CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: May 4, 2020

ITEM: Motion – Award Construction Contract – MidAmerican Energy Company RecPlex Synthetic Turf

FINANCIAL IMPACT: Expense of $2,832,760.00. The original architect's estimate was $2,790,000. Expenses to be paid from G/L account 500.000.000.5250.490 with the ultimate funding intended to come from a combination of Local Option Sales Tax revenue, grants, and contributions.

BACKGROUND: Approval of this contract authorizes Byrne & Jones Construction of St. Louis, Missouri to furnish and install the synthetic turf for the indoor HyVee Fieldhouse and three outdoor fields at the MidAmerican Energy RecPlex located at 6500 Grand Avenue. The attached contract includes final grading, subgrade drainage, synthetic turf, padding, stabilization, and all required fencing and control netting. In addition, the contract provides a synthetic turf groomer and sweeper. An eight (8) year warranty for the synthetic turf is included.

Byrne & Jones was selected to provide the synthetic turf and installation based on their experience, qualifications and familiarity with similar multi-field projects. The turf will be Shaw Legion Pro by Shaw Sports Turf. Shaw Sports Turf is a Berkshire Hathaway company and has installed more than 300 soccer fields at universities and sports complexes across the United States including the TBK Sports Complex in Bettendorf.

A purchasing alliance, TIPS (The Interlocal Purchasing System), was utilized in selecting Byrne & Jones for the turf and installation piece of this construction project. The TIPS contract has been competitively solicited, publicly awarded and provides the best discounting opportunity.

The project is scheduled to be begin June 1 and be completed in early November.

OUTSTANDING ISSUES: None.

RECOMMENDATION: That the Council approve the Construction Contract.

Lead Staff Member: Ryan Penning, Superintendent of Recreation

STAFF REVIEWS

Department Director	Sally Ortgies, Director of Parks and Recreation S.O.
Appropriations/Finance	Tim Stiles, Finance Director TS
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	N/A
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	N/A		
Date Reviewed			
Recommendation	Yes	No	Split

RESOLUTION AWARDING CONSTRUCTION CONTRACT TO BYRNE & JONES CONSTRUCTION FOR MIDAMERICAN ENERGY COMPANY RECPLEX – SYNTHETIC TURF

WHEREAS, the City Council of West Des Moines has heretofore budgeted for the construction of the following described project:

MidAmerican Energy Company RecPlex – SyntheticTurf

and,

WHEREAS, the purchasing alliance, TIPS (The Interlocal Purchasing System), was utilized in selecting a vendor for providing and installing synthetic turf and associated items;

and,

WHEREAS, Byrne & Jones Construction of St. Louis, Missouri was selected based upon their experience, qualifications and familiarity with similar multi-field projects;

and,

WHEREAS, the TIPS contract has been competitively solicited, publicly awarded and provides the best discounting opportunity, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, that a construction contract for the MidAmerican Energy Company RecPlex – Synthetic Turf is hereby awarded to Byrne & Jones Construction in the amount of $2,832,760.00 and the performance bond for the project is hereby fixed in the same amount.

BE IT FURTHER RESOLVED that work on said project may commence as soon as the final contract and bond have been signed and after the contractor is given a written notice to proceed by the Director of Parks and Recreation.

PASSED AND APPROVED this 4th day of May, 2020.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

CONSTRUCTION CONTRACT

This Construction Contract ("Contract") made and entered into this 4th day of May 2020, by and between **Byrne & Jones Construction**, 13940 St Charles Rock Road St. Louis MO 63044 ("Contractor") and **City of West Des Moines**, a municipal corporation whose address is 4200 Mills Civic Pkwy, West Des Moines, IA 50265 ("Owner"), collectively "the Parties."

WHEREAS the Owner desires to employ Contractor to construct the Project described as Synthetic Turf Field Construction at MidAmerican Energy RecPlex.

NOW THEREFORE, in consideration of the mutual promises and premises herein contained, Contractor and Owner agree to meet and satisfy all terms and conditions of this Contract as follows.

