



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 25, 2012**

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1. Call to Order and Roll Call

Chairman Eichenberg called the Regular Board Meeting to order at 10:01 a.m. Thursday, October 25, 2012. Roll was noted as follows:

Directors present: Chairman Tim Eichenberg
Director Danny Hernandez (arrived at 10:02 a.m.)
Director Bruce M. Thomson
Director Ronald D. Brown (arrived at 10:02 a.m.)
Director Daniel F. Lyon

Directors excused: None

Others present: Jerry M. Lovato, P.E., Executive Engineer
Attorney Marcus Rael, Jr.
Staff
Other attendees on file at AMAFCA

A quorum was present.

2. Approval of Agenda

Director Lyon made a motion to approve the agenda. Director Thomson seconded the motion, which passed (3-0).

3. Meetings Scheduled

- a. **Thursday, November 15, 2012, 10:00 a.m. – Regular Meeting**
- b. **Thursday, December 13, 2012, 10:00 a.m. – Regular Meeting**
- c. **Wednesday, January 2, 2013, 10:00 a.m. – Special Meeting**

Director Brown arrived at 10:02 a.m.

In response to a question from Director Lyon, Chairman Eichenberg noted that the AMAFCA statute requires newly-elected Directors to be sworn in on the first business day of odd numbered years, hence the special meeting on January 2, 2013. There were no changes to the meeting schedule.

4. Items from the Floor/Public Comment

None.



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5. Approval of Minutes

Director Hernandez arrived at 10:02 a.m.

a. September 27, 2012 Regular Meeting

Director Lyon made a motion to approve the minutes of the September 27, 2012 Regular Board Meeting. Director Thomson seconded the motion, which passed unanimously (5-0).

Director Thomson stated that he would like to make a correction to the minutes of the September 27, 2012 meeting. He requested that on page 12, the heading for the Ron Bohannon briefing reflect the name of the person who actually did the presentation, Vince Carrica. Chairman Eichenberg made a motion that the minutes be so corrected. Director Brown seconded the motion, which passed unanimously (5-0).

b. October 3, 2012 Special Meeting

Director Brown made a motion to approve the minutes of the October 3, 2012 Special Board Meeting. Director Hernandez seconded the motion, which passed unanimously (5-0).

6. Financial Matters

a. Approval of September 2012 Expenditures

Mr. Lovato presented the September 2012 Expenditure Report for Irene Jeffries, AMAFCA Finance and Administration Manager.

There were no questions from the Board.

Director Brown made a motion to approve the September 2012 Expenditure Report. Director Lyon seconded the motion, which passed unanimously (5-0).

b. Investment Report for September 2012

Ms. Jeffries presented the investment report for September 2012, stating that the Construction Fund shows a withdrawal of \$3.5 million from LGIP. \$1.3 million of this was used to start the Boca Negra Dam Special Account, which was listed as an investment at the bottom of the report.

There were no questions, and no Board action was required.



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c. Financial Recap September 16, 2012, through October 15, 2012

Ms. Jeffries presented the Financial Recap for September 16, 2012 through October 15, 2012. She noted that there was a difference in the Forecast and Actual Expenditures in the Agency and Area-Wide Special Account due to the fact that the pay estimate from RMCI came in higher than expected. Director Brown noted that many construction firms were working faster than scheduled right now, as they would end up putting extra work crews to work rather than leave them idle.

There were no questions, and no Board action was required.

d. Financial Forecast October 16, 2012, through November 15, 2012

Ms. Jeffries presented the Financial Forecast for the period October 16, 2012, through November 15, 2012. She noted that \$9.8 million in bond proceeds would be received on November 1, 2012. She also noted that the report indicated receipt of the bond premium from Janney Montgomery Scott in Debt Service.

Director Brown made a motion that the Board approve the Financial Forecast. Director Hernandez seconded the motion, which passed unanimously (5-0).

e. Consideration of Approval of Fund Balance Policy

Ms. Jeffries stated that, in response to comments during the bond rating presentations, staff became aware of the need for a fund balance policy in line with GASB 54. Staff had prepared the Fund Balance Policy attached to her memo. It had been reviewed by AMAFCA's Auditor, Herman Chavez of Ricci and Company, who was available to answer any questions.

In response to a question from Director Thomson, Mr. Chavez stated that "encumbrance" was an old term which had been replaced by the term "committed" funds under GASB 54.

