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Public Works

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## MEMORANDUM

Equipment Maintenance  
Roadway Maintenance  
Collection & Drainage  
Building & Grounds  
Engineering

To: Mayor and City Council Members

CC: Gregg Mandsager, City Administrator

FROM: Brian Stineman, Director of Public Works

DATE: March 6, 2017

RE: Mississippi Drive Bids

### INTRODUCTION:

Bids for the Mississippi Drive Construction Project were received on February 27, 2017. On March 2, 2017 staff recommended to council to award the bid to Langman Construction based on the designation that they were the lowest responsive, responsible bid. It was noted that the bid from K.E. Flatwork appeared lower but, after staff reviewed the bid, they determined that their bid was incomplete as it was unbalanced and therefore non-responsive.

### BACKGROUND:

Council decided to table the action one week until the March 9<sup>th</sup> in-depth council meeting to allow staff to discuss options with legal staff and answer council questions.

According to the Statewide Urban Design and Specifications (SUDAS) Division 1, Section 1020 Item 1.11 *Irregular and Nonresponsive Proposals*, which was referenced in the bid documents,

- A. "Proposals will be considered irregular and may be rejected for any unauthorized changes in the proposal form or for any of the following reasons:
  2. If the bidder submits an obviously unbalanced bid. An unbalanced bid shall be defined as a bid containing lump sum prices or unit bid prices that do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs to complete that item"

Staff has concluded the bid from K.E. Flatwork was unbalanced and therefore nonresponsive. Their bid price of \$0.01 for Line Items 19: Replacement of Unsuitable Backfill Material, and Line Item 20: Replacement of Unsuitable Backfill Material, Cohesive Backfill are unbalanced because there is a determinate cost associated with providing and installing this material.

**"I remember Muscatine for its sunsets. I have never seen any  
on either side of the ocean that equaled them" — Mark Twain**

Asserting that the price of these line items is \$0.01 per cubic yard is unbalanced because the cost of material alone has a price above \$0.01 per cubic yard. The bid on its face appears to represent a cost savings, however, the engineers have advised that there is a likelihood of unforeseen backfill work, which the bid is designed to cover but which will not be honored at the \$0.01 per cubic yard price. Specifically, K.E. Flatwork was asked if they will honor the \$0.01 bid in the event there is unforeseen work, they answered that they will **not** and that any such work will need to be covered by a change order that would increase the cost of the project.

Langman Construction, the next lowest bidder, also had bid items listed at \$0.01. These are Item 29: Removal of Sanitary Sewer, Less Than 36", Item 37: Removal of Storm Sewer, Less Than 36" and Item 127: Concrete Washout. The City Engineer determined the Langman bid to be balanced and responsive because Langman stated that they would not experience additional work or costs to remove the storm and sanitary sewer, along with other work necessary for removal, over and above what Langman already put in the bid for earthwork and utility excavation. Specifically, when Langman was asked if they will honor the \$0.01 bids in the event there is unforeseen work, they answered—in contrast to K.E. Flatwork—that they will honor the bid price.

Please note that the reference to a local (state) preference for Iowa bidders is covered in the bid documents but is relevant only when the City receives two responsive, responsible bids that are relatively close in total cost. In this case, the K.E. Flatwork bid was not a responsive bid and the local preference law does not allow for a municipality to waive irregularities, defects or incomplete items to award a contract to a non-responsive bid.

#### RECOMMENDATION/RATIONALE:

After lengthy discussions between staff and legal counsel, City staff feels that the contract should not be awarded to K.E. Flatwork as their bid is unbalanced and non-responsive. Staff recommends that the bid from Langman Construction, while it also contains \$0.01 line items, is responsive based on their assertion that they will honor their bid prices for the line items in question.

**RESOLUTION NO. \_\_\_\_\_**

**AWARD CONTRACT FOR  
MISSISSIPPI DRIVE CORRIDOR PROJECT**

It is resolved that the following bid is determined to be the lowest responsible bid for the Mississippi Drive Corridor Project.

<u>NAME &amp; ADDRESS CONTRACTOR</u>	<u>AMOUNT OF BID</u>
Langman Construction Rock Island, Illinois	\$8,787,676.34

It is further resolved that the Mississippi Drive Corridor Project is awarded to the above-named contractor for \$8,787,676.34, and the Mayor and City Clerk are authorized and directed to enter into a written contract with said contractor covering the furnishing of material for, and construction of the Mississippi Drive Corridor Project, such contract not to be binding until approved by resolution of this Council.

It is further resolved that the amount of the contractor's bond is fixed at \$8,787,676.34, which is one hundred percent of the contract price.

PASSED, APPROVED, AND ADOPTED THIS 9<sup>th</sup> DAY OF MARCH, 2017.

\_\_\_\_\_  
Diana Broderson, Mayor

ATTEST:

\_\_\_\_\_  
Gregg Mandsager, City Administrator