



REVISED - CORRECTED PAGE
NUMBERS (3/1/93)

Minutes

RAIL CONSTRUCTION CORPORATION (RCC) FEBRUARY 22, 1993 MEETING

MEMBERS PRESENT

ROBERT KRUSE, CHAIRMAN
DAVID ANDERSON
ERNEST CAMACHO
DON McINTYRE
JOHN MURRAY
MAS NAGAMI

STAFF PRESENT

EDWARD McSPEDON, PRESIDENT/CEO
LINDA BOHLINGER, DIRECTOR, CAPITAL PLANNING & PROGRAMMING
JOEL SANDBERG, PROJECT MGR., METRO RED LINE, SEGMENT 2
TORRI HILL-WILLIAMS, PUB. AFFAIRS MGR., METRO RED LINE, SEGMENT 2
AL THIEDE, VICE PRESIDENT, ENGINEERING
DAVID HANCOCK, CONTRACT ADMINISTRATOR, METRO RED LINE, SEGMENT 1
LES PORTER, DEPUTY EXECUTIVE DIRECTOR
JACK CLAYTER, SR. CONTRACT COMPLIANCE ANALYST
WILL SANCHEZ, DIRECTOR, CONTRACTS
MIKE BACA, MANAGER, PROFESSIONAL SERVICES CONTRACTS
JOHN ADAMS, VICE PRESIDENT, CONSTRUCTION
LARRY KELSEY, CONTRACT MGR., METRO RED LINE, SEGMENT 2
RICARDO GONZALES, MGR., ENVIRONMENTAL AFFAIRS
BONNIE VERDIN, BOARD SECRETARY
MARIA WHITE, SECRETARY

OTHER

AUGUSTIN ZUNIGA, COUNTY COUNSEL
JERRY OSTBERG, PARSONS DILLINGHAM
DR. HALE, ENGINEERING SCIENCE


1. CALL TO ORDER

The meeting was called to order at 1:05 p.m.



**Rail
Construction
Corporation**

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 a Subsidiary of
the Los Angeles County
Transportation Commission

Leading the Way to Greater Mobility

2. APPROVAL OF MINUTES

The minutes of the February 8, 1993 meeting were approved as submitted.

3. CHAIRMAN'S REMARKS

Mr. Kruse announced that:

- Commencing with this meeting, a new policy will be implemented for members of the public wishing to address the Board. A "Request to Speak" form shall be completed and submitted to the Sergeant-at-Arms, not to the Board Secretary.
- Consent Calendar Item #7 on today's agenda is moved to Regular Calendar.

4. PRESIDENT'S REMARKS

Mr. McSpedon reported the following:

- Last Friday, the Metro Red Line received recognition from the Institute for the Advancement of Engineering. The Metro Red Line was selected as the winner of the annual "Outstanding Engineering Project Achievement" award.
- At its last meeting, the LACTC did not take action on the recommendation from the Board to award Contract EN030, for environmental services, to CH2M Hill. The Commission will reconsider this item at its meeting on 2/24.
- The courts denied the request for an appeal on the Bank of America case thereby ending any further possible action by the bank.
- Our Counsel successfully defended a request for a temporary restraining order received from L.K. Comstock Company, on Metro Red Line, Segment 2, Contract B630. The contract is now proceeding ahead.
- Another contract which was protested is the Wayside Intrusion Detection System (WIDS) on the Metro Green Line. The Board had recommended that this award go to the low bidder, Moran Construction, with the contingency that should the protest be upheld, the award would go to L.K. Comstock Company. As of last Friday, we were advised that an agreement was reached between Moran and Comstock, wherein Moran conceded the award to

Comstock and indemnified us against any further legal actions on their part. Mr. Zuniga stated that we are awaiting written confirmation of the agreement today.

