

**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
November 9, 2005**

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1. Call to Order and Roll Call

Chairman Brown called the Regular Board Meeting to order at 7:30 a.m. Wednesday, November 9, 2005. Roll was noted as follows:

Directors present: Chairman Ronald D. Brown
 Director Daniel Lyon
 Director Tim Eichenberg
 Director Janet Saiers
 Director Danny Hernandez (arrived late)

Others present: John Kelly, Executive Engineer
 Sam Bregman, Attorney
 Staff

A quorum was present.

2. Approval of Agenda

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

Chairman Brown stated that Mr. Finley had asked to participate in today's meeting by telephone, as he was unable to attend in person.

3. Meetings Scheduled

- a. November 17, 2005, 10:00 a.m. – Regular Meeting**
- b. December 15, 2005, 10:00 a.m. – Regular Meeting**
- c. January 26, 2006, 10:00 a.m. – Regular Meeting**

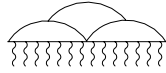
No changes were made to the meeting schedule.

4. West I-40 Diversion Channel Phase III – Status Report

a. Discussion of Proposal from Surety Regarding Take-Over Agreement

Tom Finley, Claims Counsel for Fidelity, the surety on the West I-40 project, joined the meeting via conference phone.

Chairman Brown stated that the Board was ready to consider the Surety's counter-proposal.



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Director Eichenberg made a motion that the Board approve Change Order #14 to the contract, fixing the liquidated damages on the Project at \$450,000 through the new completion date, in exchange for the Surety, for itself and on behalf of Albuquerque Excavators, Inc., waiving any right to any claim, known or unknown, for any additional time extensions and/or damages as a result of any delays which may have been caused by AMAFCA from the award of the Original Contract up to and including the date of Change Order #14.

Director Lyon seconded the motion.

In response to a question from Director Saiers, Mr. Finley said that Salls Brothers had not yet begun work, but he expected that they would sign their contract and begin work shortly after AMAFCA and the Surety have signed Change Order #14.

Director Lyon stated that he'd like to make one small change in the agreement, at Director Hernandez's suggestion. In the second "Whereas", where it says "...(collectively, the "Bonds")", both in the penal sum...", this should read "...(collectively, the "Bonds")", *each* in the penal sum..." Mr. Finley and the other Board members agreed to this change.

Director Eichenberg thanked staff, Mr. Finley, and Mr. Bregman for negotiating the terms of Change Order #14, and stated the Board was looking forward to seeing the project completed.

The motion passed (4-0).

b. Consideration of Extension of Suspension of Contract Time

Mr. Kelly stated that the Board had approved item 4a, which supersedes the Surety's earlier request to extend the contract time suspension. Staff recommends the Board deny the request for this reason.

Director Eichenberg made a motion that the Board deny the request based on the fact that the previous action item supersedes the request to extend the suspension of contract time. Director Lyon seconded the motion, which passed (4-0).

Mr. Finley stated that he'd notify Salls Brothers' attorney that AMAFCA and the Surety had come to an agreement, and expected it to be signed very soon.

Mr. Finley's participation in the meeting by phone ended at this point.



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5. Unfinished Business

None.

6. New Business

None.

7. Items from the Floor/Public Comment

None.

8. Adjourn

With no further business to discuss, Chairman Brown adjourned the meeting at 7:41 a.m.

Tim Eichenberg, Secretary-Treasurer 11/17/05

Recorded by Irene Jeffries, Business Manager

Transcribed by Pam Woodruff, Secretary to the Executive Engineer