

**MINUTES of the
PUBLIC WORKS COMMITTEE**
Meeting held: Wednesday, August 7, 2019
Leawood City Hall- Main Conference Room, 7:30 AM

COMMITTEE MEMBERS PRESENT:

Julie Cain, Vice Chair, Councilmember Ward 4
Lori Ames
Ken Conrad
Abbas Haideri
Todd Harris
Marsha Monica
Jim Rawlings, Councilmember Ward 2

ABSENT:

Andrew Osman, Chair, Councilmember Ward 1
Chuck Sipple, Councilmember Ward 3
Drew Alingh
Chris White

STAFF PRESENT:

David Ley, P.E., Director of Public Works
Brian Scovill, P.E., City Engineer
Julie Stasi, Public Works Admin. Services Manager, Sr.

Chair Osman was unable to attend the meeting.

Vice Chair Cain called the meeting to order at 7:33 AM.

Members and staff introduced themselves.

FIRST ITEM OF BUSINESS (OLD BUSINESS): Review/approve the previous meeting Minutes.

ACTION: Marsha Monica- Motioned to approve the Minutes of the Public Works Meeting held April 3, 2019.
Todd Harris-Seconded the motion to approve the Minutes. All present members were in favor. Motion passed. Minutes Approved.

SECOND ITEM OF BUSINESS (NEW BUSINESS): Review Request from Public Works on the Design Consultant Selection Process for the 2020 Lee Boulevard (83rd to 95th) Project.

David Ley-Last year about this time the Public Works Committee selected BHC Rhodes to design the 1st Phase of Lee Boulevard from 95th to 103rd Street. It is currently under construction and now we are needing to move forward on Phase 2. Staff is recommending typically the process for selecting a firm for a project of this scope, Brian and I would select four firms and then we would meet with each firm individually for about an hour. And they would submit their RFQ (Request for Qualifications). We would bring those to the Committee and the PW Committee would review the RFQ's, rank them and then once you have a firm selected, Brian and I would negotiate the contract with that firm. What we are requesting is to forego that procedure and just negotiate with BHC Rhodes for the Phase 2 project from 83rd Street to 95th Street. Part of that reason is because of the uniqueness of Lee Boulevard. We are widening the roadway two feet, adding bike lanes, adding some storm sewers and make some improvements then adding a ribbon curb.

Jim Rawlings-Did we discuss at the time we selected them, them doing the whole project from 103rd to 83rd? Why did we break it up? Why didn't we do the whole thing at once?

David Ley-We broke it out in phases by year and we were a little concerned if we hired one firm and they did not perform very well on the first phase, then we would be stuck with them for the next phase.

Todd Harris-Is there no policy on sole source selection under this? We have the authority to do that?

David Ley-Yes we can do that. You have the authority as a Committee. You can make a recommendation to the Governing Body and they would then review it and either accept it or not.

Todd Harris-Is there, refresh my memory, we then were going to go from 83rd up to Somerset, is that another phase?

David Ley-That is Phase 3 which will be done in 2021, along with 83rd Street Improvements.

Julie Cain-Might you come make the same recommendation at that point? With Phase 3?

David Ley-I think on Phase 3 we will probably build it with 83rd Street, so we would go out for firms as 83rd Street is going to probably be the driving force on that project. That is a fairly large project.

Julie Cain-Administratively we can do what we are doing here to continue.

David Ley-Yes we have done that on construction projects in the past. On Design/Build projects we've also waived the process.

Julie Cain-Do we have a long history with BHC Rhodes anyway?

David Ley-BHC Rhodes has completed some work in the past, but it has been awhile. Lee Boulevard is the first project they have completed for us probably in the past five years.

Ken Conrad-How large was their contract on the first phase?

Brian Scovill-\$205,000

Ken Conrad-And we think this next one is going to be? Is it about the same distance?

Brian Scovill-Phase 2 is about 50% longer, but their design will not necessarily be 50% larger. We do not feel it is necessary. There is actually some money left on their initial design contract. Roughly \$20,000. They brought the project in, maybe you have read in the notes within, early as far as the design and also under their budget.

Ken Conrad-How much is the construction?

Brian Scovill-\$225,000 is what we anticipate initially with the option of utilizing that \$20,000 from the previous phase for this phase.