I. DESCRIPTION OF THE WORK:

A. Contractor does hereby agree to furnish all labor, material and equipment, and to perform the work within the time period established by this Contract, in accordance with the detailed description of work (hereinafter referred to as the "Scope of Work" attached hereto and incorporated herein as "Exhibit B"), and subject to, and in substantial conformance with all of the conditions, covenants, stipulations, terms and provisions contained in this Contract. All of the representations, rights, and obligations of the Owner and Contractor are embodied in the Contract and any prior oral or written agreement not included herein shall not be binding upon or inure to the benefit of any of the Parties.

B. This Contract includes the Scope of Work, Contractor's proposal, and the following documents which are incorporated by reference and specifically identified below and hereby made a part of this Contract:

(1) Proposal prepared by Byrne & Jones Construction, Dated REV 3/23/2020

(2) Specifications prepared by Byrne & Jones Construction, Dated REV 3/23/2020

(3) Design prepared by Civil Design Advantage, Dated REV 7/12/2019

II. COMPENSATION AND METHOD OF PAYMENT:

Owner shall pay to Contractor the Contract Sum which shall be $ 2,832,760

Base bid Includes:

(3) Outdoor and (1) Indoor Synthetic Turf Fields	$2,360,070

(1) Shock Pad for the Indoor Field	$ 118,000
Soil Stabilization per proposal for the (3) Outdoor Fields	$ 198,900
Batting Cage Area Turf	$ 35,990
(1) Synthetic Turf Groomer and (1) Synthetic Turf Sweeper	$ 10,000
Fencing and Netting Per Proposal	$ 109,800
Total	**$2,832,760**

Application for Payment shall be made monthly by Contractor to the Owner for work that has been performed. Undisputed Applications for Payment shall be paid by Owner within three (3) days after the next City Council meeting approving payment. A five percent (5%) retainage shall be withheld by Owner from each payment to Contractor other than the Final Payment. The Final Payment Application shall include a request for the release of the five percent (5%) retainage and shall be submitted to the Owner and will be paid not less than thirty (30) days after acceptance of the Project by the West Des Moines City Council. Final Payment shall include all retainage plus all of the unpaid Contract Sum, plus any additions thereto, and any amounts unpaid pursuant to any change orders.

III. GENERAL CONDITIONS:

A. Proposal and Scope of Work. This Contract, which includes Contractor's Proposal dated 03-23-2020 and attached hereto as "Exhibit A" and Scope of Work, has been properly signed and dated by Contractor, and the Owner, by signing this Contract, accepts Contractor's Proposal and Scope of Work which becomes part of this Contract.

B. Order to Proceed. The Owner shall issue a written Order to Proceed within fifteen (15) calendar days from the date this Contract is executed by Owner and Contractor. If the Order to Proceed is not received by Contractor within this fifteen (15) day period, Contractor shall have the option to cancel this Contract without liability to any party thereto. Contractor shall commence construction on or about June 2020, or earlier at the discretion of the Owner.

C. Permits. Contractor must obtain and pay for all permits and licenses, as may be required by the County or municipality in which the work is to be performed which are necessary for the completion and execution of the work to be performed.

D. Change Orders. This Contract may be amended by change order at any time provided that the change order makes specific reference to this Contract and is executed in writing by both Contractor and Owner. The change order will not invalidate this Contract, nor relieve or release Contractor or the Owner from their respective obligations under this Contract. The change order may make changes in the time allowed for completion of the work or changes to the Scope

of Work. No change order work shall begin until Contractor has been notified in writing that the change has been approved by the Owner. The cost of additional work and materials under any change order shall be the sole responsibility of the Owner.

E. Inspections and Final Payment. Periodic inspections may be performed by the Owner and any applicable federal, state or local inspector(s), if any. Upon completion of work pertaining to this Contract, Contractor shall notify Owner that the work is complete and arrange for an inspection of the work by the Owner. Should an inspection reveal that the work is not completed and/or is not satisfactory, the Owner shall notify Contractor in writing of the specific deficiencies and request that Contractor indicate what action will be under taken to complete the work. All of Contractor's work shall be complete when formally accepted by the West Des Moines Council.