In response to a question from Director Brown, Attorney Rael stated he had reviewed the policy and had no changes. He also stated that the policy could be adopted directly, via a vote of the Board, or could be adopted by resolution.

Chairman Eichenberg stated that his preference was to adopt the policy via resolution. He directed staff to bring it back before the Board in November so that the policy could be adopted via resolution.

f. Audit Exit Conference

Chairman Eichenberg stated that the audit exit conference would be in a closed session, as it had not yet been cleared for public release.



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Director Brown made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in *“The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens,”* seventh edition, 2010, to hold the audit exit conference, as the audit is not public until after acceptance by the State Auditor. Director Lyon seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 10:12 a.m. Herman Chavez, Jerry Lovato, and Irene Jeffries remained in the closed session.

At 10:29 a.m., Chairman Eichenberg stated that the Board would come out of closed session.

Director Hernandez made a motion that the meeting be re-opened. Director Brown seconded the motion.

Chairman Eichenberg stated that no decisions had been made during the closed session, but the Board had held the audit exit conference. The audit will be made public after it is released by the State Auditor.

The motion passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg reopened the meeting at 10:29 a.m.

7. Legal

a. Status Report

Attorney Marcus Rael, Jr., stated that his memo briefed the Board on the status of various legal matters, answering two questions from the Board. Mr. Lovato stated that a company named in the report was a local property developer. Attorney Rael stated that a follow-up letter had been sent regarding the Calabacillas Jurisdictional Determination, and a response had been promised within a week. He noted that it had taken almost a year for a decision to be made.

b. Closed Session – Pending Litigation

Chairman Eichenberg stated that the discussion of a pending litigation matter in agenda item 7b would be in a closed session.

Director Hernandez made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in *“The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens,”* seventh edition, 2010, to discuss a pending litigation



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matter. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 10:31 a.m.

At 11:03 a.m., Chairman Eichenberg stated that he would entertain a motion for the Board to come out of closed session.

Director Hernandez made a motion that the meeting come out of closed session. He stated that no decisions had been made during the closed session, but the Board had discussed pending litigation. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg reopened the meeting at 11:04 a.m., stating that the item discussed under agenda item 7b may be discussed further under “Old Business” at the end of the agenda.

8. Personnel Matters

a. Executive Engineer Contract, Performance, and Annual Review

Chairman Eichenberg stated that the discussion of a personnel matter in agenda item 8a would be in a closed session.

Director Hernandez made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in “*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*,” seventh edition, 2010, to discuss a personnel matter. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 11:05 a.m.

At 11:33 a.m., Chairman Eichenberg stated that the Board would come out of closed session. He stated that the Board had conducted the Executive Engineer’s review, and no decisions had been made during the closed session.

Director Hernandez made a motion that the meeting be re-opened, stating that a personnel matter had been discussed during the closed session. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg reopened the meeting at 11:34 a.m.



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Director Hernandez made a motion that the Board extend the Executive Engineer's contract one year, and award him a 2% raise beginning January 1, 2013. Director Thomson seconded the motion.

Director Brown pointed out that the decision was to continue Mr. Lovato's contract.

Director Lyon made a motion to amend the motion to just "extend the contract" without the "one year" time frame designation. Director Brown seconded the motion to amend, which passed unanimously (5-0).

The amended motion, to extend the Executive Engineer's contract and award him a 2% raise beginning January 1, 2013, passed unanimously (5-0).

Mr. Lovato expressed his appreciation to the Board.

b. Personnel and Salary Committee Recommendation

Director Hernandez, Chairman of the Personnel and Salary Committee (PSC), stated that the PSC had met the day before and concurred with the Executive Engineer's recommendation to update the Maintenance Superintendent's job description to reflect the incumbent's current duties, convert the position to an exempt position, adjust the base salary, and make other related changes as described in the memo. These will be brought before the Board for their approval in November.

9. Executive Engineer's Report

a. Notification of Past Month's Activities

Mr. Lovato's Executive Engineer's Report highlighted significant activities of the past month. Between the memo and the further information given in the meeting, Mr. Lovato covered the following:

- **Corps of Engineers (COE) – Southwest Valley Flood Reduction Project (SWVFRP) Phase I:** The COE's contractor continues to work on the Los Padillas extension to address portions of the work that were not constructed to the line and grades shown on the plan set. The work includes placement of new concrete slabs that were originally installed too low, and the re-grading of the earthen channel, portions of which are too low or too high. Mr. Lovato met with Roger Paul, of Bernalillo County, and John D'Antonio, of the COE, to discuss the project. Mr. D'Antonio indicated that the COE is working to address the construction deficiencies in a timely manner and hopes to final the project soon.