Ken Conrad-How far are they on construction?

Brian Scovill-Kissick is doing the construction and they are working on the water line now, percentage wise I'm not sure, we just processed the first pay estimate, but they anticipate having all of the water line work complete within the next three weeks. The contractor is ahead of schedule, over a week.

Abbas Haideri-Were there any complexities that might make this phase different than the previous one?

Brian Scovill-It will be very similar. This project is utilizing a concrete ribbon curb, which BHC Rhodes has helped us identify a solution to how that might be implemented along the project corridor. It is non-standard. I do not know of any cities that have done this although I have seen it. I just do not remember where. A concrete ribbon curb is a concrete edging to the asphalt road. It is not a raised curb per se. It is below grade edging. There is no curb and gutter and it helps hold the edge of the asphalt as a clean line. It will assist with the weed eating and minimizes the chances of asphalt of future mill & overlays to continue to spread into the yards.

David Ley-That was one of the comments over the past couple years that the residents brought to our attention. Residents were upset about the edge cracking and the asphalt ending up in their front yards. So this is one way to solve that problem. It will give them a straight edge for them to maintain up to.

Brian Scovill-It helps the quality of the asphalt on the edge. It gives the rollers something to compact against.

Julie Cain-I would think with the bike lane too, if you do not have the deterioration of the asphalt it will be safer for the bikers, ultimately.

Questions:

Abbas Haideri-Once they get into it do you see potentials for change orders or anything?

Brian Scovill-There is always a chance of something unknown. We have not negotiated their scope or fee yet. We will ask them to provide us a scope and fee based on that portion of the project. It might be more than \$225,000 that we have budgeted but we will have to negotiate what is truly needed for that section.

Ken Conrad-Why do we want to do this?

David Ley-Because they are familiar with the corridor. We can hire another firm but staff time alone to try to select another consultant we will probably end up losing twenty hours by the time we meet with all these firms if we do not select BHC Rhodes and try to bring somebody up to speed. In just the uniqueness of this design it is not a typical section. With BHC familiar with this first phase they are already basically ready to go.

Brian Scovill-Obviously they would have a very convincing proposal based on their experience with the previous phase and they have (in theory) a really high chance of being selected again considering they were successfully under budget, within their schedule and they know the complexities of the area.

Ken Conrad-When is this first project supposed to end construction wise?

Brian Scovill-We anticipate completing all of the construction in November.

Ken Conrad-And when do we anticipate the next phase start?

Brian Scovill-Next spring or early summer.

Ken Conrad-So there is some amount of time. There is no reason to bring the contractor along on this deal either.

Brian Scovill-Correct, not at this point.

David Ley-The construction would go out for bid. We would not recommend just giving it to Kissick (the contractor currently working on Phase 1).

Ken Conrad-From the weather standpoint, wouldn't you want to try to start it sooner? If we are trying to save time and money is there some reason you do not negotiate the construction if they are doing a good job and they are ahead?

Brian Scovill-We have a lot of work with Kissick Construction right now. I don't know.

Ken Conrad-Just asking if we are taking this approach does it carry over? Certainly the timing of the construction and not being in winter would/could easily negate trying to do that.

Brian Scovill-It will take us time to get the plans together to bid or to give to the contractor if we were to give them the contract. Another thing to think about is that the construction contract we will get bids on. If we handed the contract and asked them to provide a price, would they be willing to carry over their unit prices from this last contract? Probably not. In the construction industry right now, prices are going up. Asphalt prices are going up. So there would be some markup if we didn't go for bids. All those factors would play into that decision.

Marsha Monica-Different topic. Is this a precedent or have we done this before?

Abbas Haideri-Would think it is a logical way to move forward however is a little concerned about the perception which is probably why we are discussing this, single sourcing.

David Ley-For construction projects we have done this before. DB-24 Stormwater Project the original construction contract I believe was a couple million dollars for Phase 1 and then we had the same contractor complete Phase 2 without bidding the project. We were so happy with the contractor on Phase 1 we just rolled them in and he was able to provide us the same costs, so we extended that contract. There was a change order for approximately the same amount as the original contract. Then for some buildings at the Public Works Facility the maintenance expansion, that was done (we waived the bidding process for that) and worked directly with Bruner for that. On special circumstances when they are present. In this case we have the Engineer Design Firm. They are familiar with our design standards and it makes a lot of sense to have them do Phase 1 and Phase 2.

