

**Albuquerque Metropolitan  
Arroyo Flood Control Authority  
Special Meeting Minutes  
March 30, 2005**

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**1. Call to Order and Roll Call**

Chairman Brown called the Special Board Meeting to order at 8:05 a.m. Wednesday, March 30, 2005. Chairman Brown stated that this item was deferred at the Regular Board Meeting of March 24, 2005. The meeting was properly announced at that meeting. Roll was noted as follows:

Directors present:	Chairman Ronald D. Brown Director Daniel Lyon Director Tim Eichenberg Director Janet Saiers Director Danny Hernandez
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Others present:	John Kelly, Executive Engineer Sam Bregman, Attorney Staff
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A quorum was present.

**2. Approval of Agenda**

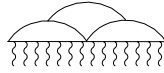
Director Eichenberg made a motion to approve the agenda. Director Hernandez seconded the motion, which passed unanimously (5-0).

**3. North Camino West of I-25 – Consideration of Turnkey Agreement with MCT Industries for Design and Phased Construction of Channel**

Mr. Kelly introduced Ted Martinez, his son Benny Martinez, and Frank Duran, of MCT Industries, Inc.; Charles Price, representing Blue Cross/Blue Shield; Bruce Stidworthy, the engineer representing Blue Cross/Blue Shield and MCT; and Brad Bingham, of the City of Albuquerque.

Mr. Kelly discussed the turnkey agreement with MCT Industries, Inc., for design and phased construction of channel for a portion of the North Camino, between San Mateo and I-25, as had been presented to the Board at the March 24, 2005 meeting.

Mr. Kelly provided some history regarding the area. In 1997, the MCT building was constructed and arrangements were made to put the North Camino into an interim channel maintained by MCT, provided that any further subdivision of the area would require an agreement with AMAFCA for construction of the channel improvements.



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Mr. Kelly summarized the Board's guidance on the proposed turnkey agreement which had been presented at the March 24, 2005 meeting as follows: (1) the channel should be built as one construction project, (2) the Board's concern about the proposed phasing, with the suggestion that there be a requirement that the entire channel be built within a two-year period, (3) the Board's concern about the municipal lien financial guarantee, and that with the current floodplain designation the value of Tract B might be insufficient to cover 125% of the cost of channel construction.

Mr. Kelly stated that at the March 24th meeting, Mr. Duran had indicated that there were lots MCT owned to the south that were unencumbered by flood plain that could be used for the municipal lien. The Board deferred further discussion of the turnkey agreement to this special meeting.

Mr. Kelly stated that he and Mr. Duran had met, but specific changes to the agreement had not been finalized.

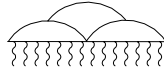
Director Lyon stated that the Real Estate Committee had visited the site. He reported that the present earthen channel, maintained by MCT, is working fairly well. He stated that there is some erosion behind the MCT building, but that is due to building and parking lot runoff draining to the arroyo. He and Director Hernandez also noted that MCT could not construct the channel all the way because the channel downstream of San Mateo Boulevard is also earthen, and there is nothing to attach to.

Director Lyon stated that the committee recommended that the channel behind the building would need to be built to AMAFCA specifications and in the location specified by AMAFCA, at MCT's cost. He noted that once the channel has been built, there will not be a flood plain on Tract B. He stated that MCT had indicated their plan to sell other lots for development, but the timeframe for that development would be uncertain until specific deals are negotiated.

Mr. Kelly reported that a study conducted several years prior had defined the North Camino alignment from I-25 to the North Diversion Channel. The project is on the City's CIP, for completion in five to ten years. He stated that the portion of the channel from San Mateo to the NDC cannot be completed until the City finalizes their design, as the City's design affects the next westernmost portion of the channel.

Mr. Kelly discussed the proposed channel design and anticipated cost, along with plans for the ends of the channel immediately upstream and downstream of the MCT section. He stated that total cost for the section is estimated at about \$1 to 1.2 million.

Mr. Kelly stated that this project was not included in AMAFCA's FY 05 Project Schedule.



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In response to a question by Director Saiers, Brad Bingham stated that the preliminary plat has been approved, pending resolution of drainage issues. Charles Price addressed the Board, stating that Blue Cross/Blue Shield intends to start construction as soon as the final plat has been approved. They are looking at an occupancy date of about September 2006.

Chairman Brown summarized the three alternatives available to the Board: (1) allow the bulk transfer on municipal lien as originally requested; (2) allow the bulk transfer on municipal lien, requiring a two-year timeline on completion of the channel improvements; and (3) a request for a cost-share on the channel. For the first two alternatives, MCT would design and construct the channel. If there is any cost-share with AMAFCA, then AMAFCA would have the burden of constructing the channel – therefore MCT would need to pay its portion to AMAFCA before the project could proceed.

