complete, correct, and properly executed; and

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WHEREAS, after review of said section of the Urban Standard Specifications, as well as the proposal and additional documents submitted by Ti-Zack Concrete, Inc., the City Engineer has determined that Ti-Zack Concrete, Inc. intent was to submit the proposal document that was complete including the total amount of the bid (\$229,190.00) which should be accepted; and

WHEREAS, after further review, the Engineering and Legal Departments have determined that Ti-Zack Concrete, Inc. submittal of additional work is a minor irregularity that could be waived by the City Council.

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 the bid submitted by Ti-Zack Concrete, Inc., waives said minor irregularity, and hereby receives the bid submitted by Ti-Zack Concrete, Inc.

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

Ti-Zack Concrete, Inc.	LeCenter, MN
	Bid read under advisement

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 July 15, 2008. 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 Ti-Zack Concrete, Inc., Steve J. Rutt, President, 39352 221st Avenue, LeCenter, MN, 56057 in the amount of \$229,190.00, 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 08-444 attached.)

Moved by Hensley to adopt.

FORM APPROVED:

Kathleen Vanderpool

Kathleen Vanderpool  
Deputy City Attorney

FUNDS AVAILABLE

Allen McKinley

Allen McKinley  
Des Moines Finance Director

Funding Source: 2008-2009 CIP, Page Sidewalk-5, City-wide Sidewalk Replacement, STR084, G. O. Bonds

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY		✓		
MEYER	✓			
VCLASSIS	✓			
TOTAL	5	2		

MOTION CARRIED

APPROVED

J. M. Franklin

Mayor

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.

Diane Rauh

City Clerk