Todd Harris-Two part question. The first part is where sole source contract was used before and when it was engineering construction has any other company raised a concern or issue protest to that bid?

And what is the likelihood under this circumstances with a \$200,000-\$250,000 fee would anybody want to raise that protest to the sole source? Do you think that would not happen?

David Ley-We haven't had that in the past. I do not believe it would.

Brian Scovill-Phase 1 was \$1.82 million construction value. The second phase design is \$225,000 with construction budgeted \$2.5 million.

Julie Cain-When they are bidding this out, are they aware that we are not speaking to anybody else? Is that public record? Are we making the consultant aware that we are not bidding this out for their design project?

Brian Scovill-Well with these Minutes it will become public record. Right now BHC Rhodes does know about the possibility. We asked them if they would be available to do the next phase. We do not want to bring this to you if they are not even available to do the next phase. We did ask them if they were available and they were very interested and said that with their past experience on Phase 1 they felt comfortable, so they are aware.

Jim Rawlings-Asked about when we selected them, who was number two?

David Ley-When we did the rankings last year, we actually selected Continental Consultants as number one and they were selected for the Residential Reconstruction Project. BHC Rhodes was number two and they were then selected to do the Lee Boulevard Design (Phase 1).

Marsha Monica-BHC has not done tons of work in Leawood. Somebody couldn't say "well you're using the same people over and over again".

David Ley-The work that they have completed prior to five years ago was pretty small work. It was doing a \$10,000 contract for surveying for us.

Ken Conrad-So technically will we be amending their current contract? Or giving them a new contract?

David Ley-It would be a new contract. This would go to the September 3rd Council Meeting as a recommendation-if you recommend this. And if that happens, we would start negotiating with them so we could have a contract soon and get the processing moving forward.

Ken Conrad-Couple of things, he would insist that they have the same team on this new project. That's the whole point of giving it to them. They need to have and if somebody has left them that was a part of the first team, then I think that begins to negate. I think we have to have their Project Manager. I think to justify this we need to do that and I also think assume before we make a final decision that we are going to get the fee for this?

Brian Scovill-Next they negotiate a fee to Council. Their fee does not come back to this group.

Ken Conrad-Or have their same organizational chart that they had for the last phase.

Todd Harris-Number one, I think this makes sense, and can certainly bring a motion forward. Number two, the staff ought to take a look at how a Policy about sole sourcing in where situations make sense like this one. And I think it does. How public notice is given that this will be sole source contract. Because I think published notice needs to be given and whether it is to speed up the Minutes being posted to have fairness to the process. Yes they can look at the public meeting, but I'm not satisfied that the public is getting notice about a sole source. I believe it makes sense here. And do not think any kind of bid protest would survive under the circumstances especially with your point of staff work that you all will do-due diligence. I support it but think that the staff needs to think about how you give public notice about this method.

Marsha Monica-This comes up at City Council.

David Ley-Yes. It comes up and then is referred to the Committee here. The public notice that we would have done would have been to have the City Council to refer this as an item to the Public Works Committee. Todd Harris-So previously a council meeting assigned this. So the assignment becomes the public notice.

Julie Cain-No I have to make this recommendation to your point, make this as a recommendation.

David Ley-It comes under the City Council Reports or under Public Works Committee reports. Not sure if it stated sole sourcing though.

Marsha Monica-City Council would have to take action to approve this correct? So at that point if you say this is a sole source and the reasons are...and that is on public record.

Julie Cain-Well yes, but that is not done in advance, it is done at the same time we are approving what we have done.

Todd Harris-Yes. Nobody has had the opportunity to protest that action.

Julie Cain-But if I were to make a recommendation; I know I'm making one for something else. Sorry I'm criss-crossing my recommendations.

David Ley-We have a few coming up. At the next meeting we are going to refer the retaining wall at 127th & Roe on the northeast corner. But we also need to refer selection of a consultant for the Mission Road Project from 133rd to 143rd Streets.

Julie Cain-So I'm doing those two and then I could make a public notice at that time for this being a sole source.

