



Roll Call Number

11-0935

Agenda Item Number

57

DATE May 23, 2011

PUBLIC HEARING, APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT
DOCUMENTS, AND ENGINEER'S ESTIMATE ON
TONAWANDA DRIVE RAVINE IMPROVEMENTS;
RECEIVE AND FILE BIDS

WHEREAS, on April 25, 2011, under Roll Call No. 11-0653, plans, specifications, form of contract documents, and Engineer's estimate of construction cost were filed with the City Clerk, for the construction of the following improvement:

Tonawanda Drive Ravine Improvements, 08-2011-002

I-JOBS #495

The improvement includes the stabilization of stream banks, construction of storm sewer, intakes, manholes, water mains, and curb and gutter, scarification and HMA overlay, seeding, sodding, and other incidental items; in accordance with the contract documents, including Plan File Nos. 531-028/104, located on Tonawanda Drive between 42nd Street and Grand 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; and

WHEREAS, on May 10, 2011, sealed bids for said improvement 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.; and

WHEREAS, during its review and evaluation of the bid submitted by Elder Corporation, the Engineering Department discovered that Elder Corporation made an error on its proposal and incorrectly noted the unit price for Bid Item 9.11 as \$7.80 per ton rather than \$78.00 per ton; the proposal reflected the extended amount for Bid Item 9.11 as \$292,500 which was based on a unit price of \$78.00 and not \$7.80; and

WHEREAS, J. Elder II, President, Elder Corporation, has submitted the attached correspondence and documents to the City Engineer's office requesting that its bid be withdrawn and bid security returned because it made a serious error in the preparation of its bid concerning Bid item 9.11 resulting in underbidding its costs by a total of \$263,250 for this one bid item; and

WHEREAS, by comparison, the Engineer's estimate for this item was \$225,000, while the other two bidders bid were \$303,750 and \$245,750 and if Elder Corporation had not made the serious error, its bid would have been \$3,094,000, which is comparable to the other two bidders.

WHEREAS, the contract documents for this project include the following Public Bid Evaluation Policy that was approved by the City Council on May 17, 2004, under Roll Call no. 04-990:

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1020, 1.11 – Limitation on Withdrawal of Proposals after Opening of Proposals: Add the following new Paragraph C:

- C. After bids are opened, if the low bidder claims that it has made a serious error in the preparation of its bid, and can support such a claim with evidence satisfactory to the Jurisdiction, said bidder shall be allowed to withdraw its bid and its bid security shall be returned; provided however, as a condition for return of its bid security, said bidder shall be required to agree that it will not be allowed to again bid on the project, either as a prime bidder or as a subcontractor, if the project, or a substantial portion of the project, is rebid within six months of the first bid opening. Under no circumstances should said bidder be permitted to alter or adjust its bid, as this would undermine the entire system of competitive bidding and be an open invitation to abuse.

1020, 1.07 – Preparation of the Proposal: Delete the last sentence of Paragraph D – Request for Unit Prices, which states the following:

“In case of discrepancy, the unit price figure shall govern.”

And replace it with the following sentence on all future projects:

“In the case of discrepancy, the unit price shall govern; except in the case of an obvious, serious, clerical error where the City Engineer is able to determine the bidder’s intent from the proposal; in which case, the Des Moines City Council may waive irregularities that are in best interest of the City of Des Moines, as long as the integrity of the bid process can be maintained.”

WHEREAS, the City Engineer recommends that Elder Corporation be allowed to withdraw its bid and its bid security be returned.

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 Engineer's estimate of construction cost for said improvement be closed; and that said plans, specifications, form of contract documents, and Engineer's estimate of construction cost are hereby approved as the plans, specifications, form of contract documents, and 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 Elder Corporation, and hereby allows Elder Corporation to withdraw its bid and also directs the City Clerk to return Elder Corporation’s bid security.

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BE IT FURTHER RESOLVED: That sealed bids for said improvement were submitted by the following bidders:

- | | |
|-------------------------|--|
| Elder Corporation | Des Moines, IA - Bid withdrawn by Bidder |
| Corell Contractor, Inc. | West Des Moines, IA |
| McAninch Corporation | Des Moines, IA |

which were received and opened at a public meeting presided over by the Engineer in the City Council Chambers, 2nd Floor, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 11:00 a.m. on May 10, 2011. Said bids and the attached tabulation of bids for said improvement be and are hereby received and filed.

(City Council Communication Number 11-309 attached.)

Moved by Hensley to adopt. refer to the City Manager to identify areas in Des Moines without storm sewers, and discuss this at a workshop.
 FORM APPROVED: FUNDS AVAILABLE

Kathleen Vanderpool
 Kathleen Vanderpool
 Deputy City Attorney

Scott E. Sanders
 Scott E. Sanders
 Des Moines Finance Director

REB

Funding Source: 2011-2012 CIP, Page Storm-17, Tonawanda Ravines, STE082, Being: \$588,809.87 Storm Water Bonds Issued; \$700,000.00 in I-JOBS II Targeted Disaster Relief Grant funds (\$700,000 maximum); \$176,794.45 from STR003, Asphaltic Paving Restoration Program, Page Street-5 for Tonawanda Drive resurfacing; \$118,996.68 from Des Moines Water Works; funding shortfall of \$1,500,000 will need to be addressed prior to selection of the apparent low bidder

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

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.

MOTION CARRIED APPROVED
T. M. Franklin
 Mayor

Diane Rauh
 City Clerk