

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	June 27, 2016
	<b>Agenda Item No.</b>	<b>47</b>
	<b>Roll Call No.</b>	<b><u>16-1064</u></b>
	<b>Communication No.</b>	<b><u>16-329</u></b>
	<b>Submitted by:</b>	<b>John F. TeKippe, Fire Chief</b>

**AGENDA HEADING:**

Approval of Termination Agreement to Cancel Acceptance of bid with Rosenbauer South Dakota, LLC for Bid #V16-021.

**SYNOPSIS:**

Approval of Termination Agreement to terminate acceptance of bid proposal from Rosenbauer South Dakota, LLC., 100 Third Street, Lyons, South Dakota to Bid V16-021 for the purchase of one (1) 75-foot mid-mount aerial ladder truck. This resolution authorizes the City Manager to execute the Agreement.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On September 21<sup>st</sup>, 2015, the Procurement Division issued Bid Number V16-021 for the purchase of one (1) 75-foot mid-mount aerial ladder truck. The sole bid proposal received was from Rosenbauer South Dakota, LLC. Rosenbauer was awarded the bid on October 26<sup>th</sup>, 2015 by Roll Call No. 15-1797 in the amount of \$833,069.00. This was to be the second of two (2) aerial ladder trucks needed by the City. The first was also awarded to Rosenbauer South Dakota, LLC. (V15-044).

Background

In December, 2014, Rosenbauer’s bid proposal was accepted to supply the first needed 75-foot mid-mount aerial ladder truck pursuant to Bid #V15-044. While fabrication of this truck was underway, the Fire Department went out for bids on the second of the two (2) needed aerial ladder trucks and the City awarded a second aerial ladder truck to Rosenbauer, Bid # V16-021, as well. Rosenbauer was the only bidder to submit a bid proposal on this second bid letting.

Rosenbauer encountered some design and engineering compliance issues with the City’s detailed specifications required under Bid V15-044 during fabrication of that ladder truck. Rosenbauer worked with Fire Department staff to correct the issues, however, just prior to delivery, Rosenbauer informed the Fire Department that the front axle exceeded its weight limit. This excess weight was not discovered until Rosenbauer sought certification of the truck on certified vehicle scales. Rosenbauer then made several modifications to the truck design to account for the overweight discrepancies. Unfortunately, the aerial ladder truck was still over weight. The Fire Department then declined delivery and the truck was sent back to Rosenbauer for further design and engineering adjustments.

On March 4, 2016 the City sent a Notice of Default to Rosenbauer for failure to deliver the ladder truck meeting the bid specifications within the time period under the bid and purchase order terms. Rosenbauer responded by agreeing to cancel the purchase order, indicating that the fabricated truck could not be made compliant with the bid specifications.

The second aerial ladder truck (V16-021) had been placed on hold (by Rosenbauer) so engineers could re-calculate weight distribution and re-engineer the design of the second ladder truck to meet the weight specifications. Rosenbauer requested significant changes from the bid specifications in order to accomplish this. The Fire Department and the Purchasing Division reviewed the request and determined that the changes were of such quantity and scope as to be deemed a significant deviation from the specifications and were rejected.

Following this rejection of changes to the truck design from the bid specifications, Rosenbauer and Fire Department staff concluded that Rosenbauer would not be able to build this aerial ladder truck pursuant to Bid V16-021 specifications and Rosenbauer suggested a mutual termination with neither party paying a penalty to the other or owing any payments. The Fire Department recommends this mutual termination with both parties agreeing to release the other from any possible liability resulting from the bid in order to allow the Fire Department to immediately move forward with procuring a supplier for the two (2) needed mid-mount aerial ladder trucks, and promoting a healthy relationship with Rosenbauer, as Rosenbauer is a leading provider of other emergency apparatus, including Haz-Mat trucks and fire engines, that the City will continue to procure by competitive bid.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: October 26, 2015

Roll Call Number: [15-1797](#)

Action: [Rosenbauer](#) South Dakota (Harold Boer, President) for one replacement 75-foot mid-mount aerial ladder truck for use by the Fire Department, \$833,069. (Nine potential bidders, one bid received) ([Council Communication No. 15-580](#)) Moved by Hensley to adopt. Motion Carried 6-1. Absent: Mahaffey.

#### **BOARD/COMMISSION ACTION(S): NONE**

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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