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Operation, Maintenance Repair, Replacement and Rehabilitation Manual (OMRR&R): A meeting was held with the Middle Rio Grande Conservancy District (MRGCD), Bernalillo County and AMAFCA staff to discuss the stalled OMRR&R. The draft OMRR&R will be modified to separate out the irrigation responsibilities from the drainage responsibilities. A field visit has been scheduled at the Los Padillas Drain to address MRGCD concerns. The project schedule has been affected because the OMRR&R has to be approved by MRGCD and the Bureau of Reclamation before Bernalillo County and AMAFCA will be allowed to discharge storm flows into the Southwest Valley Flood Reduction Project.

Southwest Valley Flood Reduction Project (SWVFRP) Phase II: AMAFCA and Bernalillo County continue to advocate that the remaining work be designed and constructed by the local sponsors. The COE is concerned that the local sponsors are very close to fulfilling their obligation to fund 35% of the project. AMAFCA and Bernalillo County have suggested that the COE contract with Bernalillo County to construct the remaining road crossings. This approach was used when the COE contracted with Albuquerque Public Schools to install the storm drain pipeline through Rio Grande High School.

Ongoing Regulatory Permits: The COE process to issue 404 permits for permitting activities within the waters of the U.S. is onerous and time consuming. A meeting with Roger Paul, of Bernalillo County, and John D'Antonio, of the COE, was held to discuss drafting a programmatic 404 permit for maintenance and construction activity in the greater Albuquerque area. Another meeting has been scheduled for early November to further discuss the benefits and issues associated with such a permit. If this permit can be created, the Southeast Valley Drainage Water Quality Management Plan may be used as a pilot project.

North Diversion Channel Levee Inspection: The COE and Tetra Tech performed periodic inspection of the North Diversion Channel (NDC) in January 2011. Information from that inspection was used in a second inspection by the COE and Tetra Tech this year as a part of a levee inspection. Portions of the NDC are considered levees (by definition only), and must be inspected every five years. The final results were presented in an out briefing to staff in August. The overall rating for nine miles of the NDC right level was minimally acceptable and the rating for nine miles of the left levee was minimally acceptable.

- **City of Albuquerque (COA) – Boca Negra Dam:** Staff opened construction bids on September 13, 2012, and mailed and emailed invoices to the two developers which were parties to the Boca Negra Dam agreement. The City of Albuquerque will be billed upon award. The award of the Boca Negra Dam construction project is the subject of agenda item 18a and the approval of the agreement for the Boca Negra Dam Emergency Action Plan is the subject of agenda item 12.



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Jefferson Storm Drain: COA has completed the design and is bidding the project, with construction planned to start before the end of the year.

Channel Road: COA is routing the AMAFCA license agreement for signature and is planning to bid the project by the end of the year.

AO Expo New Mexico: Staff has continued to maintain the temporary check dams to address bacteria from nuisance flows. Expo New Mexico, COA, and AMAFCA have been summoned to Region 6 to discuss the Administrative Orders.

- **Bond Sale** – AMAFCA sold \$10 million in General Obligation Bonds on September 27, 2012, at an extremely competitive rate.
- **Public Outreach** – *South Valley Gateway Park:* Director Hernandez participated in a ribbon cutting at the Gateway Park on October 7, 2012.
- **Ditch Safety** – The Ditch Safety Task Force has deferred the recommendation to extend the contract with Griffin and Associates until the November meeting.

Director Lyon made a motion to accept the Executive Engineer's Report, which they'd received previously and read. Director Brown seconded the motion.

In response to a question from Director Thomson regarding the Mid Valley Drainage Management Plan and the Arno Pond and Broadway Pump Station, Mr. Lovato stated that the City and Director Hernandez had met with interested citizens and the neighborhood association, and the project was continuing to move forward at the City. He had no other news to report. AMAFCA will consider participating when asked to participate.

The motion passed unanimously (5-0).

b. Notification of On-Call Services Task Orders

Mr. Lovato stated that two on-call task orders had been issued as described in his memo. Both related to the EPA Administrative Order to AMAFCA.