Mr. Kelly stated that a 30/70% split (AMAFCA/private) had been proposed. Director Eichenberg stated that he favored the private sector paying for the entire project.

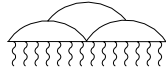
Discussion followed.

Mr. Kelly cited several advantages to doing the entire channel at once. (1) The Pueblo, which owns the lots immediately north of the tracts owned by MCT, is not yet ready to proceed with a cost-share agreement. (2) The City is not ready to proceed with the Balloon Fiesta Park section of the channel. He opined that it would be advantageous to do this section now, starting above San Mateo and ending at the existing channel – whether this were done by MCT or as a cost-share, in order to remove the floodplain.

Director Eichenberg stated that he favored having the entire channel built at once, thus ensuring continuity, quality of construction, and the knowledge that the project would be completed by one contractor. He also stressed the importance of the project due to the potential future impact on the Balloon Fiesta Park as the MCT site is further developed. He also opined that given AMAFCA's current good rapport with the Pueblo, they could more easily be persuaded to participate in the project.

Director Hernandez stated that although he knows the benefit of building the channel at one time, he had concerns that the project is completely developer-driven and not funded on the current project schedule.

Chairman Brown reviewed all the options, stating that option A would be to have Blue Cross/Blue Shield build their portion of the channel next spring, with the rest of the channel waiting for further development. Option B would be the same except with a timeline for MCT



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to build the rest of the channel. Option C would be to require MCT and Blue Cross Blue Shield to build the entire channel now.

Option D would be a cost-share, where AMAFCA would be the lead and the other parties would pay for the design, contribute the land without compensation, and contribute their share of the monies to build the channel improvements prior to AMAFCA going out for construction bids. This option would require their contribution before the end of this year.

Director Hernandez stated his support for the options that involve building the channel all at once, and favored option D, due to the superior quality of the finished project as a result of AMAFCA taking the lead.

Director Saiers stated that she saw no need for AMAFCA to contribute any public money to the project, as it was taking private land out of the floodplain. She stated her belief that the proposed turnkey agreement adequately protects AMAFCA and public interests with the six requirements for MCT to fulfill. She stated that her preference was to either continue with the agreement as proposed, or to use the same agreement and add a time limit for completion of the improvements. She stated that the City permit process and the municipal lien would drive completion of the channel.

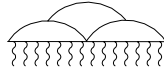
In response to Director Saiers' comments, Chairman Brown stated that the channel carries public water, not just drainage from the MCT site. Mr. Kelly added that this is one of the major arroyos crossing AMAFCA's district, originating in the Sandias.

Director Lyon stated that he supported a phased-in channel with a time limit, with no cost-sharing element.

Mr. Martinez addressed the Board, stating his support of a 30/70 split. He would also like to work with the Highway Department and City to coordinate this project with the channel through the Balloon Fiesta Park. He stated that, because of the cost, he would be unable to build a bridge over San Mateo as a part of the project, but he is willing to work with the Board on a 30/70 split for the channel.

Director Eichenberg asked Mr. Martinez if he had given the City land for the four-lane frontage road at Balloon Fiesta Park. Mr. Martinez replied that he had donated additional land for the road. Director Eichenberg next asked Mr. Martinez if he was on an industrial bond, and if he paid property taxes. Mr. Martinez replied that because of the industrial bond, they did not pay property taxes.

Following further discussion, Director Eichenberg made a motion that AMAFCA and MCT split the cost of the drainage project on a 25/75 basis, AMAFCA paying 25% and MCT



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paying 75%, and the project to extend from I-25 to a transition structure approximately 200 feet east of San Mateo Boulevard; the cost of the drainage project shall include the design, construction engineering services, and construction; the FEMA LOMR shall be paid 100% by MCT; all right-of-way shall be contributed in fee at no cost to AMAFCA; and that these directives be put into a cost-share agreement along with the timing of the construction, for consideration by the Board at the April Board meeting.

Director Hernandez seconded the motion.

Chairman Brown asked for clarification regarding the Blue Cross portion of the channel.

Director Eichenberg stated that AMAFCA did not have a cost-share agreement with Blue Cross.

Chairman Brown stated his understanding that the property was being conveyed to Blue Cross, and Blue Cross would have responsibility for that section of the channel.

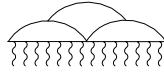
Charles Price, representing Blue Cross, confirmed that at closing, Blue Cross would take possession of Tract A, and assume the obligation to design and build its portion of the channel. He stated that the motion made by Director Eichenberg may cause them to revisit the deal.

Chairman Brown then asked Director Eichenberg if the motion was for the portion of the channel that starts at the western property line of Blue Cross and extends westward, with Blue Cross contributing 100% to the channel in their portion.

