

OFFICE OF THE CITY MANAGER

March 23, 2009

TO: CITY COUNCIL

FROM: CITY MANAGER

RE: CONTRACT AWARD TO MANUEL BROTHERS, INC., A QUANTA SERVICES COMPANY, FOR THE INSTALLATION OF THE METRO RAPID BUS TRANSIT PRIORITY SYSTEM ON COLORADO BOULEVARD FROM THE WEST CITY LIMIT TO HILL AVENUE, FOR AN AMOUNT NOT TO EXCEED \$455,000

At its meeting on March 16, 2009, comments were received by City Council from representatives of the International Brotherhood of Electrical Workers (IBEW) regarding the contract award to Manuel Brothers, Inc. (hereafter "MBI"), for the installation of the Metro Rapid Bus Transit Priority System on Colorado Boulevard from the West City Limit to Hill Avenue for an amount not to exceed \$455,000. Specifically, IBEW representatives raised issues regarding payment practices, the state labor code and the required forms for the dispatching of electrical apprentices, and concerns regarding compliance with the current contract between MBI and the City for the 710 Mitigation project.

The City Council entered into discussion regarding the comments received by IBEW representatives, the need for clarification on legal requirements of contractors, compliance with the contract for the 710 Mitigation project, the ability to get an extension on the funding from the Metro Rapid Bus project, and what options are available to the City Council.

The legal issues brought forward by the City Council were reviewed by the City Attorney's Office and special counsel and the response to these issues are outlined in the attached memo, dated March 19, 2009, from Gibbs, Giden, Locher & Turner, LLP, (Attachment A).

With regard to compliance with the current contract with MBI for the 710 Mitigation project, in the agenda report dated March 16, 2009 (Attachment B), staff determined that MBI was in compliance with the contract, including the conditions regarding the "Requirements for Use of Apprentices and Good Faith Efforts." Attached are the forms submitted by MBI regarding these conditions (Attachment C). The appropriateness of

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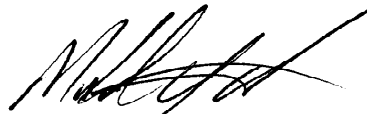
these forms and their legal compliance issues are detailed in the attached memo dated March 19, 2009.

The funds for the Metro Rapid Bus project are scheduled to expire on June 30, 2009. In order for the City to be reimbursed for the funds expended, the final invoice for the project must be submitted prior to or by this date which requires construction to be completed no later than mid-June. Staff contacted Metro to determine if an extension could be received for these funds. Metro did not indicate a willingness to provide an extension for these funds at this time; however, as the project nears the end of the timeline, the City can make a request for an extension. Metro indicated that if the City shows substantial progress in accomplishing the contract at the time of the request, they would be amenable to extending the funds. If the City does not show substantial progress, the City risks losing the reimbursement.

The final question from City Council was what options do they have with regard to this project and/or contract. There are three options outlined within the attached memo dated March 19, 2009. In summary, they are as follows:

1. Award the contract to MBI as presented at the March 16, 2009, meeting,
2. Reject all bids and re-bid or abandon the Metro Rapid Bus project, or
3. Continue the item with formal notice to MBI of a non-responsibility process to determine whether MBI is a responsible bidder, notify MBI of any evidence of non-responsibility and provide MBI an opportunity to rebut the evidence and to provide evidence of its present responsibility to perform the work.

Respectfully submitted,



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MICHAEL J. BECK  
City Manager

Attachments