

BREMER-WAVERLY PUBLIC SAFETY BOARD

111 4TH Street N.E.

Waverly, Iowa 50677

Monday, September 15, 2003

PRESENT

Mr. Block
Mr. Behnke
Mr. Boorum
Mr. Reuter
Mr. Ribich
Mr. Simpson
Mr. Hildebrandt

ABSENT

GUESTS

Mark Ledbetter, PCS
Curt Krieger, PCS
Dick Crayne, City of Waverly
Butch Kehe, Kehe Construction

Chairman Block called the meeting to order at 9:05 a. m. on Monday, September 15, 2003

Chairman Block called for discussion on building project.

Mr. Ledbetter advised they corresponded with legal consul and had requested Mr. Kehe's attorney provide some legal standing for them. Mr. Ledbetter advised his firm received a letter from Mr. Kehe and his legal representative and PCS concluded it is not a legal document. Mr. Ledbetter advised you cannot negotiate prior to an award and therefore the board would have to award the bid to Kehe Construction at the bid amount and then do change orders to reduce the amount. Mr. Ledbetter advised that under this agreement his firm felt the other two remaining contractors could ask to also go back to bid or have the same opportunity.

Chief Simpson asked why we would have to re-bid. Mr. Ledbetter advised that it would be the cleanest and fairest way to handle this project.

A lengthy discussion on legal issues of accepting a pre-agreement followed.

Mr. Boorum advised he is totally against re-bids under any circumstances. Mr. Boorum further stated re-bidding is not fair to anybody and if the builders can't be trusted we shouldn't do business with them. Mr. Boorum asked what keeps us, or says we can't go over the estimate as presented early on for this project, indicating that he feels it was only an estimate. Mr. Hinderaker advised the word on the street was a certain dollar amount. Mr. Boorum stated he should also note that the cities share is only a small percent of the total project. Sheriff Hildebrandt advised he is uncomfortable after having reviewed the letters from Mr. Kehe's attorney as well as after speaking with Mr. Wadding, Bremer County Attorney and learning that at best this may be questionable practice or may be considered improper and given the fact we are so far over budget.

Mr. Ribich asked what or how re-bidding affects the time line? Mr. Kehe stated since it is his letter that seems to be stirring the pot he offered a pre-award agreement. His legal consul stated that case law is that you have to award contract at bid price after which he would sign the change

orders and the actual contract would be awarded later. He said all he did at the last meeting was offer ideas of where he could cut his costs. Mr. Block asked if allowing more time for construction could help cut costs and Mr. Kehe responded that a time extension would not be enough to realize any real savings. Mr. Kehe advised the board he has \$390,000.00 possible savings in writing and is willing to give these to the board now but not until the board decides they are not going to re-bid.

Chief Simpson asked what changes will be done if this is re-bid. Mr. Ledbetter stated that would be up to the board but redesign would be necessary for us to gain the savings necessary to get within budget.

Mr. Ribich advised he has a concern or question of what the anxiety over a possible injunction is as he does not understand what could be acted upon for an injunction if we sign the contract and then do the change orders later.

Mr. Crayne asked about the Iowa Plastics project in comparison to this project wherein bids came in over budget, the contract was awarded and then through change orders a contract was signed. Mr. Kehe confirmed that is the exact process that was used in that project with the only differences being that the change orders were not signed in advance.

Mr. Hinderaker asked Mr. Ledbetter what a redesign would do for the scope of the project and he responded that the clerestories would be eliminated, roof changes and some wall changes would be included. Mr. Kehe pointed out this would require reprinting of bid documents and charges from the architect to make the changes.

Mr. Crayne asked what the time frame to award bids was on this project and Mr. Ledbetter advised him it is 60 days from opening. Discussion followed on possible collecting on Kleiman Construction bid bond as they apparently have withdrawn. Mr. Ledbetter advised the only way to collect on that is to formally award them the bid followed by their withdraw.

Chief Simpson advised the board his feelings are that the project should either move forward or the city should pull out of the agreement with the county. Mr. Crayne asked what the city should or could do if they pulled out to which Chief Simpson responded that he did not know. Mr. Boorum and Mr. Ribich expressed they did not want to withdraw from this project.

Mr. Boorum asked again what we would do if re-bid came in over budget? Mr. Kehe commented it does not seem we can get within budget unless we cut space.

Mr. Ribich moved we award bid to lowest acceptable bidder subject to qualifying assuming one of the bidders has withdrawn, 2nd by Mr. Behnke. Discussion followed during which time Mr. Ribich advised that the board should work on change orders to try to lower the budget. Mr. Boorum stated he doesn't feel it is necessary to discuss change orders prior to letting bid. Mr. Ledbetter advised that Mr. Klieman needs to be formally offered an award of his contract. Mr. Ribich asked if the board needs to have formal action taken on Kliemans retraction which Mr. Ledbetter advised we did. Mr. Ribich retracted his motion.

Mr. Boorum moved to accept Kleiman Construction letter of withdraw, 2nd Mr. Hinderaker. Discussion on what if Mr. Kleiman changed his mind on withdrawing at which time he then would have to honor his contract or forfeit his bid bond. All present voted aye; motion carried.

Mr. Ribich moved to award bid to the lowest acceptable bid subject to qualifying, 2nd Mr. Behnke. All present voted aye; motion carried.

PCS requested special meeting for Monday, September 22, 2003 to formally accept all bids.

Chairman Block set special meeting for Monday, September 22, 2003 @ 0900.

Mr. Ribich moved to adjourn, 2nd Mr. Boorum.

Respectfully submitted,

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Dewey L. Hildebrandt
Secretary-Treasurer