David Ley-Well this topic today comes under the Public Works Committee.

Julie Stasi-This today would be a response to the Council and it is usually listed as Agenda Item No. 12 and is not under the Consent Agenda. It is listed as a Committee Report. But if you want them to talk about new things then a Councilmember make a recommendation to the Council at the beginning of the meeting.

Jim Rawlings-It is already in the Minutes.

Todd Harris-I think an authentic public notice needs to be made as it gives opportunities to protest what is happening if they so choose. This in that case makes perfect sense. I'm sold on it. I was sold on it when I read the staff report. It just a transparency in government and I think it's a low fee amount over all. But somebody may have a problem with it and we do not know that if we do not give an opportunity to know it.

Julie Cain-And I appreciate that. Procedurally how would we do that?

David Ley-Well it was referred to the Public Works Committee, when it comes back to council as a recommendation, we can be more specific that we discussed waiving the bid process or waiving the process for consultant selection fees and use BHC for the Lee Boulevard design. And that would be listed on the Agenda. Initially from now on when we move forward we could handle that public notice in the future that way; when it is referred.

Abbas Haideri-How much of a hard ship would it be for a new consultant to come in and learn it? To go from the first phase to the second phase.

Brian Scovill-We have so many good, quality consultants in this area, we could go out for selection, and then we could look at five firms. And all five would be capable. They could do it. Whether they would hit the ground running as fast as BHC Rhodes, probably not. They would have to work through the process and see how we managed and designed the ribbon concrete curb, there would be a learning curve there. We would pay for that but it would not be a make or break the project.

Abbas Haideri-So in that light it doesn't make sense to sole source.

Ken Conrad-And this is why I think it is so important that BHC Rhodes needs to be bringing their original organizational chart. From the top to the bottom and we need to be prepared that if we do not see the right people on the project that we let them know about it. Because I do agree from an engineering standpoint, I think you are right on.

Abbas Haideri-A concern is this is \$200,000. But tomorrow we might have a project that is \$500,000 and then a million. Five years from now someone wonders what happened.

Marsha Monica-He said it has been done before. So we are not the first.

Ken Conrad-So then the question comes why wouldn't we do this for 83rd or to where the next phase is up to Somerset?

David Ley-83rd Street is completely different project.

Todd Harris-That is where you need your staff to evaluate the project. Really in my opinion at that point that is staff work. That is what we pay them to do.

Ken Conrad-And why I want to know the overall scheduling of the project. If there is a real lag then there's no hitting the ground running. You could argue that somebody is going to have adequate design time. Does all of that next section need to be surveyed? Utilities and all that, so there is really no advantage to using BHC Rhodes on that. And I think when we go to the next section, it will be the same discussion.

David Ley-Staff is not going to recommend sole sourcing BHC Rhodes for 83rd Street.

Ken Conrad-Why? You're going to lump it into 83rd and go all the way...

Marsha Monica-Because it's included in 83rd street.

Brian Scovill-83rd Street will probably be the bulk of the work on that third phase.

David Ley-83rd Street is in the budget for 2021 and it goes from the west City limits, east to State Line Road. There will be the reconstruction of pavement and we also have a project for Lee Boulevard phase 3 which initially we're thinking since it is all connected to 83rd St that we would go out for a consultant selection to design 83rd along with Lee and that would be one project which would be designed and bid as one project. 83rd is not anticipated to be widened.

Julie Cain-You've done it before, you do not ask often. You feel as our professional staff that this is the best course of action. We are able to make a motion that it includes stipulations to your point about the same work team.

Ken Conrad-and it would be contingent upon their fee proposal.

David Ley-We would negotiate their fee. That is correct but we would do that with any firm. When you do the RFQ you do not see a fee. That is always negotiated afterwards.

Ken Conrad-If we make a motion there needs to be a reason why we are doing it and the reason is that they have knowledge of the project type they are doing now. They will use their same staff and they are going to have a mutually agreeable fee and schedule for the project to be negotiated by staff and BHC Rhodes.