Consent Agenda:

10. Consideration of Award of the Tandem Axle Dump Truck

The memo from Kurt Wagener, AMAFCA Field Engineer, stated that bids for the Tandem Axle Dump Truck were received from five bidders. One bidder supplied bids on two different



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trucks. Each bidder had provided a signed AMAFCA Campaign Contribution Disclosure Form. The apparent low bidder, Albuquerque Freightliner, had listed an incorrect Resident Bidder Certification number. Their correct bidder certification was in a different company name than the one used on the bid documents, so they were ineligible for the in state residence preference. With 5% added to the bid from Albuquerque Freightliner, the low bidder becomes Roberts Truck Center with a bid of \$130,800.00. He requested that the bid be awarded to Roberts Truck Center.

11. Consideration of Award of the Ecosystem Preservation and Landscaping Contract

The memo from Mr. Wagener stated that three bids were received for the Ecosystem Preservation and Landscaping Contract. Each had provided a signed AMAFCA Campaign Contribution Disclosure Form. One bid was deemed non-responsive due to the lack of a unit price on one bid item. Wilson and Company checked the bids and recommended that the bid be awarded to the low bidder, Mountain West Golfscapes, Inc., in the amount of \$118,838.00 plus New Mexico Gross Receipts Tax. Staff concurred with this recommendation.

12. Consideration of Agreement for the Boca Negra Dam Emergency Action Plan with Bohannan Huston

The memo from Bradley Bingham, AMAFCA Drainage Engineer, stated that an agreement had been negotiated with Bohannan Huston, Inc., for the Boca Negra Dam Emergency Action Plan. The dam breach report will cover three different dam breach scenarios, at a cost not to exceed \$161,430.00 plus NMGRT. He recommended approval of the agreement, which had been reviewed by Bohannan Huston and Attorney Rael.

13. Consideration of Third Extension of Various On-Call Services Agreements

- a. Surveying Services – Surv-Tek, Inc., Wilson & Company, and High Mesa Consulting Group**
- b. Site Photography Services – Eagle’s Eye Photo Imaging**
- c. Real Estate Appraisal Services – Shipman/Foley & Associates and Joshua Cannon & Associates**
- d. Geotechnical/Environmental Engineering Services – Vinyard & Associates, Terracon, and Kleinfelder West, Inc.**

The memo from Mr. Lovato stated that the on-call services agreements for Surveying Services, Site Photography Services, Real Estate Appraisal Services, and Geotechnical/Environmental Engineering Services were due for their third and final extension. All firms had been contacted and were willing to extend their agreements for another year at the same rates. Each had provided a signed AMAFCA Campaign Contribution Disclosure Form. He also noted that Joshua Cannon and Associates’ contract did not include an extension clause, so their contract was to be extended via Amendment One, so that the expiration date is concurrent with the



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expiration of the other on-call Real Estate Appraisal contract. Amendment One had been reviewed by AMAFCA's attorney and by Joshua Cannon & Associates. He asked for Board approval of the extensions and of Amendment One.

14. Request for Travel Authorization – World of Concrete Conference and Trade Show, Las Vegas, Nevada, February 4-8, 2013

The memo from Mr. Lovato stated he would like to send two crew members to the World of Concrete Conference and Trade Show in Las Vegas, Nevada, February 4-8, 2013. The conference is expected to continue to be of great benefit to AMAFCA. Costs were estimated at \$1,150.00 per person, for a total of \$2,300.00. He recommended that the Board authorize out of state travel for two crew members to attend this conference, at a cost not to exceed \$2,300.00.

15. Request for Travel Authorization – Attend meeting with EPA Region 6 to discuss the AMAFCA Administrative Order, Dallas, Texas, November 1-3, 2012

The memo from Mr. Lovato stated that EPA Region 6 had scheduled a meeting in Dallas on November 2, 2012. Marcus Rael, as AMAFCA General Counsel, Kevin Daggett, AMAFCA Stormwater Quality Engineer, and Mr. Lovato should attend. The purpose of the meeting will be to discuss the EPA Administrative Order. Costs were estimated at \$1,566.00. He requested authorization of up to \$1,700.00 in travel expenses.

