



Los Angeles County
Metropolitan
Transportation
Authority

MINUTES

RAIL CONSTRUCTION CORPORATION (RCC) OCTOBER 24, 1994 MEETING

818 West Seventh Street
Suite 300
Los Angeles, CA 90017

213.972.6000

MEMBERS PRESENT

ROBERT KRUSE, CHAIRMAN
DAVID ANDERSON
JIM BROWDER
ERNEST CAMACHO
JAMES CRAGIN
CARL RAGGIO

STAFF PRESENT

JOHN ADAMS, ACTING EXEC. OFFICER, CONSTRUCTION & PRESIDENT, RCC
CHARLES STARK, VP, PROJECT MANAGER, METRO RED LINE, SEGMENTS 2 & 3
GWENDOLYN WILLIAMS, DIRECTOR, EQUAL OPPORTUNITY, MTA
MICHAEL BACA, DIRECTOR, CONTRACTS MANAGEMENT
MELISSA SCHIAVO, RCC BOARD SECRETARY
MERCY MENESES, ASSISTANT RCC BOARD SECRETARY

OTHERS

RICHARD CHASTANG, DEPUTY COUNTY COUNSEL
AUGUSTIN ZUNIGA, DEPUTY COUNTY COUNSEL

1. CALL TO ORDER

The meeting was called to order at 9:02 A.M.

2. APPROVAL OF MINUTES

The minutes of the October 17, 1994 meeting were approved as submitted.

3. CHAIRMAN'S REPORT

- Mr. Kruse stated that the Board has brought back Item 6, which was discussed at the October 17, 1994 meeting. At that time, the Board asked that this item be forwarded to the RCC Minority Participation & Contracts Committee, and then hold a Special Board meeting today. However, in the interest of expediency, the Board decided to review the item at the RCC Board meeting only.

4. PRESIDENT'S REPORT

Mr. Adams reported the following:

- He met with the Federal Transportation Administration on Friday and received input on restarting the tunnelling work and revising RCC's management plan for continued work on the system. Tunnelling is expected to resume in the first or second week of December.

5. PUBLIC COMMENT

- There were no requests for public comment at this meeting.

REGULAR CALENDAR

6. METRO RED LINE, SEGMENT 3 - CONTRACT NO. C0301
CABLE TRANSMISSION SYSTEM
REQUEST TO REJECT ALL BIDS

Mr. Baca gave a presentation on this item.

Mr. Kruse asked what Kajima Engineering and Construction, Inc.'s (Kajima) protest specifically involved. Mr. Baca replied that the basis of the protest was that the low bidder did not meet the DBE goal nor did they meet the Good Faith Efforts requirements. Mr. Kruse asked who was on the Protest Committee. Mr. Baca responded that the Protest Committee included Stan Lotterman, Kurt Meiers, Linda Ford-McCaffrey and himself.

Mr. Baca explained the steps in the protest process and stated that a form letter was sent to Franklin Reinforcing Steel Co., Inc. (Franklin Steel) asking for information regarding recertification on their MBE/WBE status. After review of this information, Franklin Steel was sent a letter on December 3, 1993 stating that they are certified as an MBE with the MTA.

Mr. Anderson remarked that on the original form letter, staff seems to be using the term "Disadvantaged Business Enterprise" as a generic term as well as a specific term. Mr. Baca replied that it is used as a general term but the status is specified within parentheses as "DBE", "MBE" or "WBE". Mr. Baca clarified that Franklin Steel lost their DBE status in 1989 due to the size of the revenues of the company.

Mr. Baca continued by explaining that 7 months after the MTA granted MBE certification to Franklin Steel, Tutor-Saliba/Perini requested a proposal from Franklin Steel to bid on Contract C0301. During the bidding process, Franklin Steel submitted a form which stated that they are not a DBE. Mr. Camacho pointed out that MTA's own directory listed Franklin Steel as a DBE. Mr. Baca responded that the Deputy CEO's initial ruling was to overturn the protest due to the fact that Tutor-Saliba should be able to rely on our manual for DBE status. Kajima then filed an appeal based on the Good Faith Efforts which were submitted by Tutor-Saliba. The CEO upheld Kajima's protest based on the information that Tutor-Saliba was aware that Franklin Steel is an MBE, not a DBE.