- The Federal Transit Administration (FTA) is here today and tomorrow for the normal quarterly review of our Federally Funded Rail Projects. Today, FTA officials are taking a tour of Metro Red Line, Segments 2 & 3 with the quarterly meeting taking place tomorrow.
- Last week was the first session of the Transit Bond Guarantee Program (TBGP) outreach effort to encourage seek participation by more firms in the TBGP. The response was excellent; this session was the first, with several more anticipated.
- The National Transportation Safety Board (NTSB) was here last week. They were very interested and positively impressed by the work we are doing to improve grade crossing safety. Although the NTSB has no funding sources of their own, they may be able to support us in seeking funding assistance from the Federal Highway and/or Federal Railway Administrations.
- Mr. McSpedon introduced Ms. Bohlinger who provided a status report on the negotiations of the full funding grant agreement. Ms. Bohlinger summarized that it appears very likely that a Federal Funding Contract for Metro Red Lines Segment 3 will be signed in March.
- Mr. McSpedon introduced Mr. Sandberg who provided an update on the implementation of the mitigation plan at Barnsdall Park. Mr. McSpedon stated that staff is working on providing the Board and Commissioners with a mitigation plan status update report on a regular basis. Mr. Anderson asked staff to regularly provide the Board with copies of the minutes of the mitigation plan meetings with the Los Angeles Unified School District's (LAUSD).
- The 3/2 deadline to submit proposals for Construction Management services on the Metro Pasadena Project has been extended to 3/9.

Mr. Kruse noted that Mr. McSpedon was recently awarded "Engineer of the Year" and congratulated Mr. McSpedon on this achievement.

- Mr. McSpedon stated that the Metro Red Line is a candidate for the "Outstanding Civil Engineering Achievement" project of the year award which is a national award.

COMMITTEE REPORT

5. FORECAST OF UNEXECUTED PROFESSIONAL SERVICES
CONTRACT CHANGES OVER \$200,000

The Board received this status report.

CONSENT CALENDAR

Items 7, 8 & 10 were pulled for discussion. Mr. Camacho moved, Mr. McIntyre seconded, to approve the remaining items on Consent Calendar. Motion was approved.

6. FORECAST OF UNEXECUTED CONSTRUCTION/PROCUREMENT
CONTRACT CHANGES OVER \$200,000

The RCC Board recommended that the Commission receive the above captioned status report.

9. METRO PASADENA PROJECT - CONTRACT NO. E0070
ENGINEERING MANAGEMENT CONSULTANT (EMC)
AUTHORIZATION TO NEGOTIATE WITH SECTION DESIGNERS
OF THREE LINE SEGMENTS

The RCC Board authorized the EMC to proceed with negotiations for Section Designer services.

11. METRO RAIL PROJECTS - SUCCESS THROUGH EXCELLENT
PROFESSIONAL SERVICES (STEPS), PHASE II

The RCC Board recommended that the Commission authorize the Executive Director to approve the Corporation's continued sponsorship and implementation of the second series of seminars characterized as "SUCCESS THROUGH EXCELLENT PROFESSIONAL SERVICES" (STEPS), as outlined in Attachment I, II and III.

CONSENT CALENDAR ITEMS OF DISCUSSION

7. METRO RED LINE, SEGMENT 3 - CONTRACT NO. C6690
PLATFORM EDGE WARNING STRIP REPLACEMENT (ADA)

Mr. Camacho asked for clarification of the difference between "responsible" and "responsive" in contract language. Mr. Thiede stated that responsibility indicates a

firm's ability to handle the size of a job, its financial status and its overall experience. Responsiveness refers to how a firm specifically answered the requirements of the scope of work.

Mr. Camacho stated that the report does not indicate which criteria Terra-Cal failed to be responsive to. Mr. Thiede stated that Contract Compliance deemed this firm nonresponsive because they did not meet the S/MBE goals. Mr. Camacho noted that the firm exceeded the WBE goal, however. Mr. Thiede stated that it was Contract Compliance's judgment that Terra-Cal failed to make a good-faith effort.

Mr. McSpedon requested that the Board consider the next item on the agenda to allow time to locate someone from Contract Compliance to better address this item. The Board allowed this request.

The Board heard public comments from Al Lopez.

After taking action on Item #8, Mr. Clayter addressed the Board and stated that the action taken by staff to disqualify Terra-Cal on the basis that the S/MBE goal was not met, was within Commission policy.

Following much further discussion, the Board opined that it was uncomfortable with staff's recommendation in that the decision to disqualify Terra-Cal on the basis of nonresponsiveness was apparently very subjective.

Mr. Camacho moved that the Board not accept staff's recommendation and that the award be given to the low bidder or that this matter be revisited. Mr. Zuniga advised that the Commission may, under special circumstances, waive certain sections of the evaluation criteria and that the Board may wish to recommend that the Commission allow the 24.4% S/MBE goal met since the contractor fell short of achieving the goal by only 6/10ths but exceeded the WBE goal by 4.2%. Mr. Camacho stated that he doesn't think RCC should have to do this.

