



Council Communication

Office of the City Manager

Date

February 22, 2010

Agenda Item No. 55

Roll Call No. 10-

Communication No. 10-102

Submitted by: **Jeb E. Brewer, P.E.**
City Engineer

AGENDA HEADING:

Hearing on E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement: Resolution approving plans, specifications, form of contract documents, engineer's estimate, receive and file bids, and designating lowest responsible bidder as Rocky Hurst Construction, Inc., Kaye L. Hurst, President, \$177,596.50.

SYNOPSIS:

This is a public hearing to allow for public input on the E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement and take the necessary actions as required by Iowa Code to authorize a contract for construction of the proposed project. This project provides for replacement of deteriorated medians on E. Army Post Road from 1455 feet west of S.E. 14th Street to S.E. 14th Street and on Douglas Avenue from Merle Hay Road to 59th Street, and also includes construction of traffic control measures on 41st Street from University Avenue to Forest Avenue and 42nd Street from University Avenue to Forest Avenue.

FISCAL IMPACT:

Amount: \$177,596.50 Construction Contract (\$229,415 City Engineer's Estimate)

Funding Source: E. Army Post Road Median Replacement, STR238, Being: \$143,313.50 in G. O. Bonds from STR238 for work on E. Army Post Road; \$15,120 in G. O. Bonds from STR134 (Traffic Median Island Replacement, Page Street-46) for work on Douglas Avenue; and \$19,163 on G. O. Bonds from STR131 (City-wide Neighborhood Traffic Control Program, Page Traffic-4) for work on 41st/42nd Streets.

ADDITIONAL INFORMATION:

On January 25, 2010, under Roll Call No. 10-090, the City Council received and filed plans, specifications, form of contract documents, and City Engineer's estimate for the construction of the E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement. Before the City Council can enter into a contract, it must hold a public hearing and approve the proposed plans, specifications, and form of contract documents and engineer's estimate for the construction of the E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement, 06-2010-001. The improvement includes removing medians, constructing curbs, medians, landscaping, traffic signal modifications, and other incidental items; in accordance with the contract documents, including Plans File Nos. 509-151/188, on E. Army Post Road from 1455 feet west of S.E. 14th Street to S.E. 14th Street, Douglas Avenue from Merle Hay Road to 59th Street, 41st Street from University Avenue to Forest Avenue, and

42nd Street from University Avenue to Forest Avenue, Des Moines, Iowa.

Sealed bids for said improvement were submitted by the following bidders:

Rocky Hurst Construction, Inc., Des Moines, IA - Bid read under advisement
T K Concrete Inc., Pella, IA
Elder Corporation, Des Moines, IA
Concrete Technologies, Inc., Urbandale, IA
Jasper Construction Services, Inc., Newton, IA
The Concrete Contracting Co., Grimes, IA

The bids were received and opened at a public meeting presided over by the City Engineer in the City Council Chambers, 2nd Floor, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 11:00 a.m. on February 9, 2010, and the bid received from Rocky Hurst Construction, Inc., Kaye L. Hurst, President, 3412 SW 9th Street, Des Moines, IA, 50315, was read under advisement because Rocky Hurst Construction, Inc. provided DBE/TSB information on Proposal Attachment: Part F, Item 1, Identity of Subcontractors instead of on Proposal Attachment: Part F, Item 2, Contract Compliance Program.

Proposal Attachment: Part F, Item 2, Contract Compliance Program, states that failure to make and disclose these pre-bid DBE contacts shall cause the bid to be non-responsive and shall result in the bid not being read.

Rocky Hurst Construction, Inc. did list Seibert Trucking (for trucking @ \$1,000) and Bonnies Barricades (for traffic control @ \$18,500) as subcontractors in the space provided on Proposal Attachment: Part F, Item 1 to identify its subcontractors; however, Rocky Hurst Construction, Inc. did not complete Proposal Attachment: Part F, Item 2, Contract Compliance Program where the bidder is required to identify the DBE/TSB contacts made by the bidder prior to bidding.

Engineering and Legal Department Staff opening bids considered the following:

- Rocky Hurst Construction, Inc. listed two DBE's on Proposal Attachment: Part F, Item 1, Identity of Subcontractors form, which requires the bidder certify its proposed subcontractors over \$25,000 (Both companies listed, Seibert Trucking and Bonnies Barricades, were less than \$25,000 and were not required to be listed on the form).
- Staff knew that Seibert Trucking and Bonnies Barricades were both certified DBE's,

Staff assumed that Rocky Hurst Construction, Inc. incorrectly entered the DBE information on the wrong form, since it was not required to list subcontractors its company intended to use when the amount was less than \$25,000, and read the bid under advisement. It was apparent to Staff that Rocky Hurst Construction, Inc. had contacted DBEs when two DBEs were listed as subcontractors on Part F, Item 1. If Staff had not known that these two companies were DBE's, the bid from Rocky Hurst Construction, Inc. would not have been read since Rocky Hurst Construction, Inc. did not complete Proposal Attachment: Part F, Item 2, Contract Compliance Program.

Engineering Department Staff has contacted Rocky and Kaye Hurst who have provided an e-mail stating that they had made DBE contacts prior to the bid opening, provided a written quotation from Bonnies Barricades for the project, and stated that they had incorrectly completed the proposal forms; and after further review, the Engineering and Legal Departments have determined that this was a minor irregularity that could be waived by the City Council.

The City Engineer has determined that the lowest responsive, responsible bid for the construction of said improvement was submitted by Rocky Hurst Construction, Inc., Kaye L. Hurst, President, 3412 SW 9th Street, P.O. Box 36443, Des Moines, IA, 50315 in the amount of \$177,596.50, and said bid should be accepted. The Finance Director has determined that funds are available for said improvement as stated above.

PREVIOUS COUNCIL ACTION(S):

Date: January 25, 2010

Roll Call Number: 10-090

Action: Ordering construction of the following: E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement – Receiving of bids (2-9-10), and Setting date of hearing, (2-22-10). (Construction Estimate – \$229,415). (Council Communication No. 10-033) Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: May 18, 2009

Roll Call Number: 09-889

Action: Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows: (Council Communication No. 09-324) Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0. (C) Parking Restrictions for traffic Calming measures on 41st Street and 42nd Street between University Avenue and Forest Avenue.

Date: May 18, 2009

Roll Call Number: 09-890

Action: Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows: (Council Communication No. 09-324) Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0. (F) Final consideration of ordinance above. Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #14,855. Motion Carried 7-0.

Date: November 24, 2008

Roll Call Number: 08-2071

Action: Request from Council Member Brian Meyer to speak regarding the median on Army Post Road between SE 14th and SE 15th. Moved by Meyer to refer to the City Manager to meet with the Southside developers and Neighborhood Associations for a recommendation on how to proceed in this area. The City Manager will also consider medians City-wide. Council Member Meyer requested that the City put together a map of the Southeast side that can be used to attract new businesses. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): TRAFFIC SAFETY COMMITTEE

Date: February 10, 2009

Roll Call Number: N/A

Action: Moved by Jim Windsor to approve the recommendations from the small group and recognized the outcome of the vote held at the public meeting on May 7, 2009, that supported those recommendations; seconded by John Morrissey. Motion passed 4:2. Mary Conlow and George Robinson were opposed.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Partial payments to the contractor and final acceptance of work.

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