Todd Harris-Wants to weigh in on the Motion itself, personally do not think it should be overly prescriptive to the staff. My feeling is I want to trust the staff to do what you are suggesting. But if you want the motion to stipulate overly prescriptive things in it, that is fine with me. I just do not favor that. I would favor a motion that is general in nature and trusts the staff with doing what you are suggesting. I think they were going to do that anyways. Don't we always have the right to say, hey, this isn't going to work BHC even after Council because their fee is too high or whatever, right?

Abbas Haideri-I'm convinced of the logic and if this was my house I would do that. But I'm not convinced of the justification.

Brian Scovill-As far as the schedule goes...

Abbas Haideri-Yes it makes sense. I'm talking about having a responsibility to the public.

Marsha Monica-But Council has a responsibility to the public. We're an advisory board.

David Ley-Well there are a couple of things. If we do go out for consultant selection that is going to extend this process at least two months which will probably push the bid from April to a June or July bid. Which at that time, typically construction bids come in much higher. The other thing is BHC Rhodes, as Brian said initially, is they came in \$20,000 under our negotiated contract. So they did save the City money on their design.

Ken Conrad-Well I hate to say it yet but having been in the business, the jobs not over yet.

Brian Scovill-They are essentially over. Kissick is now doing the construction. We retained BHC for services just during construction but unless an unforeseen condition (like a different site condition came up), I do not anticipate anything new.

Ken Conrad-So you have two different contracts? One for design and one for construction?

Brian Scovill-Yes. Kissick has the construction of the Lee Boulevard 1st phase. Within their design contract we have construction support services and have identified so many hours for that. Most of that is used for submittal review and approval. Well we are through the submittal and review process, there's \$20,000 in their fee left but I do not anticipate them utilizing them for any additional work.

Jim Rawlings-I've been on City Council for 18 years and we have a professional staff; two professional engineers with degrees and certificates. We've got a City Manager I assume, is okay with this. And never have they come to the City Council without justifiable good reasons to do that. And in the best interest of the project the City and whatever else has to be done.

Marsha Monica-The welfare of the community.

Jim Rawlings-Yes and I think we are trying to micro manage whether it's the same staff of the consultant-that's not our problem. That's up to the consulting firm to do that and if they lose somebody, they change all the time. What happens if they lose the person that you deal with every day? Do we stop? No. You just continue to move on. I think that we need to take the City's recommendation of what we are doing and that is what I'll support at City Council because we've never been bitten.

Todd Harris- Makes a motion for (general in nature). Due to the past performance of BHC Rhodes on Phase 1 of Lee Boulevard Improvements from 103rd Street to 95th Street, the Public Works Committee recommends to the Governing Body a sole source contract with BHC Rhodes to complete Phase 2 design of Lee Boulevard from 95th Street to 83rd Street.

Marsha Monica-Seconds the Motion.

Ken Conrad-Thinks we are all on the same page but I do not think micro managing is asking for what we believe is the reason we want to do this. Which is they have done a good job, they have knowledge in house. (I've been in this position as a consultant) That's the reason we're doing it, right? BHC Rhodes is a big company they are a good company. Your point, we have had great consultants doing our civil work. It's always been a tough call with who we give projects to. I think there are a lot of people that can do this. I do believe in public entities going out and getting proposals and getting pricing. So I would say if we are going to do that I would like to see some criteria by which BHC Rhodes has to provide in order to do this.

Marsha Monica-So do you want to make an amendment to the motion?

Ken Conrad-I'd like to make an amendment. I'm saying I believe we can do this if they can provide the people that are doing the project now. They are the people that have the experience, the knowledge and that put this project together. That they are going to be able to pick it up and. I would suggest that as an Amendment to the Motion to have a stipulation.

Marsha Monica-That they have the same personnel that was in the first phase in the next phase. Anything else?

Ken Conrad-Amending Motion that it's contingent upon their scheduling fee that is mutually agreed upon by staff.

Julie Cain-Based upon those reasons, the knowledge, how they've handled themselves so far, based upon the same team, based upon the satisfactory negotiated scope and fees. Your amendment is to attach all that to the original Motion. Do I have a second to the friendly amended motion?

Abbas Haideri-Seconds the Amendment to the Motion.

DISCUSSION:

Jim Rawlings-I still think they should maintain their staff to the fullest extent possible.

Todd Harris-I agree.

Jim Rawlings-What happens if somebody leaves?

Marsha Monica? Or drops dead?