Mr. Camacho stated that staff needs to obtain clarification of the policy. Mr. Camacho amended his earlier motion and recommended that the Board take no action on this item pending further policy/legal clarification. Mr. McIntyre seconded and the motion was approved.

8. METRO GREEN LINE - CONTRACT NO. P2020
START-UP LIGHT RAIL VEHICLES, APPROVAL OF AUTHORIZATION
FOR EXPENDITURE AND RISK REDUCTION MEASURES

Mr. Anderson inquired whether it would be appropriate to seek the advice of the Commission's financial advisor as to the implications and feasibility of the "forward purchase" or "yen swap" language contained in this contract.

Mr. Porter explained that the Japanese yen has been rallying aggressively over the past several weeks. The trading range over the past twelve months hit a high of 130 yen to the dollar. Today, the Japanese yen hit a record low of 115. Part of the reason is political, and not necessarily due a fundamental economic reason. The new administration has expressed interest in a strengthened yen so as to increase the price of Japanese exports to the U.S. Mr. Porter further stated that the rate of exchange for the yen to dollar will go up anywhere from 1:25 to 1:35. Mr. Porter stated that based on the advice we are getting from foreign exchange traders, it would not be prudent for the Commission to execute the contract at the current rate, hence staff's recommendation.

Mr. Anderson inquired whether Mr. Porter is comfortable that the recommendation provides the flexibility needed to deal with the current market conditions. Mr. Porter stated that he wished to make it clear that the Commission will not buy yen at 115 to 1. It would clearly be to our advantage to wait for it to rally to take advantage of a better rate.

Mr. Anderson moved, Mr. Camacho seconded, to approve this item. Motion was approved.

Staff recommends that the Commission authorize the Executive Director to:

- 1) Establish an Authorization for Expenditure for \$50,000,000 in order to effectively manage the contract. The AFE will enable staff to make progress payments to the contractor and to fund contract changes consistent with the Commission's approved delegations of authority.
- 2) Enter into a yen forward purchase or yen swap contract (including necessary expenses and fees) to hedge or eliminate the exchange rate risk since a portion of this contract is priced in yen.

The Board heard comments from Tim Roberts.

10. METRO RAIL PROJECTS - CONTRACT NO. MC020
CONSTRUCTION MANAGEMENT SERVICES
AMERICANS WITH DISABILITIES ACT AND SPECIAL PROJECTS
REQUEST TO NEGOTIATE

The Board heard comments from:

- Georgine Kabler

Mr. Baca addressed Ms. Kabler's assertion that the RFQ documents indicated that there would be a minimum of three, not two, contracts awarded. Mr. Baca stated that at the pre-proposal conference, staff stated that there would be possibly three awards made on this contract. The RFQ documents did not state how many contracts would be awarded. Mr. Baca stated that once staff had a chance to evaluate the amount of work available, however, it was decided that there would only be enough work for two contractors. The five short-listed firms were notified of this during the oral presentations. Mr. Baca clarified for Mr. Camacho that it would be of no major negative consequence to negotiate with three firms.

The Board heard comments from:

- Carole Kawamoto
- Karen Mask
- Terry Solis

Mr. Camacho inquired whether Ms. Kabler had filed a protest. Ms. Kabler acknowledged that she had. Mr. Kruse noted that the Board would be unable to take action until the resolution of the protest or the Board may take action today but any such action would be subject to the resolution of the protest. Ms. Kabler requested that her protest be withdrawn.

The Board heard comments from:

- Jackie Patterson
- Georgia Robinson

On the basis of the fact that it appears that G. Kabler competed to a three-way tie for first place and the RFQ documents indicated three contracts would be awarded, Mr. Camacho moved, Mr. Murray seconded, that staff negotiate the contracts with the top three firms. Motion was approved.

The RCC Board recommended that the Commission authorize staff to begin negotiations with Anil Verma and Associates, Inc., Robert McKee and Associates, Inc. and G. Kabler for Construction Management Services to the METRO BLUE/RED LINES, retrofit work required by the Americans with Disabilities Act, and special projects. The services will be performed on an as required basis upon issuance of a Contract Work Order (CWO).