There being no further items on the Consent Agenda, and there being no questions, Director Brown made a motion that the Board take action on consent agenda items 10-15, as follows:

- Award the bid to Roberts Truck Center of New Mexico, LLC, and authorize the Executive Engineer to execute a purchase order for the purchase of the Tandem Axle Dump Truck in the amount of \$130,800.00;
- Accept Mountain West Golfscapes, Inc., as the lowest responsible bidder and authorize the Chairman to execute the contract with them for the construction of the Ecosystem Preservation and Landscaping Contract in the amount of \$118,838.00 plus New Mexico Gross Receipts Tax;
- Approve the *Agreement for Boca Negra Dam Emergency Action Plan Engineering Services*, at a cost not to exceed \$161,430.00 plus NMGRT, substantially the same as attached to the memo, and authorize the Chairman and Secretary/Treasurer to execute the agreement on behalf of AMAFCA;
- Authorize the Executive Engineer to extend the on-call contracts with Surv-Tek, Inc., Wilson & Company, and High Mesa Consulting Group for Surveying Services; Eagle's Eye Photo Imaging for Site Photography Services;



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Shipman/Foley & Associates for Real Estate Appraisal Services; and Vinyard & Associates, Terracon, and Kleinfelder West, Inc., for Geotechnical/Environmental Engineering Services; each for a one-year term as per the provisions of the contracts; and approve Amendment One to Agreement for Appraisal Services with Joshua Cannon and Associates, Inc., extending that agreement for one year, and authorize the Chairman and Secretary/Treasurer to sign;

- Authorize out of state travel and expenses for two AMAFCA crew members to attend the World of Concrete Conference and Trade Show in Las Vegas, Nevada, February 4-8, 2013, not to exceed \$2,300.00, pursuant to Resolution 1998-16; and
- Authorize out of state travel and expenses for two AMAFCA staff and the AMAFCA attorney to attend the EPA Region 6 meeting in Dallas, Texas, not to exceed \$1,700.00, pursuant to Resolution 1998-16.

Director Hernandez seconded the motion, which passed unanimously (5-0).

Regular Agenda:

16. Review and Comment on the Draft Funding Agreement with Southern Sandoval County Arroyo Flood Control Authority for the Calabacillas Arroyo Upper Watershed Drainage Management Plan

Mr. Bingham stated that a draft funding agreement with the Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA) had been prepared. This agreement provides that AMAFCA will participate in the scoping of the Calabacillas Arroyo Upper Watershed Drainage Management Plan study, participate in the consultant selection, and have technical input regarding water quality, developed flows into the Swinburne Dam, and sediment control. The agreement also provides that SCAFCA will manage the study, provide all additional funding beyond the AMAFCA contribution of \$50,000, and incorporate the Calabacillas West Branch hydrology and hydraulic model.

He noted that the agreement was undergoing legal review by the parties' attorneys.

In response to a question from Director Thomson, Mr. Bingham stated that the estimated total cost of the study was \$200,000 to \$250,000. It was expected to take one year to complete, and would include hydrology and hydraulic analysis of the entire upper Calabacillas Arroyo watershed, including a number of branch arroyos and major tributary arroyos. These ultimately feed into AMAFCA's Swinburne Dam.

Mr. Bingham introduced SCAFCA Hydrologist Gerhard Schoener.



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Chairman Eichenberg noted that AMAFCA is interested in having the water that reaches the Swinburne Dam be as clean as possible, so that clean water is released to the river. Director Hernandez noted that the water should not be completely devoid of sediment, as that leads to too much scour downstream.

In response to a question from Director Lyon, Mr. Schoener stated that SSCAFCA Executive Engineer Charles Thomas had been unable to attend today's meeting. He stated that SSCAFCA plans to do a portion of developing the initial hydrology in-house, and the rest of the study, including the conceptual design of the flood control facilities and channel stabilization, would be done by a contractor. The project would be a combination of an in-house effort and contracted work. The budget is about \$200,000.

Chairman Eichenberg called a recess at 11:44 a.m. The meeting resumed at 11:53 a.m.

17. Field Highlights

a. Construction Report

The memo from Kurt Wagener, AMAFCA Field Engineer, contained a summary of current construction projects. There were no questions.

b. Field Report

Mr. Wagener gave a report of various projects and events over the past month, answering questions from the Board during his presentation, beginning with the billboard for the AMAFCA bond question.

Chairman Eichenberg urged Board members to contribute to the 2012 Bond Committee if they had not already done so.

