



**SACRAMENTO
HOUSING AND REDEVELOPMENT
AGENCY**



26

November 30, 1984

Redevelopment Agency of the
City of Sacramento
Sacramento, California

CITY MANAGER'S OFFICE
RECEIVED
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Honorable Members in Session:

SUBJECT: Response to Protest Regarding Rejection of Bids, CPRR
Freight Depot and Loading Platform, Old Sacramento
Riverfront Project

APPROVED
SACRAMENTO REDEVELOPMENT AGENCY
CITY OF SACRAMENTO

SUMMARY

This report is in response to the protest regarding rejection of Bids for the Old Sacramento Riverfront CPRR Freight Depot and Loading Platform submitted to the Redevelopment Agency on November 27, 1984. The report responds to the issues and questions raised in the November 27, 1984 letter from Kneeland H. Lobner, Attorney for Mark Harris, General Contractor. Specifically, this report addresses contentions by Mr. Lobner that the proposed changes to the project are "de minimus" and could be handled by change order with the low bidder as opposed to rejection of Bids and rebidding of the project; knowledge of the need for modification to the project prior to Bid opening; and authority of the Executive Director to reject all Bids in connection with this project.

DEC 4 1984

First, it is presumed by Mr. Lobner that his client, Mark Harris, Inc., is the low bidder. The Bid Documents stated that the Contract may be awarded on the basis of the sum total of Bid Items 1 and 3 or upon the sum total of Bid Items 1, 2 and 3. Bid Item 1 was for the Freight Depot structure without the Loading Platform. Item 2 was the Loading Platform and Item 3 the Telephone Duct. Had the decision been made to award the Contract on the basis of the sum total of Bid Items 1, 2 and 3, Mark Harris, Inc. would have been the low bidder. However, had the decision been made to award on the basis of the sum total of Bid Items 1 and 3, Mark Harris, Inc. would have been the third lowest bidder and not the lowest bidder. The project was bid in this manner as staff foresaw a possible conflict between the construction schedules for the Loading Platform and the hulk, GLOBE as both are to be constructed upon the same site. Staff had proposed that if the scheduling problems still existed at the time of the Bid opening that the award be made on the basis of the sum total of Bid Items 1 and 3 upon the concurrence of the Economic Development Administration (EDA). As the scheduling problem is still not clearly resolved it is probable that had the Bids not been rejected, Mark Harris would not have been the lowest bidder, but the third lowest bidder.

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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

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In regard to the contention that the changes to the project are "de minimus" and should be handled by change order as opposed to rejecting the Bids and rebidding the project, attached as Exhibit I please find a copy of a letter from the Agency's consultant, The Spink Corporation, dated November 28, 1984. This letter addresses the significance of the proposed changes in the project and contradicts Mr. Lobner's statement that The Spink Corporation supports the contention that the changes are "de minimus" and should be handled by change order. It is the stated professional opinion of the Agency consultant, The Spink Corporation, that the changes are substantial and will affect to some degree every trade to be involved in the project. A negotiated change order would not afford the Agency competition to establish the true value of the changes and thus is felt to not be in the best interest of the Agency. The Spink Corporation estimates that at least 10% of the previously estimated project construction cost will be saved in the change of the structural columns alone.

Second, in response to the statements regarding possible known modification to the project prior to Bid Opening, it is not uncommon to find some component of a project that could or should be changed. Had the EDA schedule permitted and had it been previously determined necessary an addendum might have been issued. The day before the Bid date the consultant began investigation related to new concerns over long-term building maintenance cost. The degree of significance was unknown and was initially thought to be of small consequence and not worthy of a postponement of the Bid Opening. Subsequent to the November 14, 1984 Bid Opening the Agency on November 16, 1984 was apprised by Museum and History Division staff of significant discrepancies in the historic dimensions, certain details and the historic appearance of the building which would cause substantial impact upon the engineering design. Staff confirmed these and other tenant required or desired corrections and changes. The full magnitude and significance of the necessary changes and corrections were not known until November 21, 1984. Based upon our consultant's evaluation of the necessary corrections and changes a redesign and rebid was determined to be the only way to afford the Agency the advantage of competitive bidding as opposed to the negotiation of a change order. Thus, on November 21, 1984 all Bids were rejected in favor of a rebid.

