

10-318

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DATE February 22, 2010

PUBLIC HEARING, APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT DOCUMENTS, AND ENGINEER'S ESTIMATE ON
E. ARMY POST ROAD/DOUGLAS AVENUE/41ST & 42ND STREET MEDIAN REPLACEMENT;
RECEIVE AND FILE BIDS; AND DESIGNATION OF LOWEST RESPONSIVE, RESPONSIBLE
BIDDER AS ROCKY HURST CONSTRUCTION, INC., KAYE L. HURST, PRESIDENT, \$177,596.50

WHEREAS, on January 25, 2010, under Roll Call No. 10-090, plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost were filed with the City Clerk, for the construction of the following improvement:

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

WHEREAS, notice of the hearing on the plans, specifications, form of contract documents, and Engineer's estimate of construction cost was published as required by law.

WHEREAS, on February 9, 2010, sealed bids for said improvement were received and opened at a public meeting presided over by the Jurisdictional Engineer, 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; and

WHEREAS, 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; and

WHEREAS, 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 were the bidder is required to identify the DBE/TSB contacts made by the bidder prior to bidding; and

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WHEREAS, 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; and

WHEREAS, 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 minority irregularity that could be waived by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the hearing on the plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost for said improvement be closed; and that said plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost are hereby approved as the plans, specifications, form of contract documents, and Jurisdictional Engineer's estimate of construction cost for said improvement.

BE IT FURTHER RESOLVED: That the City Council concurs in the recommendation of the Engineering Department and the Legal Department regarding the bid submitted by Rocky Hurst Construction, Inc., waives said minor irregularity, and hereby receives the bid submitted by Rocky Hurst Construction, Inc..

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BE IT FURTHER RESOLVED: That 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

which were received and opened at a public meeting presided over by the Jurisdictional 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. Said bids and the attached tabulation of bids for said improvement be and are hereby received and filed.

BE IT FURTHER RESOLVED: That the Jurisdictional 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 be and the same is hereby accepted.

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

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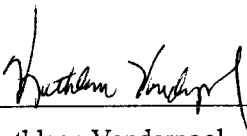
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BE IT FURTHER RESOLVED: That the Jurisdictional Engineer is hereby directed to secure execution by the lowest responsible, responsive Bidder and its surety of the contract documents in the form heretofore approved by this Council; that the Jurisdictional 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.

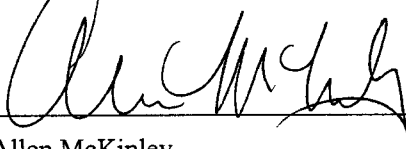
(City Council Communication Number 10-102 attached.)

Moved by Meyer to adopt.

FORM APPROVED:


 Kathleen Vanderpool
 Deputy City Attorney

FUNDS AVAILABLE



 Allen McKinley
 Des Moines Finance Director

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

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

MOTION CARRIED

APPROVED


 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.



City Clerk