Towards the end of his presentation, Mr. Wagener noted that several methods of sealing joints to prevent water infiltration in concrete box culverts are being tested as a part of the Agency and Area-Wide Flood Control Maintenance Contract. Both internal and external methods are being tested.

c. Return of Case TV 380 Compact Track Loader to Adobe Truck and Equipment

Mr. Wagener stated that the Case TV 380 Compact Track Loader purchased in August 2011 has required numerous repairs and has not proved to be suitable for the tasks for which it was purchased. The bid specifications stated that it would be used with a Fecon BH 74SS mulcher, but the loader has continued to have hydraulic and overheating problems when used with the mulcher. As such, it does not meet the requirement for "maximum loader availability with a



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minimum of maintenance and repair time” as stated in the specifications, and therefore does not meet the bid specifications.

He stated that the Executive Engineer intends to return the machine to Adobe as it does not meet AMAFCA’s requirements. Adobe has proposed to return to AMAFCA the entire purchase price of \$57,420.00 minus a lump sum of \$5,536.00, which represents the rental value of the 346 hours of non-mulcher use when AMAFCA had utilized it to load trucks. Adobe, Case, and their legal counsel are reviewing the conditions of the return and the Board will be updated as more information is known.

Mr. Wagener stated that because the equipment is being returned to the original seller for a refund, the AMAFCA Board does not need to declare the unit as surplus. Staff will notify the New Mexico Department of Finance and Administration so that they are aware of the action. No other action would be taken against Adobe or Case. Currently, Adobe and Case are working out the details of the equipment return.

Director Brown supported the amicable resolution of the issue.

Responding to a question from Director Hernandez, Mr. Wagener stated that AMAFCA would keep the Fecon mulcher and put out a new advertisement for bids for a loader to operate it.

In response to a question from Chairman Eichenberg, Mr. Wagener stated that the reimbursement rate is approximately \$16/hour for the hours the equipment was used.

Mr. Wagner stated that he intended to go forward with this course of action if the Board agreed. The consensus of the Board was to support the return of the Case Compact Track Loader.

Chairman Eichenberg stated that agenda item 18a would be heard later in the meeting.

18. AMAFCA Projects

b. PNM Update on Scenic Substation at Boca Negra Dam

Mr. Wagener introduced Camille Lovato and Fernando Vigil, of PNM, who were in attendance.

Mr. Wagener stated that if the construction of the Boca Negra Detention Dam is delayed, the resulting delay in the construction of the PNM Scenic Substation at the dam could lead to power shortages and blackouts due to the lack of system capacity. Camille Lovato, the PNM Project Manager for this project, has stressed that it is critical that the substation be in service in time to meet the demands of the 2013 summer peak.



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He noted that the plans call for construction of the substation on an easement within the dam site. The excavation and embankment required would be performed as a part of the earthwork for the dam. If construction of the dam is delayed, this work would need to be done by PNM via a "Temporary Construction and Access License," which can be issued by the Executive Engineer. Conditions of the Boca Negra Detention Dam design will be incorporated in the license to ensure that the work is done in accordance with the design, and that it will ultimately be able to be certified to the New Mexico Office of the State Engineer upon completion of the dam, as essentially PNM would be doing a portion of the dam construction.

Mr. Wagener stated that he would keep the Board informed. No Board action was required.

19. Turnkey Agreements

a. Consideration of Approval of *Turnkey Agreement for Channel Improvements on the Mirehaven Arroyo as Related to Stormcloud Subdivision*

Mr. Lovato stated that the draft agreement with Western Albuquerque Land Holdings (WALH) was presented by Lynn Mazur, AMAFCA Development Review Engineer, at the August Board meeting. Consensus of the Board was to proceed with the agreement, with the financial guaranty paragraph removed.

He noted that at the September Board meeting, she had presented an outline for a Memorandum of Understanding (MOU) between AMAFCA and the City of Albuquerque, which would provide a means for the City to accept financial guarantees for AMAFCA infrastructure and for AMAFCA to review and approve the guaranteed amount.

Mr. Lovato stated that, as the MOU has not been prepared yet, the City has included the Mirehaven Arroyo improvements and the Letter of Map Revision (LOMR) on the infrastructure list for both Units 4 and 5 of Stormcloud Subdivision. Therefore, the channel will be financially guaranteed through the City's development review process, and AMAFCA's interests will be fully protected.

Director Hernandez briefly left the meeting at 12:13 p.m.

Ms. Mazur's memo recommended approved of the agreement with WALH, citing staff's good experiences with WALH in the past and the inclusion of the channel improvements on the infrastructure list.