Third, in regards to the authority of the Executive Director to reject all Bid in connection with this project, the following summary of the Executive Director's authority is offered.

The Agency has no established procedure for authorization to reject all bids. The Sacramento Housing and Redevelopment Commission has the power to grant such authorization pursuant to the general delegation of power by the City and County Redevelopment Agencies and

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
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Housing Authorities under Resolutions adopted October 20, 1981 and October 27, 1981 (Resolution Numbers RA-83, HA-1497, RA-81-083, HA 81-098).

While the Commission is generally empowered to grant such authorization, the Agency and Housing Authority governing boards may authorize the Executive Director to take such actions when they approve individual projects. In the case of the CPRR Freight Depot on January 24, 1984 the Redevelopment Agency of the City of Sacramento adopted Resolution No. 84-004 (see Exhibit II) which approved the Old Sacramento Waterfront construction phasing plan, the construction of Phase I, appropriated funds for the construction project and authorized the Executive Director to take various actions to carry out the construction project.

Regarding the construction of four historic building shells on the Riverfront, one of which is to be the CPRR Freight Depot, Section 7 of the cited Resolution states, "the Executive Director is authorized to take all actions necessary to complete construction of the four historic building shells for a cost not to exceed the amounts specified in the revised Phasing Plan". Section 7 gives the Executive Director broad authority to "take all actions necessary". Such actions include the advertising, awarding and if necessary, rejection of all Bids.

This particular authority was sought by staff because, at the time the Resolution was adopted, staff anticipated that construction of the CPRR Freight Depot project might be funded by a grant from the Federal Economic Development Administration (EDA). The precise date that the EDA grant might be approved was unknown, but it was known that EDA would impose an extremely short performance time. Once the grant was approved there would not be sufficient time to report back to the Commission with final Bid specifications or Bids. Therefore, the particular authority to proceed was sought in advance and was exercised by the Executive Director in proceeding with the project after the EDA grant was secured.

As additional information, attached as Exhibits III and IV are a chronology of the project, and a copy of the tabulation of Bids received on November 14, 1984.

RECOMMENDATION


The staff strongly recommends that the actions taken by the Executive Director in rejection of the subject Bids on November 14, 1984

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

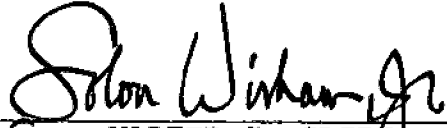
Redevelopment Agency of the
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and rebid of the subject project are in accordance with the previously approved Resolution Number 84-004 and should be upheld by the Redevelopment Agency.

Respectfully submitted,


ANDREW J. PLESCIA
Acting Executive Director

TRANSMITTAL TO COUNCIL:


For: WALTER J. SLIPE
City Manager

Contact Person: Ted Leonard



THE SPINK CORPORATION

720 F STREET • P.O. BOX 2511 • SACRAMENTO, CA 95811 • TELEPHONE (916) 444-8170

OVER FIFTY YEARS OF SERVICE

November 28, 1984

Mr. Ted Leonard
 Sacramento Housing & Redevelopment
 Agency
 630 I Street
 Sacramento, California 95814

Dear Mr. Leonard:

OLD SACRAMENTO RIVERFRONT
 CPRR FREIGHT DEPOT

As requested, we have reviewed the November 27 protest letter to the Agency from Lobner and Bull and have the following comments.

Contrary to paragraphs 1b and 1c of the letter, The Spink Corporation did not suggest to the Agency that the proposed changes are minor and should be handled by change order to the low bidder. In our opinion the proposed changes are substantial and a negotiated change order without adequate competition would not be in the best interest of the Agency.

The following is a brief listing of the changes involved:

1. Increase the height of the entire building and platform by an additional 1'-6".
2. Change all 72 columns from structural steel with labor intensive wood facing to wood columns. Also change base plates and column cap details.
3. Add parapet walls to the restrooms and office.
4. Relocate the office, add a window and change the window mullion style.
5. Relocate the electrical meter.
6. Add detailed historical sign painting.
7. Add a historical telegraph pole.
8. Add a temporary handicap access ramp.

