



Date ..... November 17, 2014 .....

ACCEPTING INTERIM FINANCE DIRECTOR'S DECISION ON APPEAL OF BID AWARD RECOMMENDATION FOR IMPOUND TOWING AND STORAGE CONTRACT TO CROW'S AUTO SERVICE, INC. AND APPROVING AWARD OF CONTRACT TO CROW'S AUTO SERVICE, INC.

WHEREAS, the Police Department requested the Finance Department Procurement Division to solicit bids for an agreement to furnish impounded vehicle towing and storage services for District 1 (West side) and District 2 (East side); and

WHEREAS, Municipal Code section 2-737 limits contracts for the provision of goods and/or services to an initial term of one year with two (2) one year renewal options, with a longer initial term and renewal term if deemed to be in the best interests of the city by the city council; and

WHEREAS, the Police Department requested the impounded vehicle towing and storage contract to be an initial term of thirty-six months with two (2) one year renewal options and advises that the longer contract term is in the best interests of the city; and

WHEREAS, the Procurement Division solicited bids by advertisement and mailing Invitation to Bid V15-034 to nine (9) potential bidders with two (2) bids received; and

WHEREAS, the Procurement Administrator determined that the low dollar compliant bid for District 1 and District 2 was received from Crow's Auto Service, Inc., 826 21<sup>st</sup> Street, Des Moines, Iowa 50317, Randy Crow/President; and

WHEREAS, funding is available from PD222374/Property Management at an annual estimated cost of \$50,000.00; and

WHEREAS, the Procurement Administrator and the Police Department recommend approval of the low dollar compliant bid for District 1 and District 2; and

WHEREAS, an appeal was received from G & S Service, Inc., 4100 E 16<sup>th</sup> Street, Des Moines, IA 50313, Glen Mikel/President, from the Procurement Administrator's determination of the low dollar compliant bid ("the G & S Appeal"); and

WHEREAS, such G & S Appeal was considered by the Interim Finance Director and his decision determined that the bid from Crow's Auto Service, Inc. was the low dollar compliant bid for District 1 and District 2, as described in the attached written decision; and



Roll Call Number

Agenda Item Number

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Date November 17, 2014

WHEREAS, pursuant to the terms of the bid, an appeal of the Finance Director's decision is to the City Council on the date of Council action to consider award of the contract; and

WHEREAS, the Council has considered the comments and written materials presented regarding the G&S Appeal.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the City Council hereby affirms the decision of the Interim Finance Director that the compliant low bid for District 1 and District 2 was received from Crow's Auto Service, Inc. and hereby overrules the objections of G&S Services, Inc.

BE IT FURTHER RESOLVED that the City Council hereby accepts and approves the low compliant bid for impounded vehicle towing and storage services for District 1 and District 2 by Crow's Auto Service, Inc., and further authorizes the Procurement Administrator to enter into a thirty-six month agreement, plus renewals for two (2) additional twelve (12) month periods, at annual estimated cost of \$50,000.00.

(Council Communication No. 14-560 )

Moved by \_\_\_\_\_ to adopt.

Approved as to form:

Ann DiDonato
Ann DiDonato
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk



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**November 12, 2014**

**From:** Dan Ritter, Interim Finance Director

**Subject:** Appeal of Decision to Award Impound and Storage Contract to Crow's Auto Services, Inc.

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On August 25, 2014, by Roll Call No. 14-1307, the City Council approved the Finance Department Procurement Division solicitation of bids on behalf of the Police Department for an agreement to furnish impounded vehicle towing and storage services for the entire City. On August 29, 2014, the Procurement Division issued Invitation to Bid No. 15-034 "Towing and Storage Services". On October 30, 2014, the Procurement Administrator issued a notice of intent to award the bid to Crow's Auto Services, Inc., d/b/a Crow Tow, as the low compliant bid in response to Bid V15-034.

O'Bryan Law Firm, on behalf of G & S Service, Inc., submitted a notice of appeal dated October 31, 2014, appealing the Procurement Administrator's decision to award Crow's Auto Services, Inc. the towing and storage contract (the "G&S appeal"). The G&S appeal included a number of points which are responded to below in the order in which they were presented:

Page 2, Paragraph 3 of the G&S appeal acknowledges that Crow Tow has submitted a lower cost bid than G & S Service, Inc., but says this should not be dispositive of the issue.

**Response:** Municipal Code section 2-726 provides that under the competitive bidding process for procurement of goods and/or services, the cost to the city and compliance with specifications will be the only criteria considered in selecting among competing bidders. The intention of the competitive bidding process is indeed to award to the lowest cost compliant bidder.

Page 2, Paragraph 3 goes on to say that review of the submittal of Crow's Auto Service, Inc. bid shows that they apparently intend to subcontract some or much of the work to other towing companies, and states that would subject the City to potential liability.

**Response:** Addendum #1 to the Invitation to Bid V15-034, sent to all bidders on September 9, 2014 specifically states: "The chosen contractor may sub-contract services/equipment at their expense for specialized towing/recovery, such as, but not limited to, semi towing/recovery, air bags for under water recovery, mobile cranes for lifting out of inaccessible area, etc. If the contractor chooses to sub-contract equipment services, the contractor must still abide by contracted rates."



Section 2.I. of Attachment 2 Insurance & Indemnification Requirements of Bid V15-034 sets out the insurance requirements for subcontractors: "The Contractor shall require that any of its agents and subcontractors who perform work and/or services on behalf of the Contractor purchase and maintain the type of insurance customary for the services being provided."