Mr. Camacho pointed out that in addition to using the MTA directory, he was informed that Mr. Tutor followed up with a telephone call to the MTA Contract Compliance officer confirming that the directory was valid.

Mr. Baca added that the MTA had erroneously broken out the bid prices to look at the 10% role within the Good Faith Efforts requirements. Each item for rebar and concrete for each station had been broken out per line item. The MTA requires the bidder to break down the work so that separate parts of work could be given to certain DBE firms. If the line items are added up, the amount would be within 10% of the bid price that Franklin Steel submitted to Tutor-Saliba. The information submitted by Tutor-Saliba was broken out into specific sections of the contract. There was a certified DBE, Nationwide Construction Company, Inc., that could have been used by Tutor-Saliba to make their goal.

Mr. Raggio quoted from a letter sent to County Counsel from Tutor-Saliba's counsel, Nomi Castle, which stated that Nationwide's bid was for both the station and tunnel portions of the reinforcing steel work and that their proposal was not severable. Mr. Baca explained that there was no documentation within the Good Faith Efforts that showed that Nationwide had negotiated on an "all or nothing" basis.

Mr. Raggio stated that if the agency is not clear as to what it wants, then the agency is responsible for the lack of clarity. Mr. Raggio further stated that there are two questions to be answered: 1) whether Franklin Steel is qualified as an MBE or DBE; and 2) whether Nationwide is qualified or certified in terms of their bid.

Mr. Kruse asked for a 5-minute recess so that the Board may obtain copies of the letter Mr. Gire had presented this morning to County Counsel.

The Board heard comments from:

- Lee Gire, Legal Counsel for Kajima Engineering and Construction, Inc.
- Ron Tutor, Tutor-Saliba/Perini
- Peter Rayfield, Franklin Reinforcing Steel Co., Inc.
- Roger Sexton, Tutor-Saliba/Perini
- Krista Wilkie-Boswell, Nationwide Steel
- John Franklin, Franklin Reinforcing Steel Co., Inc.
- Howard Watts

Mr. Kruse stated that the RCC Board has been attempting to put in some management concepts for the last 4-1/2 years and one of the Board's requests was to allow the RCC President to have some authority over the minority business program. Mr. Kruse expressed his frustration that this authority was never granted, nor was authority granted to deal with Item 7 on today's agenda regarding budget and personnel, as well as various other issues of concern to the project.

Mr. Cragin moved, and Mr. Browder seconded, to approve staff's recommendation. The motion was rejected.

Mr. Browder asked what the cost of the delay would be to rebid the contract. Mr. Stark replied that the cost may go up or down, but it has the potential to affect the Metro Red Line, Segment 2 ROD date and will affect the MTA's ability to complete Hollywood Boulevard before the holiday season, which would have an impact on the community.

Mr. Raggio moved to reject staff's recommendation to rebid and recommend that the contract be awarded to the lowest bidder. Mr. Camacho seconded the motion. Motion was carried, with Mr. Cragin and Mr. Browder opposing the motion.

7. MTA METRO CONSTRUCTION DIVISION STAFFING

Mr. Adams provided background on this item.

Mr. Cragin moved, and Mr. Anderson seconded, to approve this item.

Mr. Kruse pointed out that on January 20, 1994, the RCC Finance & Budget Committee recommended that the staff be increased from 169 to 185 positions, but this recommendation was never approved by the MTA Board. On March 14, 1994, this recommendation was forwarded again to the MTA

Board, but did not pass. The RCC Board has made an effort to staff the project in response to what was necessary and the action to seek additional staff was taken in the RCC Finance & Budget Committee, but the RCC Board does not have authority in that area.

Motion was approved.

8. BOARD MEMBER REQUEST FOR FUTURE ITEMS

There were no requests for future items at this meeting.

ADJOURNMENT

The meeting adjourned at 10:44 A.M.

Submitted by:



MELISSA SCHIAVO
RCC Board Secretary

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