SUBJECT: Award of Construction Contract for GVC-GGL Subdivisions LID -

Street Improvements

PREPARED BY: Public Works

DATE: July 14, 2000

FOR AGENDA OF: July 17, 2000

SUMMARY: The bid opening for this project was held at 2 p.m., June 13, 2000. Three bids were received. The bids were read aloud, as follows:

Wilder Construction Tamsher Construction Alaska Road Builders \$ 854,015.00 863,044.40

678,085.00

Engineer's Estimate

\$ 881,550.00

I have reviewed the bids and found that Alaska Road Builders had the lowest responsive bid.

RECOMMENDED ACTION:

For Council to award the contract to Alaska Road Builders in the amount of \$678,085.00

Reviewed by: SARAH PALIN, Mayor

Presented to council on / / / O O

Action taken: Approved Denied other

Verified by

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

1127 WEST SEVENTH AVENUE - ANCHORAGE, ALASKA 99501-3399 - TELEPHONE (907) 276-1550 - (800) 478-1550 - FACSIMILE (907) 276-3680

A PROFESSIONAL CORPORATION

HAL A. HORTON (1844-1988)

48 L. ALBERT*42 ALD G. BIRCH** WILLIAM H. BITTNER KATHRYN A. BLACK DOUGLAS S. DURDIN" **SUZANNE CHEROT** ALLISON M. ELLIS*+ KATHLEEN TOBIN ERB

MAX D. GARNER DAVID KARL GROSS TINA M. GROVIER WILLIAM P. HORN" STEPHEN H. HUTCHINGS BOY 5. JONES, JR. THOMAS F. KLINKNER HARVEY A. LEVIN++

STANLEY T. LEWIS THOMAS MEDERMOTT GREGORY A. MILLER MICHAEL J. PARISE REBECCA C. PAULI TIMOTHY J. PETUMENOS ELISABETH H. ROSS ** KATHLEEN SCHAECHTERLE

. D.C. BAR ** D.C. AND ALASKA BAR T MARYLAND BAR # VIRGINIA BAR ALL OTHERS ALASKA BAR

1185 CONNECTICUT AVE., N.W. SUITE 1200 WASHINGTON, D.C. 20036 (202) 868-5800 FACSIMILE (202) 869-1027

WRITER'S DIRECT DIAL (907) 263-7267 • WRITER'S DIRECT FAX (907) 276-2822 • mgarner@bhb.com

July 17, 2000

VIA FACSIMILE 1 (907) 373-9096

City of Wasilla Attn: John Cramer 290 E. Herning Avenue Wasilla, Alaska 99654-7091

Re:

Bid Award for GVC & GGL Subdivision Improvement Project

Our File No. 505,780.1

Dear Mr. Cramer:

I write in response to your request for guidance regarding the award of the contract following the opening of bids in the above referenced project.

Based upon our communications, it is my understanding that Alaska Road Pavers submitted the low bid for this work, with Wilder Construction being the next lowest bidder at a price which was approximately \$150,000 higher. At the time the project was bid, contractors were required to include as "Addendum No. 1" a line item price for constructing several hundred feet of water main and a concrete valve vault. It is my understanding that Alaska Pavers' price for this line item was \$5,000, in contrast to prices ranging between \$50,000.00 and \$65,000.00 provided by other contractors who submitted bids. Subsequently, the City learned that construction of the water main and accompanying value vault would not be required to meet the engineer specifications. The City therefore intends to delete the Addendum No. 1 work from the project.

It is my understanding that City officials were contacted by local representatives of Wilder Construction who complained that their company's bid was inflated in some unspecified manner as a result of the work covered by Addendum No. 1, and that the elimination of this work meant the project should either be rebid or that Wilder Construction should be granted some other form of relief. The question thus presented is whether the City is obligated to provide Wilder

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BIRCH, HORTON, BITTNER AND CHEROT A PROFESSIONAL CORPORATION

City of Wasilla Attn: John Cramer July 17, 2000 Page 2

Construction some form of relief in this matter, or whether it may award the contract to Alaska Road Pavers.

In our opinion, it appropriate for the City to go forward and award the contract to Alaska Road Pavers, with a deductive change order being issued following the award of contract to delete the work covered by Addendum No. 1. Our view in this matter is guided by the fact the Wilder Construction bid is \$100,000.00 higher than that submitted by Alaska Road Pavers even if the amount listed for the Addendum No. 1 line item is deleted entirely from the Wilder Construction bid. Notwithstanding the claims of Wilder Construction that it would have further reduced its bid if it had known that the work covered by Addendum No. 1 did not have to be performed, such intent is not readily discernible from its bid.

As the Alaska Supreme Court noted in <u>Jensen and Reynolds Construction Company v. State</u>, 717 P.2d 844 (Alaska 1986), the ultimate objective of the public bid process is to obtain the lowest possible price. Given the wide gap between the bids entered by Wilder Construction and Alaska Road Pavers even <u>after</u> the Addendum No. 1 line item is subtracted from the bids, it is clear that Alaska Road Pavers is offering the lowest possible bid and that it should therefore be awarded the contract.

I hope this addresses your questions in this matter. Should you require further assistance, please do not hesitate to contact me.

