

City Council – Action Request Form

Date: September 13, 2021

To: Mayor, Mayor Pro Tempore, and Members of the City Council

Aaron King, Interim Assistant City Manager

From: Robert Prestwood, City Engineer
Jerry Bates, Purchasing Director

Council Action Requested:

Consideration of Items Related to Easton Park Restroom: (Southeast Ward)

- A. Request Allowing Withdrawal of a Bid
- B. Resolution Awarding Construction Contract for Easton Park Restroom
- C. Project Budget Ordinance Amendment to Appropriate Funds for Project Expenditures

Strategic Focus Area: Livable Neighborhoods

Strategic Objective: Expand Open Space and Recreational Facilities

Strategic Plan Action Item: No

Key Work Item: Yes



Summary of Information:

Easton Park Restroom is a 2018 G.O. Bond project. This project will install a pre-engineered restroom adjacent to the picnic shelter at this park. The scope of work includes the following: grading, clearing of an easement and installation of a new 8” sewer line connection ~800 feet to the south, installation of a new 1.5” water service connection ~450 feet to Glencairn Road, concrete restroom slab and walkways, stone wainscot, and restroom and security lighting.

The City advertised bids for construction of Easton Park Restroom. This project was bid as a unit price contract with estimated quantities. Bids were opened on June 30, 2021, with a summary in the total bid amount for bids received as follows:

	<u>City/State</u>	<u>Total Bid</u>
Creative Design & Construction, Inc.	Tobaccoville, NC	\$463,109.80
Bar Construction Company, Inc.	Greensboro, NC	496,754.93
Dreambuilt Construction, Inc.	Advance, NC	568,696.00
Hodgin Construction Company	Greensboro, NC	701,405.33

Following the bid opening, it was discovered that the low bidder, Creative Design & Construction, Inc., had misinterpreted the specifications for two of the line items in the bid, causing their total bid amount to be incorrect. Upon considerable review and dialog of the bid document between City Staff and the contractor, Creative Design & Construction, Inc. notified

Committee Finance 9/13/2021 **Action** Approval

For Unanimous **Against** _____

Remarks:

the Purchasing Department that they wished to withdraw their bid. N.C.G.S. 143-129.1 permits City Council to consider such a request. Pursuant to the statute, the requesting bidder must submit credible evidence that the bid was submitted in good faith and that an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material or service made directly in the compilation of the bid.

Documentation was provided by Creative Design & Construction, Inc. and a hearing was conducted. Upon review of the evidence by the Purchasing Director, Engineering Director, City Attorney, Assistant City Manager, and City Manager, all of whom are in complete agreement that the error was an unintentional omission, recommends that Creative Design & Construction, Inc. be allowed to withdraw their bid without penalty.

The next lowest bidder, Bar Construction Company, Inc., agreed to subcontracting goals other than those established for this project of 7% with minority-owned businesses and 4% with woman-owned businesses. Therefore, pursuant to the City's M/WBE Policy, the Citizen's M/WBE Advisory Committee met to review and consider all documentation of the bidder's good faith efforts which follow this resolution. The committee determined that the bidder did make necessary good faith efforts to achieve the established subcontracting goals. N.C.G.S. 143-128.2(f) requires a contractor to accumulate a minimum of 50 out of 100 points to demonstrate a Good Faith Effort. In addition to the point system, state legislation explicitly lists the efforts required by a contractor. In the review conducted by the M/WBE Citizens Advisory Committee, the contractor must accumulate a minimum of 115 out of 180 points to demonstrate a Good Faith Effort. The City's stringent modification ensures contractors are exhausting all opportunities, per the statute's specifications, to achieve certified minority-and women-owned business participation. Bar Construction Company, Inc. will be required to subcontract, as a minimum, 6.0% of this contract with certified minority-owned businesses and 0.0% with certified women-owned businesses as indicated on the Affidavit "D" submitted by the company.

The 2018 G.O. Bond allocated \$400,000 for the construction budget; however, it had been determined during the design phase that the scope of the project would exceed this budget due to the length of the necessary water and sewer connections. Additional unused 2018 G.O. Recreation Bond funds are available from Salem Lake Phase II, which was awarded significantly below budget, to apply to this contract. An Amendment to the Project Budget Ordinance is attached which appropriates the necessary funding to complete this project.

It is therefore recommended that the contract be awarded to Bar Construction Company, Inc., the low bidder meeting specifications, for the total estimated amount of \$496,754.93. The designer's estimate was \$449,415.00.

M/WBE comment: This project was advertised on the City and State websites and with several electronic plan rooms. Notifications were sent to all local M/WBE and regional HUB businesses on a weekly basis. See Exhibit A for a complete list of businesses that were notified the bidding opportunity and the low bidder's Workplace Demographics form. Creative Design & Construction, Inc. and Dreambuilt Construction, Inc. are woman-owned business enterprises.