

Renita Happy

From: Mark Arnold
Sent: Friday, June 15, 2012 5:03 PM
To: Thomas Curtsinger
Cc: Mark Barnard; Jacob Walbourn; Renita Happy
Subject: Police Barn
Attachments: Sensabaugh memo (00351296).DOC; sensabaugh.doc; image2012-06-15-153202.pdf

Tommy,

We meet on site today & hashed out the attached agreement. Let me know if you all have any issues. We will want to start the change order to get it through Council this year. I already discussed this with Todd in purchasing. We will need a new invoice, I can ask for that or does it need to come through you Jacob? We still have \$10,000 on our balance that I am holding until all punch list items are completed. The electric is on & I hope the water will be soon. I will get building inspection/fire to do a final so we can start using the building as soon as the water is connected. Thank you & I hope we can finally bring this project to completion.

Thank you,

Mark A. Arnold, Facilities Manager
Lexington Fayette Urban County Government
Department of General Services
Facilities & Fleet Management

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Maybe we can show government how to operate better as a result of better architecture.

Frank Lloyd Wright

From: Jacob Walbourn
Sent: Friday, June 15, 2012 3:05 PM
To: Mark Arnold
Subject: Sensabaugh - Memo

Mark –

Attached please find a memo regarding the Sensabaugh matter. After you have had a chance to talk with Police, let me know how it comes out.

Thanks again for your helpfulness and willingness to work with me on this matter.

Have a great weekend,
Jacob

Jacob Walbourn
Attorney
Lexington-Fayette Urban County Government
Department of Law (11th Floor)

6/18/2012

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MEMORANDUM

To: Mark Arnold, Facilities Manager
From: Jacob Walbourn
Date: June 15, 2012
Re: Sensabaugh Construction/Police Storage Barn

ATTORNEY-CLIENT
PRIVILEGED

Thank you for accompanying meet to meet with Mr. Sensabaugh and his attorney this morning. I think we had a productive meeting, and I'm glad we were able to hear their position and evaluate our own. I think it was very helpful to do this.

As you are aware, Mr. Sensabaugh has indicated he would accept \$5,000 in lieu of the \$7,200 requested as part of the deviations from the design as bid. While I certainly understand the hesitance to give Sensabaugh any more money above and beyond what he bid, I do think he actually has incurred the increased costs. Further, he indicated he was not charging for labor.

As we have discussed before, I think LFUCG's legal position is tenuous at best, and if this matter were to go to trial, Mr. Sensabaugh would ultimately win. This is, of course, not an absolute certainty. However, it does appear likely that he would be able to get the \$7,200 (at least) if he resorts to court. Sensabaugh clearly has an incentive to avoid this, thus the reason he is willing to settle this matter.

Obviously, this needs to be ultimately be decided by the responsible division, Police. It is my legal opinion, however, that the \$5,000 is a reasonable settlement of the matter in question, and avoids a long and drawn out litigation process. Further, it may give Sensabaugh incentive to wrap up the final issues that are precluding Police from use of the barn.

Please advise me how to proceed after you have an opportunity to talk with representatives from Police on this issue. Thanks again for all your help.