



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 1

1. Call to Order and Roll Call

Chairman Hernandez called the Special Board Meeting to order at 10:02 a.m., Friday, April 4, 2008. Roll was noted as follows:

Directors present:	Chairman Danny Hernandez Director Janet Saiers Director Tim Eichenberg Director Ronald D. Brown (arrived late) Director Daniel Lyon
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Directors excused:	None
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Others present:	John Kelly, Executive Engineer Staff
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A quorum was present.

2. Approval of Agenda

Director Eichenberg made a motion to approve the agenda. Director Saiers seconded the motion, which passed (4-0).

3. El Pueblo Road Drainage Improvements at the North Diversion Channel Project

a. Protest by Salls Brothers Construction, Inc.

Mr. Kelly introduced Charles Alcorta, of Salls Brothers Construction, and Grace Highhouse, of AUI, Inc.

Jerry Lovato, AMAFCA Drainage Engineer, stated that subsequent to the bid opening for the El Pueblo Road Drainage Improvements at the North Diversion Channel Project, staff became aware that Salls Brothers Construction, Inc, had not completed the proper Campaign Contribution Disclosure Form, which was one of the items included in Addendum #1. After discussions with Attorney Rael and the Executive Engineer, he, as Acting Executive Engineer, had rejected the bid from Salls Brothers as non-responsive. Salls Brothers had protested this decision.

Director Brown arrived at 10:07 a.m.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 2

Mr. Kelly and Mr. Lovato explained that, when an Addendum is issued during the bid process, the changes made in the Addendum and the documents included in the Addendum must be inserted into the bid documents, or the bid is considered non-responsive.

The memo from Mr. Kelly asked the Board to review the Acting Executive Engineer's decision, recommending that the Board concur with his decision.

Extensive discussion followed. Mr. Alcorta addressed the Board, stating that Salls Brothers Construction would abide by the Board's decision. On behalf of AUI, Inc, Ms. Highhouse thanked the Board for their consideration.

After further discussion, Director Eichenberg made a motion that the Board concur with the Acting Executive Engineer's decision to reject the bid of Salls Brothers Construction as being non-responsive, and consider the two remaining bids for the project. Director Brown seconded the motion, which passed (3-2). Directors Lyon and Saiers voted against the motion.

b. Award of Construction Contract to AUI, Inc.

Mr. Kelly stated that bids for the project were received on March 27, 2008. Responsive bids were received from AUI, Inc., and Star Paving Company. Salls Brothers was the apparent low bidder, but their bid was disqualified as being non-responsive. AUI, Inc., was the second apparent low bidder.

The memo from Lynn Mazur, AMAFCA Development Review Engineer, stated that Smith Engineering Company tabulated the bids and found one mathematical error in the bid from Salls Brothers, in the amount of \$0.21. The bid forms were checked and the Contractors License and classifications verified. They recommended award of the construction contract to AUI, Inc. in the amount of \$292,062.15, plus New Mexico Gross Receipts Tax. Staff concurs with the recommendation.

Director Brown made a motion that the Board accept AUI, Inc. as the lowest responsible bidder and authorize the Chairman to execute a contract with AUI, Inc. in the amount of \$292,062.15, plus New Mexico Gross Receipts Tax, for the construction of the El Pueblo Drainage Improvements Project. Director Eichenberg seconded the motion.

In response to a question from Director Eichenberg, Mr. Kelly stated that delaying the project 30 days to allow time for a rebid would not allow the project to reach substantial completion before the beginning of the monsoon season. Responding to a follow-up question from Director Lyon, Mr. Kelly stated that a rebid would cost AMAFCA \$3,000 to \$5,000. There would also be an additional cost to the contractors of about \$10,000 each.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 3

The motion passed unanimously (5-0).

4. AMAFCA Bond Counsel Services – Consideration of Agreement with Modrall Sperling

Irene Jeffries, AMAFCA Business Manager, introduced Duane Brown and Sam Gill of the Modrall Sperling Law Firm. Her memo stated that the agreement with Modrall Sperling was the same as the agreement provided in the Request for Proposals, with the blanks filled in based on their proposal. Attorney Rael reviewed the agreement and added Section 11, Indemnification. The effective date of the agreement will be April 4, 2008.

Director Eichenberg made a motion that the Board authorize the Chair and Secretary to execute the agreement with Modrall Sperling. Director Saiers seconded the motion, which passed unanimously (5-0).

Mr. Brown thanked the Board for the opportunity to continue to serve AMAFCA as Bond Counsel.

5. AMAFCA Financial Advisor Services – Consideration of Agreement with RBC Capital Markets

The memo from Ms. Jeffries stated that the agreement with RBC Capital Markets was the same as the agreement provided in the Request for Proposals, with the blanks filled in based on their proposal. The agreement was reviewed by Attorney Rael. The effective date of the agreement will be April 4, 2008.