Very truly yours,

BIRCH, HORTON, BITTNER AND CHEROT

Max D. Garner

May D. - Deren

MDG/jap

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BID TABULATIONS for GVC and GGL Subdivisions Street Improvements

Pay Item DAV ITEM DESCRIPTION			1 1	Engineer	Alaska R	Alaska Road Builders	Wilder	Wilder Construction	1	
	ray:	Quantity	Cuit	Total	Unit	Total	Unit	Total	lamsner Construction	onstruction
20.02 IClearing and Gribbing	Onit		Price	Price	Price	Price	Price	Price	i d	Total
\top	S	-	1.00	10,000.00	1.00	15 000 00	100	2000	Frice	Price
Classif Caravalion	ζ	6,500	5.00	32,500,00	4 00	26,000,00	20.0	0,000,00	1.00	14,950.00
Classified Fill and Backfill,	ton	2,000	7.001	14 000 001	4 25	20.00	0.00	38,000.00	4.03	26,195.00
~	ton	7,000	8.00	56 000 00	20.0	0,300.00	0.00	12,000.00	5.18	10,360.00
20.00 (Leveling Course	ton	1,900	15.00	28 500 00	27.00	49,730.00	00.8	63,000.00	7.48	52,360.00
- 1	λS	1 100	2 00	2000.00	00.00	19,000.00	17.00	32,300.00	9.78	18,582,00
20.21 Grade Existing Surfaces	5	5 100	00.1	2,200.00	2.00	2,200.00	2.00	2,200.00	2.01	2 211 00
30.02(A) IPCC Curb & Gutter Type I	<u>u</u>	4 750	2007	00.001	1.00	5,100.00	1.00	5,100.00	2.30	11 730 001
30.02(B) PCC Curb & Gutter Type II		7,130	14.00	96,500.00	15.50	73,625.00	13.50	64,125.00	10 71	50.00.00
30.03 PCC Sidewalk 4" thick	יל נ	0,320	13.00	69, 160.00	13.50	71,820.00	12.50	66,500,00	90 0	52,067,20
40.02(2) IA.C. Pavement Class C 2" Thick	5 5	2,120	35.00	74,200.00	27.00	57,240.00	26.00	55,120,00	28.05	02,307,20
		2,000	45.00	90,000.00	37.00	74,000.00	42.00	84 000 00	37.74	39,400.00
55.06(II) Construct Catch Basin for Type II C&C	5 5	2	2,000.00	20,000.00	1,500.00	15,000.00	1,800.00	18 000 00	2 415 00	73,480.00
55.13(A) IConstruct Drawall	5 :		2,000.00	22,000.00	1,500.00	16,500.00	1,800,00	10 000 001	20.00	24,150.00
55 13(B) Construct Dear Treach	<u>s</u> i	19	2,000.00	38,000.00	1,000.00	19,000.00	3 000 00	57,000,00	4,740.00	45,540.00
AS ON LOCATION DEPT. IN THE PRINCIPLE	2	19	2,000.00	38,000,00	500 00	9 500 00	2 500 00	27,000.00	2,390.00	56,810.00
Construction Survey Measurement	rs	1	1.00	30,000,00	1.00	35,000,00	4,300.00	47,500.00	4,370.00	83,030.00
-1-		15	200.00	3 000 00	250.00	2 750 00	- 0	25,000.00	1.00	30,411,30
	ΙΈ	140	200.00	28 000 00	35.00	2,730,00	230.00	3,750.00	149.50	2,242.50
	ST	T	1.00	3 000 00	200	4,300.00	25.00	/, 700.00	36.80	5,152.00
- 1	SF	96	70.00	6 720 00	20.02	4,750.00	1.00	3,000.00	1.00	6,000.00
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- 1	E	5	200 00	1,230.00	12.00	19,800.00	3.00	4,950.00	16.38	27,027.00
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_	r.s	-	100	\perp	2,500.00	2,500.00	500.00	500.00	1,840.00	1.840.00
	MSF	Ca	150.00	10,000,00	00.	10,000.00	1.00	20,000.00	1.00	12 420 00
75.05 Seeding, Schedule A	MSF	208	55.00	12,000.00	150.00	12,000.00	200.00	16,000.00	72.45	5 796 00
80.31(A) Street Lights	S	3	200	3,200.00	70.00	5,600.00	150.00	12,000.00	86.25	6 900 00
Addendum No. 1 by Mike Erdman, P.E.	LS.	-		00.000.71	1.00	115,000.00	1.00	115,000.00	1.00	101 831 70
				(unknown)	1.00	5,000.00	1.00	65,000.00	1.00	65 497 50
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	- -		_	\$870,500.00	_	\$668,085.00		\$849,115,00		C8EE 044 40
ADDITIVE ALTERNATE No. 1		- -	è	Price Wo A	1 # PP	580 (7)	-	784.115		10 100
80.31(B) IStreet Light @ Fishhook Rd. & Peck St	U			-		,	+	121.030	1	72,251.40
	3	_	1.00	11,550.00	1.00	10,000.00	1.00	6,000.00	8	7 000 00
CONSTRUCTION COST W/ Add. Alt. No. 1		1							-	,,,,,,,
		- -	- -		-	\$678,085.00	-	\$855,115.00	-	\$863 044 40
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