F. Guarantees and Warranties. Contractor warrants and guarantees to the Owner that all materials and equipment used in the work will be new, unless otherwise specified or agreed to, and that all work is of good quality, free from faults and defects. The work performed by Contractor is to be guaranteed for a period of one year from the date of final acceptance of all the work required by the Contract. Contractor shall furnish Owner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Contract, if any. Per the contract dated 3.23.2020, Contractor is supplying a (1) year warranty for the civil construction. Contractor and Shaw Sports Turf are providing an (8) year warranty for the synthetic turf.

G. Time of Essence. Time is of the essence as to each and every provision of this Contract.

H. Hold Harmless. To the fullest extent permitted by law, Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the Owner, its elected and appointed officials, employees, volunteers, and others working on behalf of the City against any and all claims, demands, suits, or losses, including any and all outlays and expenses connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the Owner, its elected and appointed officials, employees, volunteers or others working on behalf of the Owner, by reason of personal injury, including bodily injury or death, and property damages, including loss or use thereof, which arises out of or is in any way connected or associated with the products, work and/or services provided by Contractor to the City pursuant to the provisions of this Contract. It is the intention of the parties that the City, its elected and appointed officials, employees, volunteers or others working on behalf of the City shall not be liable or in any way responsible for injury, damage, liability, loss or expense incurred by Contractor, its officers, employees, subcontractors, and others affiliated with Contractor due to accidents, mishaps, misconduct, negligence, or injuries either in person or property resulting from the work

and/or services performed by Contractor pursuant to the provisions of this contract, except for and to the extent caused by the negligence of the City.

I. Delays. All agreements resulting from this proposal are subject to delays resulting from strikes, labor disputes, lockouts, fire, shortages of labor or material, inclemency of weather, accidents, casualties, government orders, or any other cause beyond Contractor's control and Contractor shall not be liable for any damages whatsoever that may be caused by such delays, shortages, or disruptions. In the event of a pandemic and government action that requires our crews to pull offsite, contract schedule for completion may need to be extended, and pricing per the proposal dated 03-23-2020 will remain unchanged as long as the project continues in 2020.

J. Miscellaneous. This Contract becomes effective and binding when signed by Contractor and the Owner.

K. Bond. Coincident with the execution of the Contract, the Contractor shall furnish a good and sufficient surety Bond in the full amount of the contract sum. This surety Bond, executed by the Contractor to the Owner, shall be a guarantee: (a) for the faithful performance and completion of the work in strict accordance with the terms of the Contract Documents: (b) the payment of all bills and obligations arising from this Contract which might in any manner become a claim against the Owner: (c) for payment to the Owner of all claims due or which may become due by the terms of the Contract, as well as by reason of any violation thereof by the Contractor: (d) for the protection of the Owner against all suits and claims for infringements of the patent right and/or processes: for the period of four (4) years from and immediately following the completion of said Contract and acceptance thereof by the Owner of all improvements, the payment to the Owner or the Owner's successor or assigns for all damage, loss and expense which may occur to the Owner, the Owner's successor or assigns by reason of defective materials used, or by reason of defective workmanship done, in the furnishing of materials and equipment in performance of said Contract, or in lieu thereof the Owner, the Owner's successors or assigns, may require the Contractor to maintain such items in need of repair for the said periods specified therein.

L. Insurance Requirements. Contractor shall obtain and maintain through the term of this Contract, insurance with terms and limits of coverage equal to or in excess of those set forth in the specifications governing the agreement, but in no event, are such terms and limits to be less than those set forth below. The limits of liability under insurance policies required by this Contract shall in no-way limit Contractor's actual liability.

(1) **Commercial General Liability.** Including coverage for premises and operations, independent contractors, products & completed operations, contractual liability, explosion, collapse and underground hazards (XCU), personal injury/advertising injury. The limits can be satisfied by providing a primary policy or in combination with an excess liability policy. The Owner

shall be named as additional insured on a primary and non-contributory basis. The policy will include waiver of subrogation endorsement in favor of the Owner.