Jim Rawlings-Is the project over?

Ken Conrad-If BHC Rhodes has the people and they present it, okay? And somebody leaves a month later, we are not going to cancel their contract. But going into this, that's what I want. I want the same guys to fix my brick work that just did fix the brick work if I've got to have it done in the future. Because they did a great job. Okay? Any large project that I have ever interviewed for one of the major things they want to see is who is going to work on the project. And I don't want to see the president of the company because he's not going to work on my project. I want to see the guy, don't you agree? You can get different project managers and if I'm a firm that didn't get this job and was hoping to maybe get the next one, I can accept that. They use their same people because that is what I strive for in my company is to get repeat business by having good people. It's a terrible double edged sword in our business. But I think that is what's important in this and that is what when I first read it is we are going to take this team we have and we're going to keep on moving.

Todd Harris-I have question for staff as part of the discussion. If you saw a red flag with BHC on this second sole source contract, would you address that concern? Any red flags from the consulting team?

David Ley/Brian Scovill-Yes, sure we would.

Julie Cain-And you have the power to back out if something is causing a red flag you have the ability to halt the process.

David Ley-Right

Julie Cain- By granting the sole source option it doesn't mean that we are locked in.

David Ley-Going in to the contract, David Smalling is the Project Manager. You say you want the same people on it which we agree and that's why we want to use BHC. But how far down the line do you go with that? Because we have the Project Manager as David Smalling, he's really running the project at BHC and the group that he runs. He may lose a technician, does that mean we don't want to work with them?

Jim Rawlings-That's my question.

Marsha Monica-I think we are over analyzing this.

Ken Conrad-I don't. I'm not implying that maybe the words they have to have their same technician.

Todd Harris-Then I think your amendment needs to be very clear, because it's not.

Marsha Monica-Lets vote on the Amendment.

Jim Rawlings-I'm not sure what it is

Todd Harris-I don't know what it is either.

Ken Conrad-The same project manager.

Abbas Haideri-The same project leadership.

Todd Harris-Which one is it? Same Project Manager or same Leadership team? Please specify so we can vote.

Ken Conrad-Project Manager.

Todd Harris-Thank you.

Jim Rawlings-And that's only as good until the time the contract is signed.

Ken Conrad-I withdraw it. I withdraw my friendly Amendment to the Motion.

Marsha Monica-Do you withdraw the second?

Abbas Haideri-Yes, withdraws his second to the Amendment to the Motion.

Brian Scovill-For what it's worth, David Smalling is the project manager on the current project. I talked with him yesterday. He is still with the firm and still manages the project. He asked about phase 2 before we bid phase 1. He was wanting to know if that was coming down the pike and if it was still budgeted. As far as the rest of their staff, I do not know for sure. But they have other people I've worked with. Ninah did a great job on the lighting as we worked through some issues. Another senior designer who has been there seventeen years and he does not look like he is going anywhere (but I don't know that). Regardless of the stipulation or the Amendment or Motion, as we work through the scope and fee negotiations, we will definitely look at the staff to make sure if we are still comfortable with the team that they have presented.

Todd Harris-Is that due diligence process you just described something that you normally do as part of your work?

Brian Scovill-As we negotiate scope and fee, yes. We do review the team, their experience.

Todd Harris-This isn't anything new for you?

Brian Scovill-No.

Abbas Haideri-I appreciate what Ken was saying. Your teams are only going to be as good as your leaders are.

Todd Harris-It's my point of view or what our role as a recommending body is verses the role of the staff. And if we want to perform staff work, then we need to apply for the job. We are a recommending body with recommendations. I don't think prescribing detailed nuance things in a proposal is the right thing to do I think we're acting out-of-scope with what we've been asked to do as a committee member. That's only my perspective.

Ken Conrad-No, no and that's fine. And we're tainted with being in this business. When we go out with an RFQ or an RFP for work we are prescriptive, we tell people what we want them to do.

Todd Harris-I understand.

Ken Conrad-We could and maybe should write some type of a letter to BHC Rhodes that asks them to submit to us officially how they are going to approach this project, who.