Director Thomson made a motion that the Board authorize the Chairman to execute the *Turnkey Agreement for Channel Improvements on the Mirehaven Arroyo as Related to Stormcloud Subdivision* with Western Albuquerque Land Holdings, LLC. Director Lyon



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seconded the motion, which passed (4-0), Director Hernandez being absent at the time of the vote.

b. Review and Comment on Turnkey Agreement for Tijeras Arroyo Improvements as Related to Four Hills Estates Subdivision

Mr. Lovato introduced this item, which was then presented by Ms. Mazur. Director Hernandez returned to the meeting at 12:14 p.m.

Ms. Mazur introduced Doug Hughes, of Mark Goodwin and Associates, the engineer on this project.

Ms. Mazur stated that a new subdivision, Four Hills Estates, is proposed along the Tijeras Arroyo just west of the existing Juan Tabo Hills Subdivision. The owners, Juan Tabo Hills West LLC, are interested in reclaiming FEMA floodplain on the property by constructing a scour wall along the western fill of the subdivision. Scour protection is required because they will be building within the prudent line/erosion envelope. They have requested AMAFCA to assume maintenance of the scour wall, which will be similar to the one constructed upstream next to the Hidden Valley Subdivision in 2002. She noted that the homes will be protected up to the 500 year event.

She had provided a draft turnkey agreement to the Board. Provisions of the draft agreement included the particulars of the scour wall to be constructed, which will be built in two phases, and installation of two storm drain outfalls to the arroyo. A drop structure may also be included. Tract B will be dedicated to the City for Open Space, with a drainage easement granted to AMAFCA. A Letter of Map Revision (LOMR) will be included in the items to be financially guaranteed, so that homeowners will not be required to pay flood insurance for an indeterminate amount of time into the future.

In response to a question from Director Hernandez, Ms. Mazur described the effects of the project on the arroyo in this vicinity and downstream. Citing several studies, she noted that this treatment would be similar to that used on the Calabacillas Arroyo. She stated that she would review the hydraulic analysis to be certain that the velocity increase would not adversely affect adjacent properties and the arroyo downstream. She added that the proposal is still early in the conceptual design process.

She requested Board comment on the proposed draft agreement, answering a number of questions from the Board. Some of the discussion covered a closed solid waste landfill on Kirtland Air Force Base property near the proposed project and how it might be affected by the project. Ms. Mazur stated that two fairly large drainage outfalls would be included in the project, and potentially a drop structure as well, which will help reduce velocities.



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Responding to a question from Director Thomson, Brad Bingham, AMAFCA Drainage Engineer, drew the existing storm drain pipelines in the area onto the map. These will be considered and addressed in the drainage design for the new subdivision.

Consensus of the Board was to move forward with the project.

20. Real Estate

a. Notice of Issuance of Two Recreational Licenses

Mr. Lovato stated that two short term recreational licenses had been issued for use of the La Orilla Channel and the Calabacillas Arroyo Outfall. The La Orilla Channel was used for an October 20, 2012 charity walk, and the Calabacillas Arroyo Outfall will be part of a cross country race course on November 3, 2012. Certificates of Liability Insurance were issued for each event.

b. Notice of Issuance of Film Production Location License

Mr. Lovato stated that a Film Production Location License had been issued for the movie "American Girl" for use of the Ben Greiner Soccer Field located adjacent to the North Domingo Baca Dam. The film stars Jane Seymour. The filming and wrap up took place over a two day period and a fee of \$1,500.00 was collected based on the fee schedule for goods and services in Resolution 2006-8, *Reimbursement for AMAFCA Goods and Services*. In accordance with Resolution 2007-8, *Film Production Location Licenses*, the Executive Engineer is authorized to issue these licenses provided that the Board of Directors is informed at the next regular meeting.

Chairman Eichenberg called a recess at 12:27 p.m. The meeting resumed at 12:35 p.m.

18. AMAFCA Projects

a. Consideration of Award of Construction Contract for Boca Negra Dam to Salls Brothers Construction

Mr. Wagener stated that six contractors submitted bids for the construction of the Boca Negra Dam. The Board had received a recommendation of award letter, bid tabulations, and a copy of the AMAFCA Campaign Contribution Disclosure Form prior to the September 27, 2012 Board meeting. At that meeting, the Board chose to defer award of the contract.

