

★ Roll Call Number

10-092

Agenda Item Number

7 ✓

DATE January 25, 2010

DESIGNATION OF LOWEST RESPONSIVE, RESPONSIBLE BIDDER AS  
HERBERGER CONSTRUCTION CO., INC., DEAN HERBERGER, PRESIDENT  
AND APPROVAL OF CONTRACT AND BOND AND PERMISSION TO SUBLET ON  
COURT AVENUE & WATER STREET GATEWELL AND RIVER OUTLET  
\$ 390,387.00

WHEREAS, on December 21, 2009, under Roll Call No. 09-2320, the City Council held a public hearing and approved the plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost for the construction of the following improvement:

Court Avenue & Water Street Gatewell and River Outlet, 08-2010-006  
08-DRI-232

The improvement includes construction of a storm water pump station gatewell and outlet structure, 72" diameter storm sewer, and sheet pile construction and miscellaneous associated work including cleanup and other incidental items; in accordance with the contract documents, including Plans File Nos. 509-008/014, south of Court Avenue and east of Water Street along the west Des Moines River Levee in downtown Des Moines, Iowa,

And also received and filed bids for said improvement submitted December 15, 2009, by the following bidders:

Herberger Construction Co., Inc., Indianola, IA  
Cramer and Associates, Inc., Grimes, IA  
Jensen Construction Co., Des Moines, IA  
H & W Contracting LLC, Sioux Falls, SD  
Van Hauen & Associates, Inc., Grimes, IA

WHEREAS, Iowa Department of Economic Development (IDED) Community Development Block Grant Contract Number 08-DRI-032 has now been fully executed by IDED and the required environmental clearances have been received, so the City Council can proceed with designation of the lowest responsive, responsible bidder and award of the construction contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the Jurisdictional Engineer has determined that the lowest responsive, responsible bid for the construction of said improvement was submitted by Herberger Construction Co., Inc., Dean Herberger, President, 2508 West 2<sup>nd</sup> Avenue, P.O. Box 326, Indianola, IA, 50125 in the amount of \$390,387.00, and said bid be and the same is hereby accepted subject to release of funds by the Iowa Department of Economic Development on Contract No. 08-DRI-232.

BE IT FURTHER RESOLVED: That the bid security of the unsuccessful bidders be and is hereby authorized and directed to be returned.

BE IT FURTHER RESOLVED: That the Jurisdictional Engineer is hereby directed to secure execution by the lowest responsive, responsible Bidder and its surety of the contract documents in the form heretofore approved by this Council; subject to release of funds by the Iowa Department of Economic Development on Contract No. 08-DRI-232; that the Jurisdictional Engineer is directed to thereafter present said contract documents to this Council for approval and authorization to the Mayor to sign; and that no contract shall be deemed to exist between the City of Des Moines and said Bidder until said contract has been executed by the Bidder, and shall have been approved by this Council and executed by the Mayor and attested to by the City Clerk.

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BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the contract and bond, in the amount of \$390,387.00, executed by Herberger Construction Co., Inc., Dean Herberger, President, 2508 West 2nd Avenue, P.O. Box 326, Indianola, IA, 50125 dated January 11, 2009, for the construction of the following improvement:

Court Avenue & Water Street Gatewell and River Outlet, 08-2010-006  
08-DRI-232

The improvement includes construction of a storm water pump station gatewell and outlet structure, 72" diameter storm sewer, and sheet pile construction and miscellaneous associated work including cleanup and other incidental items; in accordance with the contract documents, including Plans File Nos. 509-008/014, south of Court Avenue and east of Water Street along the west Des Moines River Levee in downtown Des Moines, Iowa

the same to be performed in accordance with the plans and specifications which have been heretofore approved by this Council, be and the same are hereby approved, subject to release of funds by the Iowa Department of Economic Development on Contract No. 08-DRI-232 and subject to receipt of the contract, bond, and certificate of insurance acceptable to the Engineering and Legal Departments. The attached "Contractor's Anticipated DBE/TSB Utilization" shows the Contractor's efforts to solicit DBE/TSB Participation in accordance with the Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB) Program.

BE IT FURTHER RESOLVED: That the Mayor be and is hereby authorized and directed to execute said contract on behalf of the City of Des Moines, subject to release of funds by the Iowa Department of Economic Development on Contract No. 08-DRI-232 and subject to receipt of the contract, bond, and certificate of insurance acceptable to the Engineering and Legal Departments, and the City Clerk, be and is hereby authorized and directed to attest to same. No contract shall be deemed to exist between the City of Des Moines and said Bidder until said contract has been executed by the Bidder, and shall have been approved by this Council and executed by the Mayor and attested to by the City Clerk.

BE IT FURTHER RESOLVED: That after said contract has been executed by the Mayor, the City Clerk be and is hereby authorized and directed to return the Contractor's bid security.

BE IT FURTHER RESOLVED: That the attached Permission to Sublet form, from said Contractor requesting permission to sublet designated items, be and is hereby approved, subject to receipt of the contract, bond, and certificate of insurance acceptable to the Engineering and Legal Departments; and each subcontractor is hereby granted permission to work on said improvement.



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BE IT FURTHER RESOLVED: That the Des Moines Finance Director is hereby authorized to encumber this contract amount against the funds as identified below, and to acquire Builder's Risk Insurance, if appropriate, for the above referenced improvement.

(City Council Communication Number 10-042 attached.)

Moved by Mahaffey to adopt.

**FORM APPROVED**

Kathleen Vanderpool  
Kathleen Vanderpool  
Deputy City Attorney

**FUNDS AVAILABLE**

Allen McKinley  
Allen McKinley  
Des Moines Finance Director

Funding Source: 2009-2010 CIP, Page Storm-6, Court Avenue/Water Street Sewer Separation, STE081, Being: \$390,387 in HUD Disaster funds from the Iowa Department of Economic Development for 100% of construction costs associated with the Court Avenue - Water Street Sewer Separation project with a \$4,000,000 maximum in Federal Jumpstart Infrastructure Assistance funds

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED APPROVED

T. M. Franklin  
Mayor

I, Diane Rauh, City Clerk of said City Council, hereby certify that at a meeting of the City Council, 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.

Diane Rauh  
City Clerk