

LAKESIDE FIRE PROTECTION DISTRICT

SPECIAL MEETING OF THE GOVERNING BOARD

Minutes

December 21, 2010 – 5:00 P.M.

1. CALL TO ORDER AND QUORUM

Directors Present:

Director James Bingham
Director Susan Conniry
Director Nicholas Johnson
Director Peter Liebig
Director Jon Lorenz

Also present:

Fire Chief Andy Parr
District Legal Counsel Hilda Mendoza
Clerk of the Board Laura Fernandez

The meeting was called to order by Director Johnson at 5:00 P.M.

2. CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code section 54956.9: 1 potential case.

The above matters described on the agenda may be held in closed session in a conference with counsel under the provisions of Government Code Section 54956.9. If closed sessions are held a report of actions subject to disclosure will be made by the District's Counsel upon return to open session respectively.

The Board of Directors, Fire Chief Parr and District Legal Counsel adjourned to closed session at 5:32 P.M. The Board of Directors reconvened in open session at 5:37 P.M. with District legal counsel announcing nothing to report.

3. River Park Fire Administrative & Operations Facility Construction Contract.

- A.** Due Process Hearing – Southwest General Contractors. Action (Board).
- B.** Ratification of Resolution 10-026. Action (Board)

Staff recommendation:

- 1. Conduct due process hearing regarding nonresponsibility of Southwest General Contractors.
- 2. Consider a motion of one of the following options:
 - a. Ratify Resolution #10-026;
 - b. Rescind Resolution #10-026 and otherwise award construction contract for Lakeside River Park Fire Administrative & Operations Facility; or
 - c. Rescind Resolution #10-026 and reject all bids for the Construction Contract for Lakeside River Park Fire Administrative & Operations Facility.

Mr. Dan Crown and Mr. Carlin represented Southwest General at hearing regarding nonresponsibility of Southwest General Contractors.

Mr. Carlin reported to the Board that two public records requests were presented and had not been properly completed. He commented that the prequalification process and the experience was not done prior to bids and considered them procedural flaws.

Mr. Jeff Katz responded to Mr. Carlin's questions. Mr. Katz stated that he met Mr. Summers of EC Constructors at last Board meeting and he did not know or work with EC Constructors. He worked with Soltek about 20 years ago. The only communication by Mr. Katz with EC Constructors was a couple of emails during the bid process and spoke once during last Board meeting. Mr. Jeff Katz responded to questions from Mr. Carlin and responded he did not know or work with Mr. Crown and had no direct communication, just the letters presented.

Mr. Carlin commented that in absence of statutory prequalification process, the bid process is purely subjective and subject to arbitrary and capricious decision making such as this case. Southwest has the qualifications and experience and the backing of the second largest surety in the United States. He compared Southwest General and EC Constructors and the qualifications and experience.

Mr. Carlin followed referring to Mr. Katz' letter to Chief Parr and addressed the concerns brought up; he confirmed that the low bid presented by Southwest General Contractors was in fact correct. He addressed the forms used and the reference contact information. He also referred to the experience, subcontractor and addenda number one not included in the bid.

Mr. Carlin requested that the Board not follow the staff recommendation and award the contract to Southwest. He presented two pages of large projects and public facilities projects done by Southwest.

A brief recess was called at 6:19 and open session resumed at 6:25 P.M.

Mr. Katz responded on nonresponsibility of Southwest General Contractors and answered questions. Addenda number one was not included in original bid. List of additional projects did not include reference information or contact name. Electrical subcontractor did not include station alerting system and audio visual. All bids were reviewed on information provided on bid day.

Public comment was made by Mr. Summers of EC Constructors on R.L. Electric and AV system section 11455.

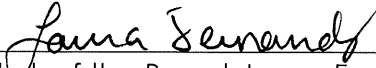
District Legal Counsel Mendoza addressed two issues brought up by Mr. Carlin. One was the public records act and two the prequalification process. As to the Public Records Act there have been two requests and we have complied as stated in the letters provided to Mr. Crown. The prequalification process is a process that the District may utilize if it would like to, but it is not required. That was not utilized for this project and it is irrelevant.

Mr. Crown gave rebuttal about the bid itself, contact information provided and scope of work and electrical contractor work specs.

Motion was made by Director Johnson, seconded by Director Lorenz to Ratify Resolution 10-026. Motion Carried with four ayes and one No, Director Conniry.

With no additional items to discuss the meeting was adjourned at 7:00 P.M.

Respectfully submitted,



Clerk of the Board, Laura Fernandez