He noted that invoices had been sent to KB HOME NM and The Trails, LLC on September 14, 2012, and as of October 19, 2012, the funding had still not been received. The agreement calls for the City of Albuquerque to be invoiced after award of the contract. AMAFCA's primary portion of the funding had been deposited into the special account for the project.



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Mr. Wagener requested that the Board accept Salls Brothers Construction as the lowest responsible bidder with a bid of \$3,754,522.20, and authorize the Chairman to execute the contract with them.

The Board discussed the fact that a mathematical error had moved the apparent low bidder to the number two spot, and discussed the hypothetical situation that could arise if such an error had not been caught before the contract had been awarded. Mr. Lovato indicated that, in such a case, the unit price would rule. Mr. Wagener added that a protest or lawsuit might be expected if a contract were improperly awarded. However, bids are thoroughly checked and it was unlikely an error would persist, undetected, through the award of the contract.

Director Brown made a motion that the Board accept Salls Brothers Construction, Inc., as the lowest responsible bidder and authorize the Chairman to execute the contract with them for the construction of Boca Negra Detention Dam in the amount of \$3,574,522.20 plus New Mexico Gross Receipts Tax. Director Hernandez seconded the motion.

Noting that Fred Salls of Salls Brothers Construction was present, Chairman Eichenberg asked him if he had anything to say, which he did not.

The motion passed unanimously (5-0). Mr. Salls thanked the Board.

Mr. Lovato asked Mr. Salls if Salls Brothers would hold their prices for thirty days to allow additional time for the preparation and signing of the contract before giving notice to proceed. Mr. Salls confirmed he would hold the bid prices for thirty days after award for the notice to proceed.

In response to a question from Chairman Eichenberg, Mr. Wagener stated that the contractor would start the job as soon as possible, probably at the beginning of December. PNM's substation project would not be adversely affected as grading for the substation area would be done first.

Camille Lovato of PNM confirmed that the PNM substation project would not be adversely affected as long as the PNM pad is in place by the end of the year.

21. Unfinished Business

None.



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22. New Business

a. AMAFCA 2012 Bond Committee Update

Mr. Lovato stated that the Bond Committee held its final meeting on October 15, 2012. The committee had raised \$26,050 as of October 17, 2012. The budget was set at \$26,816, so the committee anticipates spending all of the money received. However, if any funds are left over, the committee will donate those funds to the Ditch and Water Safety Task Force. He congratulated Craig Hoover, Chairman of the Bond Committee, on a successful fundraising effort.

Mr. Lovato stated that the billboard is located on I-25 near Montgomery and Jefferson. The television and radio spots started October 22, 2012. "Thank you" postcards will be sent to all contributors on the Board's behalf, and letters to those who served on the committee will be available at the November Board meeting for the Board's signatures.

Mr. Hoover thanked the Board for allowing him to serve on the committee.

b. Middle Rio Grande Flood Control Association Annual Meeting

Mr. Lovato stated that the Middle Rio Grande Flood Control Association annual meeting will be on Tuesday, December 4, 2012, from 7:00 a.m. to 9:00 a.m. The breakfast this year will be at a new location, the Albuquerque Country Club, 601 Laguna Boulevard SW, Albuquerque, New Mexico. Directors who wish to attend should RSVP to Irene Jeffries.

In response to a comment from Chairman Eichenberg about staff support, Mr. Lovato stated that he would look into the situation and report back.

Chairman Eichenberg stated that the Board would return to agenda item 7b for an update from Attorney Rael. The update of pending litigation would be in closed session.

Director Hernandez made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in "*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," seventh edition, 2010, to discuss a pending litigation matter. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 12:47 p.m.

At 12:54 p.m., Director Hernandez made a motion that the meeting come out of closed session. He stated that no decisions had been made during the closed session, but the Board had



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discussed pending litigation. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

The meeting was re-opened at 12:54 p.m.

Director Brown made a motion that the Board direct the Attorney and Executive Engineer to proceed on the action relating to the litigation as discussed, including executing the necessary documents relating to the litigation action. Director Hernandez seconded the motion, which passed unanimously (5-0).

23. Adjourn

There being no further business to come before the Board, Chairman Eichenberg adjourned the meeting at 12:55 p.m.

Bruce M. Thomson, Secretary-Treasurer, 11/15/12

Recorded by Pamela Woodruff, Executive Administrative Assistant