



MEMORANDUM

TO: Rudy Garza, Assistant City Manager

FROM: Mike Trimble, Director, Contract and Land Management Department *MT*
Stephen Elkins, Director, Small and Minority Business Resources Department *SE*

DATE: June 30, 2009

SUBJECT: Colorado River Park Re-Bid, PWC0184A — Protest Finding

As part of the bid review process, Austin Filter Systems, Inc. was determined to be Non-Compliant due to lack of Good Faith Efforts for MBE African-American participation. The firm protested this decision on the grounds that it listed a firm in its compliance plan for African-American participation, but this firm was actually verified to be an MBE Hispanic firm. The protest stated that the firm was inadvertently listed as an MBE African-American firm on their compliance plan due to confusion regarding how the firm was coded in the electronic MBE/WBE Certified Vendor Database (see attached Protest Letter from Austin Filter Systems, Inc.).

It was determined that, based upon the information provided in the protest letter, sufficient grounds existed to warrant a protest hearing. The protest hearing was held on June 24, 2009. Representatives from Austin Filter Systems as well as city staff were present to provide additional information regarding the grounds for the protest and the determination of Non-Compliance, respectively.

A third-party Hearings Officer conducted the proceedings, compiled information from all parties and provided Contract and Land Management with the recommendation that the protest as filed by Austin Filter Systems be sustained (see attached finding). The recommendation indicates that the solicitation should be re-bid, but due to the fact the solicitation is already a re-bid and the project has critical milestones that must be achieved, it is not in the City's best interest to re-issue this solicitation.

Based upon the Hearings Officer's thorough analysis of the facts, the CLMD Director concurs with the Hearing Officer's finding and recommendation that the protest be sustained. In addition, SMBR is overturning the initial finding of Non-Compliance for Austin Filter Systems, Inc.

It should be noted that Austin Filter Systems has voluntarily agreed to seek MBE African-American participation for this project, in addition to the certified firms already listed in the original compliance plan. Furthermore, SMBR is taking actions to rectify the electronic coding issue for the MBE/WBE designations.

C: Howard Lazarus, Director, Public Works Department
Rosie Trnelove, Contract Procurement Division, CLMD
Keri Jharez, Project Management Division, Public Works