

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Motion to Authorize the City Manager to rescind the bid award with Grade, Inc. for the Interurban Trail South Section (N 145 <sup>th</sup> Street to N 155 <sup>th</sup> Street) Improvements and execute a new contract with Paul Brothers, Inc.
<b>DEPARTMENT:</b>	Public Works
<b>PRESENTED BY:</b>	Paul Haines, Public Works Director

**PROBLEM/ISSUE STATEMENT:** During WSDOT review of bid documents submitted by Grade, Inc., an error was discovered on DOT Form 272-056A EF, Disadvantaged Business Enterprise Utilization Certification. As a FHWA project, The Disadvantaged Business Enterprise (DBE) requirements of 49 CFR part 26 apply to this contract. In accordance with this regulation, a *Condition of Award* goal of five percent has been established by WSDOT for this contract. When a *Condition of Award* (COA) is specified, the Contractor is required to employ DBE participation to a minimum of the extent identified in the contract. As a *Condition of Award*, the Contractor must commit to, and follow through on, subcontracting the minimum amount identified by the COA goal to certified DBE firms, or make a good faith effort to do so. Grade, Inc.'s bid did not attain the goal nor did they provide good faith effort documentation. Consequently, their bid must be considered non-responsive and the next low responsive bid should be accepted. Certification Acceptance (CA) is a program in which the Federal Highway Administration (FHWA) delegates authority to the WSDOT for approving project development and construction administration. WSDOT has the option of delegating some or all of this authority to qualified local agencies, and has delegated this authority to the City of Shoreline. As a CA Agency, the City has the option of staying with the award to Grade, Inc., but Federal funds would not be available for reimbursement on this project. \$749,712 in Federal funds is scheduled for use on this project.

The eight bids received on the project were as follows:

Grade, Inc.	\$782,939.70
Paul Brothers, Inc.	\$790,191.75
S.L. Larsen Construction Co. Inc.	\$827,352.00
West Coast Construction Co. Inc.	\$840,637.00
Gary Merlino Construction Co. Inc.	\$861,554.00
OHNO Construction	\$875,605.50
Road Construction NW Inc.	\$891,315.00
Westwater Construction Co.	\$987,785.00

Paul Brothers, Inc. is the apparent responsive next low bidder. They had an addition error in their bid. Their bid was for \$780,191.75, which was \$10,000 lower than the actual sum of their bid items. Paul Brothers, Inc. based their five percent DBE

participation on this erroneous sum. When this participation amount was applied to their actual bid, the participation was calculated at 4.9 percent. The special provision Selection of Successful Bidder/Good Faith Efforts found on page SP-21 makes allowance for when a set goal is not met by allowing the DBE bids submitted to be averaged. If the DBE bid in question meets or exceeds this average, it can be considered a responsive bid. WSDOT has advised that award to Paul Brothers, Inc. under these circumstances would be supported. Even with the averaged goal, Grade, Inc. would not meet the test. Staff has checked references for Paul Brothers, Inc., which have all come back favorably. Paul Brothers, Inc. has indicated their availability and desire to complete this contract. Their bid is valid for 60 days post bid opening.

**OPTIONS:**

1. Rescind award to Grade, Inc. and award to Paul Brothers. This option has the potential for the least amount of delay in construction of the project.
2. Award to the next apparent responsive low bidder after Paul Brothers, which is West Coast Construction. West Coast met the DBE goal of 5%. However, this bid is \$50,000 more than the bid by Paul Brothers. Note: S.L. Larsen Construction Co.'s bid is non-responsive.
3. Reject all bids and re-advertise in combination with the North Segment. This would delay construction of the South Segment. There would be costs involved with combining these bid packages. Delay could push construction season into inclement weather season, with possibility of further construction delays.

**FINANCIAL IMPACT:** Federal money makes up \$749,712.00 of the South Segment portion for construction. Forfeiting this federal money in order to award to Grade, Inc., is not a feasible option. Canceling all bids and re-advertising would have an adverse financial impact on the City, due to revisions needed to bid packages, reproduction and advertising expenses, plus staff effort for bid opening, bid tabulation, and coordination.

**RECOMMENDATION**

Staff recommends that Council rescind the bid award to Grade, Inc., award the bid to Paul Brothers, Inc. for an amount not to exceed \$790,191.75 to complete the Interurban Trail South Section (N 145th Street to N 155th Street) Project, and authorize the City Manager to execute a construction contract with Paul Brothers, Inc..

Approved By:            City Manager \_\_\_\_\_ City Attorney \_\_\_\_\_