Director Eichenberg made a motion that the Board authorize the Chair and Secretary to execute the agreement with RBC Capital Markets, Corporation. Director Brown seconded the motion, which passed unanimously (5-0).

Kevin Powers, of RBC Capital Markets, thanked the Board for the opportunity to continue to serve AMAFCA as Financial Advisor. He also answered questions from the Board regarding the potential effect of the current financial markets on AMAFCA's bond sales and bond rating, and the effect on AMAFCA of changes in property assessed values.

6. Agency and Area-Wide Flood Control Maintenance Contract

Mr. Lovato stated that, after extensive discussions, it was determined that the best way to get an agreement approved and signed in time to handle any potential emergency repairs needed during this summer's storm season was to split the agreement into two cooperative agreements, one between AMAFCA and the City of Albuquerque, and the other between AMAFCA and the



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 4

New Mexico Department of Transportation. This would avoid the delay that the approval process for a Joint Powers Agreement would have caused.

He introduced Debbie Bauman and Chris Sanchez of the New Mexico Department of Transportation.

Director Lyon briefly left the meeting at 10:35 a.m.

a. Consideration of Project Cooperation Agreement by and among AMAFCA and the City of Albuquerque

Director Saiers made a motion that the Board approve the project cooperation agreement by and among AMAFCA and the City of Albuquerque and authorize the Chair and Secretary to execute the agreement. Director Brown seconded the motion, which passed (4-0). Director Lyon was absent from the vote.

b. Consideration of Project Cooperation Agreement by and among AMAFCA and the New Mexico Department of Transportation

Director Eichenberg made a motion that the Board approve the project cooperation agreement by and among AMAFCA and the New Mexico Department of Transportation, and authorize the Chair and Secretary to execute the agreement. Director Brown seconded the motion, which passed (4-0). Director Lyon was absent from the vote.

7. Agency and Area-Wide Flood Control Maintenance Design and Construction Management Services – Consideration of Engineering Services Agreement with Bohannon Huston

Kurt Wagener, AMAFCA Field Engineer, introduced Sean Melville, of Bohannon Huston, Inc., and recommended approval of the engineering services agreement with Bohannon Huston for Design and Construction Management Services.

Director Lyon returned to the meeting at 10:43 a.m.

In response to questions from the Board, Mr. Wagener stated that the design costs will be substantially less than the \$60,000 estimated in the project cooperation agreements, and that construction management services will run around 9.3%, very close to the estimated 10% in the cooperative agreements, due to the geotechnical testing being included in construction management. Billing will be on a time and materials basis, not to exceed \$114,000.00, plus New Mexico Gross Receipts Tax.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 5

Discussion followed.

Director Brown made a motion that the Board approve the Agreement with Bohannon Huston, Inc. to provide Professional Engineering Services for the Agency and Area-Wide Flood Control Maintenance Project on a time and materials basis with cost not to exceed \$114,000.00, plus New Mexico Gross Receipts Tax. Director Lyon seconded the motion, which passed unanimously (5-0).

8. Consideration of Resolution 2008-2: *Voluntary Campaign Reporting*

Mr. Kelly stated that Resolution 2008-2, *Voluntary Campaign Reporting*, had been revised based on comments from the Board at the March 20, 2008 Board meeting.

Director Eichenberg suggested that there be a cap on anonymous contributions, in Section B (vii) of the resolution. Mr. Rael noted that a line could be added stating "Anonymous contributions shall not exceed..." with any amount the Board decided upon filled in. After discussion, the Board decided on a limit of \$100.00 for anonymous contributions.

Director Eichenberg made a motion that the Resolution be amended to add the sentence "Anonymous contributions shall not exceed \$100.00" to the end of Section B (vii) on page two. Director Brown seconded the motion, which passed unanimously (5-0).

Director Brown made a motion that the Board adopt Resolution 2008-2: *Voluntary Campaign Reporting*, as amended. Director Eichenberg seconded the motion, which passed unanimously, by a roll call vote, (5-0).

The Board requested that staff remind the Board, in December and January, of the Campaign Report due at the end of January.

Recess for Field Trip

Chairman Hernandez recessed the meeting at 10:55 a.m. for a field trip of the sites of several AMAFCA projects. Director Eichenberg and Mr. Rael did not join the Board on the field trip. The field trip visited the Albuquerque West Levee at Montañó, the Boca Negra Dam site, the Parkway Channel, the West I-40 Channel Extension from Unser to 98th, and the Air Quality Pond in Martineztown.

Chairman Hernandez reconvened the meeting at 12:24 p.m., stating that no business had been conducted, and no decisions had been made, during the field trip.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
April 4, 2008**

Page 6

9. Unfinished Business

None.

10. New Business

None.

11. Items from the Floor/Public Comment

None.

12. Adjourn

There being no further business, Chairman Hernandez adjourned the meeting at 12:24 p.m.

Tim Eichenberg, Secretary-Treasurer 4/24/08

Recorded by Pam Woodruff, Secretary to the Executive Engineer