



## MEMORANDUM

TO: Mayor and City Council Members  
Toby Hammett Futrell, City Manager

FROM: Diana L. Granger, Purchasing Officer

DATE: May 11, 2005

SUBJECT: Agenda Item No. 21-Hearing Officer Determination to Protest by  
Keystone Construction, Inc.

Agenda Item No 21 recommends that City Council authorize execution of a construction contract with PEABODY GENERAL CONTRACTORS, INC. (Peabody). Peabody is the low, responsible bidder recommended by staff. By letter dated April 27, 2005, Keystone Construction Inc. (Keystone) filed its intent to protest the recommended award on the following grounds:

- Peabody did not obtain a set of Contract Documents and is not listed as a plan holder.
- Peabody, recommended awardee, failed to submit a signed Addendum. The solicitation stated that failure to submit this document "may" be cause for rejection of the bid.
- In Keystone's opinion, Peabody does not possess the experience as required in the solicitation.

On May 10, 2005, a protest hearing for this matter was held regarding this project. It was heard by Independent Hearing Officer Monte Akers and City staff. This is a construction project for the Austin Clean Water Program consisting of the installation of a subsurface wastewater line between Barton Springs Road and Riverside Drive. It involves digging pits, boring, and installation of the new line, by-pass piping, and connection to existing lines. This is an EPA mandated project. The hearing was attended by representatives of Peabody and City staff. After hearing all of the evidence and reviewing the documents for this bid, the Independent Hearing Officer concluded and recommended that the protest of Keystone Construction Inc. be denied.

City staff recommends the City Council award the contract to Peabody General Contractors, Inc.