The Crow Tow bid did not on its face indicate that Crow Tow was advising the City that it would meet its service requirements with a subcontractor. However, the awarded contract should make clear in its terms that the City contractor must own or lease all necessary equipment for all types of vehicle towing, with the sole exception for specialized towing/recovery services, as specified in and in full compliance with the requirements of Bid V15-034. In addition, the awarded Contractor will be required to provide proof of the required insurance coverage, including for subcontractors, pursuant to Attachment 2.

Page 4, Paragraph 5 of the G&S appeal states that a driver listed on the bid submittal may be ineligible to drive a commercial vehicle at the time of the Crow Tow bid submittal.

**Response:** This G&S objection is not relevant. Section 7.2 of Bid V15-034 requires that six qualified drivers be provided. In addition to the driver mentioned, the Crow's Auto Service, Inc. bid listed six other qualified drivers.

Page 4, Paragraph 6 & 7 alleges that the low bid will cause economic failure and might cause Crow's Auto Services, Inc. to recoup losses by charging for services not considered in the bidding process.

**Response:** Section 1.0 Prologue of Bid V15-034 states very clearly in bold: "All contractors need to be aware that the City is adamant that the cost for the same service or services to the owner of an impounded vehicle shall not exceed the costs for the same service or services incurred by the City of Des Moines." This allegation is based only on speculation of economic failure and future actions that may or may not be intended and is beyond the scope of criteria in the bid.

Page 4, Paragraph 8 describes the G&S Service, Inc. parking lot for storage and submits that its lot is more secure than the Crow Tow lot.

**Response:** Sections 7.4 and 7.5 of Bid V15-034 provide impound and sales storage specifications which are met by Crow's Auto Service, Inc.

## **Conclusion**

The appeal concedes that Crow's Auto Service, Inc. is the lowest price. The appeal speculates a number of things that may or may not happen, but speculation alone cannot support an overturning of the Procurement Administrator's determination of the lowest compliant bid



from a responsible bidder. The G&S appeal opines that G&S Service, Inc. has more resources or is better qualified than Crow's Auto Service, Inc., but the standard under the Procurement Ordinance is whether a bid proposal is in compliance with specifications and whether the bidder is responsible. Municipal Code section 2-727 provides that contracts awarded where the annual cost to the City will exceed \$25,000 shall be to the lowest compliant, responsible bidder. There is no showing in the record that Crow's Auto Service, Inc., is not a responsible bidder. Section 2.6 of Bid V15-034 includes the condition that "Past failure of contractors to perform required services for the City can and will be reason to reject their proposal." Crow's Auto Service, Inc. has provided towing and impound services for the Police Department under a prior contract. Since the Police Department and Procurement Administrator accepted Crow's Auto Service, Inc. bid proposal and did not reject it on a basis of past failure to perform, this shows past satisfactory performance which can be taken into account in determining the responsibility of a bidder per Municipal Code Section 2-732. There are other items in the appeal which discuss the qualifications of G & S Services, Inc. but these comparisons are not part of the criteria in selection.

**Decision:** The Crow's Auto Services, Inc. bid is the low compliant bid and the appeal is denied. Bid document section 2.7 says failure to comply with the contract specifications may result in suspension or termination of the contract which would be a remedy for non-compliance if it occurs.

CITY OF DES MOINES - DEPARTMENT OF FINANCE - PURCHASING DIVISION

Towing and Storage Services

Police Department

Bid No. V15-034

Opened: 09/26/14

Opened by: mv

Req. # -

Bidder  
Address  
City  
Terms  
FOB:  
Delivery:

Crow's Auto Service, Inc.  
826 SE 21st Street  
Des Moines, IA 50317

G & S Services, Inc.  
4100 E. 16th St.  
Des Moines, IA 50313

NO RESPONSE FROM:  
ABC Towing & Service  
City Wide Towing  
Hanifen Co.  
Perry's Service  
Rick's Towing  
Swifts Auto Salvage  
Yaws Auto Salvage

Normal charge for the towing of a vehicle	\$19.00	\$40.00
Normal charge for storing a vehicle outdoors for 24 hours	\$5.00	\$15.00
Normal charge for storing a vehicle indoors for 24 hours	\$5.00	\$10.00
Normal charge for storing a motorcycle indoors for 24 hours	\$5.00	\$5.00
Charge per 1/4 hour for moving of parked vehicles	\$24.00	\$13.50
Daily charge for storing a vehicle outdoors	\$0.00	\$2.00
Daily charge for storing a vehicle indoors	\$0.00	\$2.00
Unlocking car doors	\$0.00	\$1.00
Winching a vehicle per 1/4 hour	\$25.00	\$15.00
Unlocking linkage to transmission	\$0.00	\$1.00
Dolly usage	\$0.00	\$1.00
Towing a semi-truck per 1/4 hour	\$25.00	\$25.00
Towing a semi-trailer per 1/4 hour	\$25.00	\$25.00
Removing a vehicle from waterways or other exceptional circumstances, per 1/4 hour	\$75.00	\$25.00
TOTAL A	\$7.60	\$16.00
TOTAL B	\$6.00	\$4.38
TOTAL C	\$3.00	\$6.00
TOTAL D	\$2.50	\$1.80
TOTAL E	\$6.25	\$3.75
GRAND TOTAL	\$25.35	\$31.93

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