



Agenda Item:

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COUNCIL COMMUNICATION City Manager's Office

GENERAL INFORMATION

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Communication

Roll Call

Submitted by: Jeb E. Brewer, P.E. City Engineer
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SUBJECT—

Resolution concerning various actions regarding the WRF Combined Hauled Waste/Solids Processing Improvements Project, and transferring said project to the WRA for rebidding and award of contract.

SYNOPSIS—

The Council is presented the option to transfer the bidding authority for the subject project to the WRA Board or to retain the bidding authority with the City Council. In addition, a change is proposed to the existing bid policy that precludes bidders who withdraw their proposal from rebidding on the same project for a 6-month period.

FISCAL IMPACT—

Funding: \$6,369,000 in WRA R & R Funds, WRF – Dewatering System/Thickening Centrifuges, 543020, EN267, PWK990000, WRA073, Activity ID 04-2004-007, with a transfer of \$4,767,000 from WRF – Hauled Waste Receiving Station, 543020, EN267, PWK990000, WRA076 being \$1,900,000 in State Revolving Loan Funds and \$2,867,000 in WRA Community Contributions.

RECOMMENDATION—

Approval of the Resolution transferring said project to the WRA for rebidding and award of contract.

BACKGROUND—

On March 8, 2004, by Roll Call 04-460, the Des Moines City Council authorized construction of the Combined Hauled Waste/Solids Processing Improvements located at the Waste Water Reclamation Facility (WRF).

On April 20, 2004, bids for this improvement were opened. Three bids were received. The bid from Story Construction was not read, as the proposal was incomplete. The bid from John T. Jones Construction was the apparent low bidder with a price of \$8,379,401. The bid from The Weitz Company was \$11,658,132.00, which was \$521,832.00 over the construction estimate of \$11,136,300.00. On April 21, 2004, the president of John T. Jones submitted a letter stating that his company's bid had an error in the amount of \$459,401.00 and asked that his bid be withdrawn.

On May 3, 2004, under Roll Call No. 04-885, City Council considered the bids and rejected all bids, and directed staff to bring additional information back to the Council considering the action to transfer the project to the WRA Board, which becomes effective July 1, 2004.

Presented for Council consideration are two actions contained in two separate resolutions. The first resolution is to transfer the authority to bid and award the contract for construction of this project to the WRA Board. Since, the WRA Board will not be officially effective until July 1, 2004, and since the WRA desires the project to be rebid as soon as practical, the existing WRA Management Agency will establish the bid and hearing dates on behalf of the WRA Board, allowing a potential award of the contract on the WRA Board's July 1, 2004 meeting. Since the WRA Board would be the contracting authority, only the Board can make the determination of John T. Jones Construction's suitability to rebid this project. Since the City Council would not be rebidding the project, it is recommended to release the bid bond since the original error is of a type that typically entitles the bidder to recover the bid security. This option is preferred as the project is a WRA project involving a number of communities. Any decision regarding bidding, bidders, and potential costs of the project can be resolved by the WRA Board.

The alternate resolution is to retain the authority to bid this project with the City Council. This option would allow the City Council to make a determination on whether John T. Jones Construction is permitted to rebid on the project. In this alternative resolution, it is recommended to reject John T. Jones Construction's proposal to pay \$10,000 as damages, in order to be allowed to rebid the project. By not allowing John T. Jones Construction to rebid the project, a more severe penalty is imposed. This will discourage future low bidders from withdrawing their bid.

Current approved City bidding procedures do not contain a provision to exclude contractors who withdraw their proposal from rebidding the project. Under a separate resolution, staff has

prepared the Public Improvement Bid Evaluation Policy for Council consideration that includes the following new policy statement:

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 open invitation to abuse.

The proposed language is contained in the Public Improvement Bid Evaluation Policy report attached to the separate Roll Call.