M. Bodily Injury & Property Damage - Each Occurrence	N. $1,000,000
O. Personal Injury & Advertising Injury - Per Person	P. $1,000,000
Q. General Aggregate on the Above	R. $2,000,000
S. Products & Completed Operations General Aggregate	T. $2,000,000
U. Fire Damage Limit	V. $100,000
W. Medical Expense Limit	X. $5,000

(2) **Business Automobile Liability Insurance.** Including coverage for all owned, non-owned and hired automobiles with limits of liability not less than the following. The limit can be satisfied by providing a primary policy or in combination with an excess liability policy. The Owner would be added as an additional insured on a primary and non-contributory basis. The policy will include waiver of subrogation endorsement in favor of the Owner.

Y. Bodily Injury & Property Damage – Each Accident	Z. $1,000,000

(3) **Workers Compensation and Employers Liability.** As required by any applicable law or regulation. The policy will include waiver of subrogation endorsement in favor of the Owner.

AA. Part 1- Workers Compensation Benefits	BB. Statutory

(4) **Employers Liability.**

Bodily Injury Each Accident	CC.	$500,000
Bodily Injury by Disease Policy Limit	DD.	$500,000
Bodily Injury by Disease Each Employee	EE.	$500,000

(5) **Umbrella Liability.** Contractor will maintain umbrella liability insurance in excess of the general liability, automobile liability and employer's liability insurance described above which is at least broad as all underlying policies including but not limited to including the Owner as an additional insured on a primary and non-contributory basis and waiver of subrogation.

Each Occurrence Limit	FF.	$4,000,000
Aggregate Limit	GG.	$4,000,000

Before providing any services, the Contractor hall furnish an insurance certificate to Owner, showing adequate insurance to be in force.

Any subcontractors utilized shall be subject to the same insurance requirements above.

IV. OWNER'S RESPONSIBILITIES.

A. Owner shall permit Contractor to use, at no cost, all existing utilities such as light, heat, power, and water as reasonably necessary to carry out and complete Contractor's Scope of Work. Owner will provide Contractor with suitable and adequate areas on site for the storage of materials, equipment, machinery, trailers and tools. Owner is not responsible for any damage or loss of Contractor's equipment; Contractor stores its equipment on Owner's property at its own risk and Contractor is not covered by Owner's insurance.

B. Owner shall provide Contractor with all previous plans, designs, and specifications necessary for Contractor to complete its Scope of Work and Contractor shall be entitled to rely upon all such plans, designs, and specifications as being in accordance with any and all laws, regulations, ordinances, or codes respecting the work to be performed by Contractor on the Project. Owner warrants to Contractor that all previous plans, designs and specifications provided to Contractor shall be fit for the particular purpose for which they are being provided and that same shall be free from any errors, omissions or defects. Contractor will produce and provide the plans for this phase of the contract and the work specified on the proposal document.

V. TERMINATION.

A. The Owner shall have the right to terminate this Contract without process or action at law, if, upon fifteen (15) days written notice, Contractor fails to commence to cure any material breach of this Contract, or if it is in the best interest of the Owner, as solely determined by the Owner. Said notice to Contractor shall be in writing sent registered or certified mail to Contactor's last known address should Contractor.

B. The mailing of such notice shall constitute notice to Contractor under the terms of the Contract. Upon receiving said notice, Contractor shall vacate the premises and quit any work in progress, or any parts specified in said notice. If Owner terminates this Contract, Owner shall immediately become liable to pay Contractor for any undisputed work, labor and materials provided to Owner and/or the Project by Contractor for which Owner has not yet paid Contractor.

C. Contractor shall have the right to terminate this Contract without process or action at law, by notice to Owner in writing sent registered or certified mail to Owner's last known address should Owner (a) become insolvent or declare bankruptcy or (b) otherwise fails to commence to cure any material breach of

this Contract within fifteen (15) days of written notice of the breach.

VI. IOWA LAW.

This Contract shall be governed by Iowa law, exclusive of principles governing choice or conflicts of law, and any mediation, arbitration or judicial actions between the Owner and Contractor shall be held in the District Court of Polk County.

VII. APPROVAL OF CITY.

This Contract shall not be binding until it has received the final approval and acceptance of the City of West Des Moines, Iowa, by Resolution of its Council. Such approval and acceptance shall be noted on this Contract.

VIII. AMENDMENTS.

No subsequent agreement between Contractor and Owner shall be effective or binding unless it is made in writing and signed by both of the parties hereto.