REGULAR CALENDAR

13. METRO RED LINE, SEGMENT 2 - CONTRACT B251
INSTALLATION OF SOUND ATTENUATION CURTAIN
AT BARNSDALL SITE, CHANGE NOTICE NO. 8

Mr. Sandberg, assisted by Mr. Ostberg and Dr. Hale, provided a briefing on this item.

Mr. McIntyre asked who established the \$592,000 cost estimate. Mr. Ostberg stated that this was the estimator's estimate but that the contractor has projected the cost to be approximately \$700,000.

Mr. McIntyre inquired whether the Board is obliged to do whatever is necessary to mitigate this in accordance with the agreement with the Los Angeles Unified School District (LAUSD) regardless of cost. Mr. Sandberg indicated that completion of this work is to comply with the L.A. City noise ordinance and is not required by RCC's agreement with the LAUSD.

Mr. McIntyre inquired whether all of our contracts have this environmental requirements with respect to noise. Mr. Sandberg stated that this has been an evolving process. On Wilshire Boulevard, for instance, meeting the original E.I.S. requirements proved unsatisfactory to the community. The requirements have since been further tightened up from what the environmental documents obligate us to. Mr. Sandberg added that we have learned that we must comply with even lower noise standards in order to satisfy the community.

Mr. Anderson moved, Mr. McIntyre seconded, to approve this item. Mr. Kruse stated that he felt uncomfortable approving this item without a contingency. Mr. Sandberg stated that a contingency could be set at the contractors' estimate of \$700,000 which is expected to come down anyway. Mr. Camacho inquired whether it would be appropriate to include a not-to-exceed clause in the recommendation. Mr. McSpedon offered that the Board could authorize staff to proceed with this work in an amount not to exceed \$700,000 and to direct staff to do everything possible to get the number down as close to \$592,000 as possible.

Mr. Anderson withdrew his original motion and made a substitute motion to approve staff's recommendation in an amount not to exceed \$700,000 with the direction to staff to negotiate as close to \$592,000 as possible.

Mr. McIntyre amended his second accordingly. Motion was approved.

The RCC Board recommended that the Commission authorize the Executive Director to execute Change Notice No. B251-CN-

8.00 in an amount not to exceed \$700,000 but directed staff to negotiate as close to \$592,000 as possible.

The Board heard comments from Tim Roberts.

14. METRO RAIL PROJECTS - CONTRACT NO. EN025
ENVIRONMENTAL ENGINEERING SERVICES
RECOMMENDATION FOR AWARD

Mr. Baca presented a briefing on this item.

Mr. Camacho inquired whether the \$1.771 million estimated cost is a not-to-exceed figure. Mr. Baca stated that it is. Mr. Camacho inquired whether this work includes the Eastern Extension. Mr. Baca stated that it does not.

Mr. Murray stated that on this item, as well as Item #10, it would have been helpful to have had a list of the subcontractors. Mr. Murray requested that in the future, a listing of subcontractors be included in Board reports on contracts with subcontractor participation.

Mr. Gonzales clarified for Mr. Anderson that formerly environmental services have been conducted using contingency funds. Now there is an attempt to organize a program that tries to foresee environmental services needs and to try to predict the cost of these services for inclusion into the budget. Mr. Gonzales further clarified for Mr. Anderson that the basis of the estimate is staff's best estimate of the kinds of services that may be needed such as environmental assessments, monitoring of construction programs, and an on-call environmental consultant available to handle emergency situations.

Mr. Anderson moved, Mr. McIntyre seconded, to approve this item. Motion was approved.

The RCC Board recommended that the Commission authorize the Executive Director to execute a contract with Engineering Science, and obligate funds in the amount of \$1,771,000 as presented below for completion of Metro Red Line Environmental Engineering Services:

<u>PROJECT</u>	<u>PROPOSED CONTRACT VALUE</u>
Metro Red Line, Segment 1	-0-
Metro Red Line, Segment 2	\$ 531,300
Metro Red Line, Segment 3 (North Hollywood)	\$1,239,700
TOTAL	<hr/> \$1,771,000

15. PUBLIC COMMENT

There were no additional public requests to speak.

16. BOARD MEMBER REQUEST FOR FUTURE ITEMS

There were no requests for future items.

EXECUTIVE SESSION

The Board adjourned to Executive Session to discuss:

Actual Litigation - G.C. #54956.9

•Case No. BS015749

ADJOURNMENT

The meeting adjourned at 2:45 p.m.



BONNIE VERDIN
Board Secretary