

**DERRY TOWNSHIP INDUSTRIAL & COMMERCIAL DEVELOPMENT
AUTHORITY**

235 HOCKERSVILLE ROAD, HERSHEY PENNSYLVANIA 17033

May 25, 2006

MINUTES

CALL TO ORDER

The May 18, 2006 meeting of the Derry Township Industrial & Commercial Development Authority was reconvened May 25, 2006 at 5:30 p.m. by Chairman J. Scot Chadwick.

ROLL CALL

Board Members Present:

J. Scot Chadwick – Chairman
Richard E. Lenker, Jr.
August (Skip) T. Memmi, Jr. – Secretary
Todd K. Pagliarulo – Vice Chairman

Board Members Present:

Michael H. W. Pries

Also Present:

Jeff Foreman (*Foreman & Foreman, P.C.*) – Solicitor

Public Present:

Dave Boyer – Buchart Horn, Inc. / Basco Associates
Bill Davies – HE&R
Richard G. Krisch – Wohlsen Construction
Dave Lavery – HE&R
Kevin Lavery
Bruce Yerger – Buchart Horn, Inc. / Basco Associates

PUBLIC COMMENT

Richard G. Krisch – Wohlsen Construction

Mr. Krisch asked when the construction bids would be awarded. Solicitor Foreman stated later in this meeting. Mr. Krisch had asked for bid tabulations and never received them. Solicitor Foreman indicated these were available at the opening of the bids and that Mr. Krisch can obtain them at a reasonable cost.

Mr. Krisch said he made the request last week and asked if they were available for

inspection today. He also asked what DTICDA's intent was regarding the general construction bids. Solicitor Foreman responded they would awarded to the lowest bidder.

Mr. Krisch said the apparent low bidder was asked to correct their submitted bid. Solicitor Foreman responded a very obvious error was discovered when staff reviewed the bid. Staff corrected the error and the company submitting the bid was not asked to rebid as they continued to be the apparent low bidder.

Solicitor Foreman submitted a memo dated 5/25/06 in which he states:

"It is my understanding that upon review by our consultant one bid to be presented to the DTICDA Board for consideration was found to have a mere mathematical error, and that the consultant determined it appropriate to correct the mathematical calculation. Therefore the tabulation to be presented to the Board reflects the correct (corrected) mathematical calculation, as effected by the Authority's consultant. It is further my understanding this recalculation by the Authority's consultant was based solely on two lines in the bid document which indicated a specific unit cost that was then to be multiplied by a specific number of linear feet, but where that multiplication calculation was simply erroneous."

Solicitor Foreman cited several cases supporting his opinion and further stated:

"In the matter before the Board, not only is the recalculation nonsubstantive in that it merely corrects a mathematical error, but further it hardly disadvantages any other bidder. With or without the mathematical correction the same bidder is the apparent low bidder; with or without the mathematical correction no other bidder would be eligible for award of the bid."

Mr. Krisch requested a copy of Foreman's opinion and indicated he filed a written protest regarding the bid on Monday, 5/22/06. Solicitor Foreman stated he has not seen the letter.

Buchart Horn, in their letter dated 5/25/06, stated they conducted a review of the bids, noted Lobar's mathematical error, made the correction, and indicated Lobar remains the apparent low bidder.

REPORT ON DOWNTOWN DEVELOPMENT PROJECT

Agreement with HE&R (Foreman)

Motion: Mr. Memmi moved and was seconded by Mr. Pagliarulo to approve in form the Construction Agency Agreement and the Purchase Agreement between DTICDA and HE&R. The Purchase Agreement price is \$6.5 million. The only change not noted in the forms is related to the transfer tax. This motion is adopted subject to the successful resolution of this issue.

Discussion: Mr. Memmi indicated a meeting held 5/24/06 resolved all the issues to everyone's comfort level.

Bill Davies, of HE&R, said they came up with the purchase price of \$6.5 million after looking into several different categories. He further stated HE&R is very comfortable with \$6.5 million being an appropriate purchase number.

Motion carried, 3-0-1. Mr. Lenker sustained due to perceived potential conflict of interest.

Phase 3 bids

Mr. Yerger presented the following bids for the Downtown Hershey Intermodal Bus Station Pedestrian Bridge & Parking Facility – Phase 3, dated 5/18/06:

General Bid:

<u>Company</u>	<u>Base Bids</u>
Lobar	\$7,228,486.00
Wohlsen	\$7,688,300.00
MacCabee	\$0
High	\$0
Penncrest	\$0

HVAC Bid:

<u>Company</u>	<u>Base Bids</u>
MBR	\$77,700.00
Eshenaur	\$77,770.00
WG Tomko	\$0
Shannon Smith	\$77,350.00

Plumbing Bid:

<u>Company</u>	<u>Base Bids</u>
WG Tomko	\$269,950.00
Shannon Smith	\$281,370.00

Electrical Bid:

<u>Company</u>	<u>Base Bids</u>
MBR	\$0
B&B	\$468,460.00
Monacacy	\$572,320.00

Low Bids w/alts

General:

<u>Company</u>	<u>Bids</u>	
Lobar	\$7,269,086.00	W/ATL G1
Lobar	\$6,878,486.00	W/ATL G2

HVAC:

<u>Company</u>	<u>Bids</u>	
Shannon Smith	\$77,350.00	W/ATL G1
Eshenhaurs	\$11,880.00	W/ATL G2

Plumbing:

<u>Company</u>	<u>Bids</u>	
WG Tomko	\$269,950.00	W/ATL G1
WG Tomko	\$269,550.00	W/ATL G2

Electrical:

<u>Company</u>	<u>Bids</u>	
B&B	\$474,280.00	W/ATL G1
B&B	\$443,754.00	W/ATL G2

Total W/ATL G1 \$8,090,066.00*
Total W/ATL G2 \$7,603,070.00**

- * With bus shelter additions
- ** Without bus shelter additions

Motion: Mr. Pagliarulo moved and was seconded by Mr. Lenker to approve the low bids as presented.

Motion carried, 4-0.

Buchart Horn Contract Modification for Additional Services

Motion: Mr. Lenker moved and was seconded by Mr. Pagliarulo to accept the modification to the Buchart Horn contract for additional services for the Hershey Intermodal Facility in the amount of \$130,500.

Motion carried, 4-0.

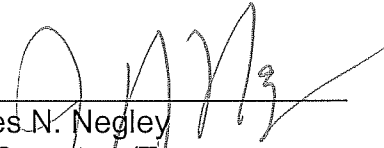
ANY OTHER BUSINESS

Mr. Memmi directed the Solicitor to send Mr. Krisch a copy of his opinion regarding the Phase 3 bids via certified mail return receipt requested.

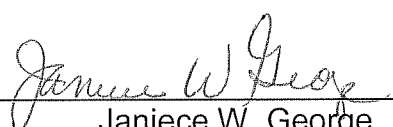
ADJOURNMENT

Motion: Mr. Lenker moved and was seconded by Mr. Memmi to adjourn the meeting at 6:15 p.m.

SUBMITTED BY:



James N. Negley
Manager/Secretary/Treasurer



Janiece W. George
Recording Secretary