Todd Harris-We in that case, you are confusing roles in my opinion. When you say we, "we" who? "We the Staff" I agree should do that. We the recommending body as a committee person (Ken Conrad, Todd Harris) we are recommending we pursue this course of action in general, trusting credentialed staff members to do what we exactly suggest. And the Minutes of this meeting become public record to show that you expressed that concern. It's on there. I can guarantee you it's on there. If they don't do that and somebody were to look at and examine that with the light of day, and it was just a Good Ole Boy thing, which we don't want to happen, then that would be a problem. Everybody here would agree. That's why I'm a big transparency procurement kind of guy with my Federal experience in procuring multi-million dollar contracts.

Julie Cain-And I can tell you as at Council, just what you heard us say before as Jim was speaking to. We count on

the Minutes. We count on the professionals of the committees. We count on professional staff. Because I cannot be as one person, a stormwater expert, a public works expert, and art expert and all the things we are doing. So to your point and to your point and yours, all this will be in the Minutes and we based decisions, we spend hours reading Minutes in preparation for decisions. Because ultimately that is our goal.

Julie Cain-So you withdrew your Amended Motion so **we have a Motion on the table**. Is there any more discussion on the Motion before we vote? No. We have a motion and a second. Do we need to re-read, is everyone clear on that?

Todd Harris/Marsha Monica-Re-read it please.

Julie Stasi- In general due to past performance of BHC Rhodes and past work on the first project of Lee from 103rd to 95th, the Public Works Committee recommends BHC Rhodes to design Lee Boulevard from 95th to 83rd Street.

Todd Harris-I wanted the words "Sole Source for Phase 1 and Phase 2" in that.

Abbas Haideri-If you take that and add because we think it would expedite, I think it would help.

Julie Stasi-And I can get it word for word off of the audio.

Todd Harris-Suggest if we are going to say "expedite" that we want to put part of the justification in there is potential cost savings. I think there are potential cost savings that can be realized.

Ken Conrad-I think we ought to boil this down, following the very basic.

Todd Harris-I agree.

Ken Conrad-My recommendation would be staff begin negotiating with BHC Rhodes to do Phase 2. Period. Done. Let's go to the other end. Let's just say . . .

Marsha Monica-I thought this meeting was going to be 5 minutes!

Ken Conrad-This has been a great discussion.

Todd Harris-I agree.

Ken Conrad-I do believe where we are right now, my recommendation would be to take the recommendation to be that as a Committee we think that staff should pursue hiring BHC Rhodes as sole source for Phase 2 of the Lee Boulevard Project.

Julie Cain-We have some language on the form in the staff write up.

Due to the unique characteristics of the Lee Boulevard corridor staff is requesting the PW Committee recommend to the Governing Body the City contract with BHC Rhodes as a sole source contract to complete the design of Lee Boulevard from 83rd to 95th Street.

Todd Harris-Crafted what he said using that sentence, but added sole sources in the interest of the transparency it is a sole source, no one else has an opportunity for this work.

Julie Cain-Okay now are we ready for a vote?

All those in favor say "aye".

All members present were in favor.

None opposed. Motion Passed.

Julie Cain-So the only lingering question is do we as a public notice, are we going to make up a referral recommendation (or whatever the correct word is) prior to the actual vote so we are actually giving notice as opposed to just voting (at council)?

David Ley-It will be on the Agenda and at the time we will include "sole source" in the recommendation.

Marsha Monica-How soon before a council meeting does the Agenda posted?

Julie Stasi-Usually on Thursday in the week before the meeting.

Julie Cain-And that is public notice.

Brian Scovill-And the Council's referral of this item to this body was public as well.

Jim Rawlings-That's where most of your citizen comments are. They show up because they have seen the Agenda

on the Thursday before the Monday. And the contractors will know that also.

Marsha Monica-Not so much the companies that do business, but the public, the Leawood public. These kinds of projects they have confidence in the staff and council. Barking dogs or neighbors, that's when they will be at the City Council meeting.

Jim Rawlings-You are absolutely right.

Ken Conrad-Has one question. Will we receive a request from the Council to accept BHC Rhodes to do this project once staff gets done?

Julie Cain-No. It will be a decision based. Now if staff recommended to you, you recommended to us, we will decide as the Council what it will be.

Marsha Monica-They could decide not to do it. The council could.

Julie Cain-The only time it comes back is if we do not accept the recommendation and we refer it back.

