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COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

Date: December 4, 2018
To: Mayor and City Council
From: Dave Gobin, Community Development Director
Cc: Gregg Mandsager, City Administrator

Re: Resolutions (2) to Reject Bids Received for the Airport Hangar and Airport Apron projects

Introduction and Background: On October 10, 2018 the City received bids for (1) the new Airport Hangar project, and (2) the Airport Apron project related to the new hangars. At the November 1, 2018 meeting, the City Council initially awarded the bid for the Apron project to Heuer Construction; however, the City subsequently notified Heuer that there were concerns with the Hangar portion of this project and the City would not be approving the contract and bond for the Apron project until/unless those issues were resolved. Due to issues with the outside funding for the Hangar project, it is in the best interest of the City to reject any and all bids received for both the Hangar and the Apron projects.

The recommendation to reject the bids is due to private investor funds and agreements not being in place and the ground and hangar lease terms and conditions would also be in conflict with FAA Grant Assurances #22 and #23 per our City Attorney's Memo (attached). Differing lease terms, as proposed by the investors, would run afoul of our FAA Grant Assurances and put the City at risk of losing federal funding.

Going forward a different approach is proposed by reprioritizing efforts to build a snow removal equipment (SRE) building using federal entitlement funding and then investing in reconditioning the old HON hangar to rent it out for revenue. Staff is leaving the door open to negotiate with the FAA and State DOT to divert the grant funds currently awarded for the Hangar and Apron projects to assist in funding these new projects. Also, we may be able to redesign the hangars to include a combination Box hangars and "T-hangars" on a new apron.

Recommendation: Staff hereby requests City Council approve the two resolutions rejecting all bids received for both the Hangar and Apron projects.

Documentation:

1. Resolutions (2)

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

RESOLUTION NO. _____

**A RESOLUTION REJECTING ALL BIDS RECEIVED FOR THE
MUSCATINE MUNICIPAL AIRPORT
HANGAR PROJECT**

WHEREAS, the City Council of the City of Muscatine, Iowa at the August 16, 2018, City Council meeting approved the plans, specifications, form of contract, and set the bid opening date for the Muscatine Municipal Airport Hangar project; and

WHEREAS, bids for this project were opened on October 10, 2018; and

WHEREAS, six bids were received for this project; and

WHEREAS, expected private contributions for the new hangar were not secured and the leases do not meet FAA guidelines; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA, that all bids received for this project are hereby rejected.

PASSED, APPROVED, AND ADOPTED this 6th day of December, 2018.

Diana Broderson, Mayor

ATTEST:

Gregg Mandsager, City Clerk

MEMORANDUM

Confidential—Attorney/Client Privileged—Attorney Work Product

TO: Gregg Mandsager

FROM: Erin Clanton

DATE: December 3, 2018

SUBJECT: City of Muscatine—airport lease

Gregg-

We have been in discussions regarding the potential leases for the upcoming municipal airport expansion project. As part of these discussions, the question arose about providing different lease options to the potential lessees (i.e. different up front payments and differing terms of the lease). By email dated November 16, 2018, we expressed some concern regarding potential conflict issues and the use/tying up of public funds for a private purpose, however I believe we can work around those issues. Unfortunately, I do not believe we can resolve the FAA grant assurance issues. The relevant grant assurances that are problematic are:

Grant Assurance #22 Economic Nondiscrimination—

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities...
- b. ...
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. ...
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar

facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non- signatory carriers.

f. ...

In essence, this grant assurance prohibits unjust discrimination at municipal airports and requires that similarly-situated tenants are treated the same and be subject to the same terms and conditions

Grant Assurance #23—Exclusive Rights

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public....

This assurance is essentially a mirror-image of #22 above—if certain tenants are victims of discriminatory treatment, then the other tenants are recipients of an exclusive right. Both are violations of FAA grant assurances. I spoke with Lynn Martin with the FAA Central Region and she confirmed my findings. She noted, unequivocally, that providing different lease terms to different tenants (when there was no different in the foot print/location of the leased space) would run afoul of FAA Grant Assurances and put the City at risk of losing federal funding.

Please let me know if you have any questions. Thanks!