IX. SEVERABILITY.

In the event that any one or more of the provisions of this Contract shall for any reason be held to be invalid or unenforceable, the remaining provisions of this Contract shall be unimpaired, and shall remain in effect and be binding upon the parties.

X. PARAGRAPH HEADINGS.

Paragraph headings as contained herein are provided for convenience and reference only. They in no way restrict or limit the contents or terms of this Contract.

The Contractor is required to provide by all prevailing wage laws and provide reporting forms to the Owner.

CONTRACTOR: Byrne & Jones Construction

By: Jameson Sheley

Printed: Jameson Sheley

Title: Vice President VP

Date: 3/23/2020

OWNER: City of West Des Moines, Iowa

By:_____

Printed:_____

Title:_____

Date:_____

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the foregoing Contract was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. _____, passed on _____, 2020, and that this certificate is made pursuant to the authority of said City Council.

Signed this _____ day of _____, 2020.

CITY OF WEST DES MOINES, IOWA

BY:_____
Ryan T. Jacobson, City Clerk

TIPS
THE INTERLOCAL PURCHASING SYSTEM

TIPS CONTRACT NUMBER 170205

		Name	Duration	Start	Finish	Predecessors	Resource Names
1		INDOOR TURF	0 days	6/1/20 7:00 AM	6/1/20 8:00 AM		
2		Mobilization	3 days	6/1/20 7:00 AM	6/3/20 5:00 PM		
3		Nailer Boards	3 days	6/4/20 8:00 AM	6/8/20 5:00 PM	2	
4		Rock Placement	10 days	6/9/20 8:00 AM	6/22/20 5:00 PM	3	
5		Turf	25 days	6/23/20 8:00 AM	7/27/20 5:00 PM	4	
6		OUTDOOR FIELDS	0 days	6/1/20 7:00 AM	6/1/20 8:00 AM		
7		Mobilization	3 days	6/15/20 7:00 AM	6/17/20 5:00 PM		
8		Layout	3 days	6/15/20 7:00 AM	6/17/20 5:00 PM		
9		Soil Stabilization Field 1	2 days	6/23/20 8:00 AM	6/24/20 5:00 PM	4	
10		Soil Stabilization Field 2	2 days	6/25/20 8:00 AM	6/26/20 5:00 PM	9	
11		Soil Stabilization Field 3	2 days	6/29/20 8:00 AM	6/30/20 5:00 PM	10	
12		Concrete Curbs Field 1	7 days	6/25/20 8:00 AM	7/3/20 5:00 PM	9	
13		Concrete Curbs Field 2	7 days	7/6/20 8:00 AM	7/14/20 5:00 PM	12	
14		Concrete Curbs Field 3	7 days	7/15/20 8:00 AM	7/23/20 5:00 PM	13	
15		Nailer Boards Field 1	3 days	7/6/20 8:00 AM	7/8/20 5:00 PM	12	
16		Nailer Boards Field 2	3 days	7/15/20 8:00 AM	7/17/20 5:00 PM	13	
17		Nailer Boards Field 3	3 days	7/24/20 8:00 AM	7/28/20 5:00 PM	14	
18		Collection Pipe Field 1	3 days	6/25/20 8:00 AM	6/29/20 5:00 PM	9	
19		Collection Pipe Field 2	3 days	6/30/20 8:00 AM	7/2/20 5:00 PM	18	
20		Collection Pipe Field 3	3 days	7/3/20 8:00 AM	7/7/20 5:00 PM	19	
21		Rock Field 1	14 days	7/9/20 8:00 AM	7/28/20 5:00 PM	15	
22		Rock Field 2	14 days	7/29/20 8:00 AM	8/17/20 5:00 PM	21	
23		Rock Field 3	14 days	8/18/20 8:00 AM	9/4/20 5:00 PM	22	
24		Turf Field 1	25 days	7/29/20 8:00 AM	9/1/20 5:00 PM	21	
25		Turf Field 2	25 days	9/2/20 8:00 AM	10/6/20 5:00 PM	24	
26		Turf Field 3	25 days	10/7/20 8:00 AM	11/10/20 5:00 PM	25	

WEST DES MONIES FIELDS