Director Eichenberg stated that if Blue Cross contributes 100% of the funding for the channel portion in Tract A, the cost-share agreement would be for the portion of the channel from the west end of Tract A westward. AMAFCA would want to be the lead for the entire project. He still favored a 25/75 split. Blue Cross and MCT would need to negotiate what their contribution would be.

Director Hernandez stated that he favored AMAFCA being the lead on the project, and having 100% funding from Blue Cross for the portion of the channel in Tract A, and a 25/75 split with MCT for the remainder of the channel.

Discussion followed. Mr. Kelly stated that building the project was a matter of allocating costs by reaches. It would still be an AMAFCA project, with two private parties involved in the agreement, each making their own percentage contribution for their reach.



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Director Eichenberg stated that he would accept the Chairman's amendment. Director Hernandez concurred.

Director Lyon stated he was against the amended motion.

Further discussion followed.

Chairman Brown summarized the motion as: a tri-party agreement with AMAFCA being the project lead; AMAFCA will contribute 25% of the cost of the portion of the channel in tract B, and MCT will contribute 75% of the cost of the portion of the channel in tract B; Blue Cross/Blue Shield will contribute 100% of the cost of the portion of the channel in tract A; and the channel will be built by next summer.

Director Eichenberg stated that his motion also included that the land would be donated by the private parties in fee simple, and that the cost of the FEMA LOMR would be fully funded by MCT and Blue Cross/Blue Shield.

Mr. Kelly stated that typically the cost of the design, the construction engineering services, and the construction are included in the project cost for cost share splits. Director Eichenberg stated his agreement to this concept.

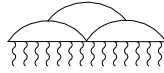
Mr. Kelly stated that MCT would be 100% responsible for the right of way and the FEMA LOMR, which would be broken out of the design as a separate line item, and that the design includes the ready-to-bid, approved design, including the Corps 404 permit, NMDOT permits, and any SWPPP requirements that may occur.

Chairman Brown called the motion. The motion passed (3-2), Director Lyon and Director Saiers voting against the motion.

Director Saiers requested clarification of AMAFCA's process for negotiating an agreement, stating that in her opinion it was inappropriate for AMAFCA to negotiate an agreement as a part of an agenda action item. She stated that AMAFCA's Executive Engineer was responsible for negotiating agreements based on direction from the Board.

Director Eichenberg replied that the Board was not in agreement with the prior negotiated agreement, therefore the Special Meeting had been called. He stated that the current motion required Mr. Kelly to renegotiate the agreement with the elements contained in the motion. Mr. Martinez would be free to accept or reject the agreement.

Director Saiers stated that she had considered the original agreement adequate to protect the public interest, so she supported the original agreement.



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Chairman Brown explained that it is the Executive Engineer's responsibility to make a recommendation to the Board that would benefit AMAFCA and all parties involved. If the Board was uncomfortable with the recommendation, it would direct the Executive Engineer to renegotiate an agreement in accordance with the Board's guidance. He stated he felt the Board's action was appropriate and consistent with historical Board actions.

Chairman Brown clarified the vote by a re-vote. The motion passed 3-2.

Mr. Duran asked if this action would delay progress of the project.

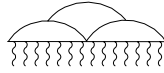
Chairman Brown opined that the Board's action today would not delay the project, stating that the reason Mr. Bingham had been present was to familiarize Mr. Bingham with the Board's actions so he could make an appropriate decision on MCT's platting request. To Mr. Price, he stated that AMAFCA consistently gets 3-7% lower bids than the City or any other public agency, because AMAFCA plans are clean, biddable, and buildable, and contractors know they will get paid on time. Thus, Blue Cross/Blue Shield will realize a benefit from AMAFCA's taking the lead on the project.

Mr. Price stated that he had the same concern as expressed by Mr. Duran, that waiting for a new agreement to be drafted and approved by the Board would delay closing, but that if the plat could be signed off by the City before the April Board meeting, delays would probably be minimal.

Mr. Kelly stated that he would talk with the City and get the plat approved out of DRB, and delegate the final signature to AMAFCA. AMAFCA would sign the plat upon execution of the cost-share agreement at the April 21 Board meeting assuming AMAFCA and Mr. Martinez could agree to the terms of the agreement.

**4. Unfinished Business**

None.



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**5. New Business**

**a. Tri-centennial Ceremony**

Mr. Kelly stated that there was an invitation for the Board to the April 16 Tri-Centennial event at the Balloon Fiesta Park.

Director Eichenberg stated that he would not be able to attend the April 21 Board Meeting.

**6. Items from the Floor / Public Comment**

None.

**7. Adjourn**

With no further business to discuss, Chairman Brown adjourned the meeting at 9:05 a.m.

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Janet Saiers, Asst. Secretary-Treasurer 4/21/05

Recorded by Irene Jeffries, Business Manager

Transcribed by Pam Woodruff, Secretary to the Executive Engineer