Todd Harris-Again it comes back to the roles and responsibilities of the Committee, vice staff, vice the Council and I think there's adequate opportunity for somebody to protest the process, which is fine if they do, because maybe we've overlooked something. I don't think we have. If this isn't an example of something we would sole source, then somebody tell me what is. This is to me the road continues through. And the characteristics of the road are more or less the same all the way up to 83rd. It does kind of flatten out past 83rd going north, but to me it's. There is a curve north of there. If this isn't a low cost engineering fee in my opinion, what would we sole source?

Julie Cain-Julie, will the Minutes from this discussion be, go with this recommendation that is presented?

Julie Stasi-I send an "Action Summary" today of your motions and actions. The Action Summary is just the motions and your attendance and that will go to the City Administrator and the City Clerk.

Julie Cain-So it does not have the discussion.

Julie Stasi-No. The Minutes will come back here the next time you all meet. If and when you have an assignment. So if you do not have an assignment. The Minutes then show up to a Council Meeting after you have met again and approved today's Minutes (at a future meeting). Then after Council accepts them, it then is posted.

Todd Harris-Asks at Council when they is brought forward the Council Members have not seen to discuss and relay the narrative of the meeting (this meeting)? There was concern by the Committee about the optics about sole sourcing. If we believe public notice has been provided....in other words you are able to color what was said here, the staff believes that the Committee is concerned that the momentum of the contractor has to be maintained consistently and project management of staff is going to pay particular attention to that. In other words you – because I think that is a key point the staff does it.

Julie Cain-Yes. We will do that. The Mayor will ask us to give some background on why the motion is before them. And Jim sits next to me. David and or Brian will be brought up to discuss it before the vote is taken. So yes we will make sure that we bring up these points. It will not be in the Clerks Minutes but it will be brought up at the time and we can do that.

David Ley-Staff provides a report along with that. The reports summarizes the discussion here and that will be in the packet before the meeting so people can see the reasoning.

Todd Harris-To Ken's point, do you draft a letter officially. A letter to BHC to submit something.

David Ley-We sit down with them and we talk about how many public meetings we want to have, utility meetings, design requirements, etc. and we work through how many hours it will take them.

Ken Conrad-And is there written a detailed Scope of Phase 2 yet?

David Ley-No we have not written it yet.

Brian Scovill-In this case we would probably not request a proposal from them. We would probably request that we have a meeting to go over their staff and their scope and their fee. We would sit down and go over all of that together. They go back and formulate their scope and their fee. They submit it to us, we review it. We would probably reject it and they have to revise it.

Abbas Haideri-Is it a scope amendment to the existing contract? Or is it a new contract?

Staff-It is a new contract.

Marcia Monica-Was just reading, it says staff did not include the 83rd to 95th Phase in committees review and selection of design in the fall of 2018. Staff was concerned that if the consultant did not perform as required on the first phase then the issues would continue on the second phase...so my comment is have we ever when we put out something like this and you know there is like two phases. Have we ever put out that where there is an additional phase there is a contingency that if so desired the City will or may continue or extend an option to design the next phase?

David Ley-There will be from now on.

Todd Harris-Would that honestly administratively could that have saved us from having this meeting?

David Ley-Correct.

Ken Conrad-Which is really one of the most important parts of what we do, after having this discussion. Because we haven't done this before. What do we have to do to get this in place?

Julie Cain-It is beyond a shadow of a doubt that is why these committees exist. Like the policy on street lights. It makes it.

David Ley-We will have other projects coming up. We will be selecting the Mission Road, 133rd to 143rd Street Consultant. That is a big project coming up.

The Committee felt the reasoning to use BHC as a sole source would help in a cost savings to the City and that they had demonstrated a good knowledge of the scope expected for the next phase. Their work has been favorable on the first phase of Lee from 95th to 103rd Street. Public Works Staff Report will be included with the City Council Agenda at the September 3, 2019 meeting.

Vice Chair Cain adjourned the meeting at 8:35 A.M.

Minutes transcribed by: Julie Stasi, Administrative Services Manager, Sr.

Staff Note: *These Minutes are a bit lengthy and not as condensed as usually preferred in order to capture discussion that transpired in the Committee's review. jas*