ENGINEERING • ARCHITECTURE • PLANNING • SURVEYING • PHOTOGRAMMETRY

Robert E. Young, C.E., S.E., M.E.
 Gerald S. Smith, P.E.
 Theodore J. D'Amico, P.E.
 Robert C. Hall, C.E.

Ronald W. Smith, C.E.
 Harold A. Wecker, L.S.
 Bruce A. Henz, C.E.

Quentin W. Holmes
 Robert D. Ness, L.S.
 H. E. McChristy, Controller
 Ted A. Smith, P.E.

Charles B. Seifers, P.E.
 John A. Greenwood, L.S.
 Eugene A. Pearson, P.E.

Louis E. Viani, Jr., A.I.A.
 Eric J. Chestnolovick, A.S.L.A.
 Stephen R. AuClair, P.E.
 James J. Barns, P.E.

Joseph E. Spink, C.E. (1889-1959)

EXHIBIT I

SACRAMENTO

ORINDA

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Mr. Ted Leonard
November 28, 1984
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9. Add a metal screen at the footings around the entire perimeter of the building.
10. Change exterior siding nails to historical, square headed nails.
11. Change the style of roof gutter.
12. Add 30% additional lighting.
13. Remove an exterior wall from the restroom and add two interior walls. Remove screens.
14. Relocate exterior drinking fountains and revise plumbing.

It is estimated that the change in columns alone will result in a savings of approximately 10% of the total contract amount.

The need for most of these changes did not become apparent until after the bid opening.

Sincerely,

THE SPINK CORPORATION

Eugene A. Pearson

EAP:sjs

RESOLUTION NO. 84-004

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

January 24, 1984

REVISED PHASING AND FINANCING PLAN FOR
RECONSTRUCTION OF OLD SACRAMENTO WATERFRONT

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO:

Section 1. The revised Phasing Plan, Schedule and Financing Plan for the Old Sacramento Riverfront Project as presented to the Agency on the date of this resolution, is hereby approved and adopted.

Section 2. The Phase I Construction Plans presented to the Agency on the date of this resolution, are hereby approved, and the Executive Director is hereby authorized to advertise for bids to complete the construction and to award the construction contract to the lowest responsible bidder.

Section 3. The Executive Director is authorized to execute a contract in a form approved by Agency Counsel with Lowry & Associates for materials testing related to the Phase I Construction Contract.

Section 4. The Old Sacramento Riverfront Private Redevelopment Implementation Analysis report prepared by Potter, Taylor and Scurfield, is hereby accepted.

Section 5. The Executive Director is authorized to initiate proceedings to adopt the barge to a permanent structure, providing improvements are made to the barge creating an image complementary to a historical waterfront environment such as ramp coverings and canvas trim. A report with recommendations and cost is to be brought back for review and approval.

Section 6. The Executive Director is authorized to retain consultants for design services related to the construction of four historic building shells and the hulk "The Globe" and related accessway as specified in the revised Phasing Plan.

Section 7. The Executive Director is authorized to take all actions necessary to complete construction of the four historic building shells for a cost not to exceed the amount specified in the revised Phasing Plan.

RESOLUTION No. 84-004
JAN 24 1984

Section 8. The Executive Director is authorized to take all actions necessary to complete construction of the hulk "The Globe", for a cost not to exceed the amount specified in the revised Phasing Plan.

Section 9. The Executive Director is authorized to take all actions necessary to complete installation of a second accessway to the barge docking facility and to complete other miscellaneous work needed for continued operation of River tour boats to and from Old Sacramento for a cost not to exceed the amount specified in the revised Phasing Plan and in a manner to meet tour boat schedules.

Section 10. The Agency Capital Improvements Budget for 1984 is amended as follows:

- a. Decreasing the appropriation for Replacement Housing Redevelopment Project No. 8 (Fund 248-Cost Center 1008) by \$488,262.00;
- b. Increasing the appropriation for Phase I of the Old Sacramento Waterfront (Fund 244-Cost Center 0453) by \$488,262.00; from \$1,881,738.00 to \$2,370,000.00;
- c. The \$2,370,000.00 appropriation is to be funded by loans of \$1,881,738.00 from Redevelopment Project 2-A and \$488,262.00 from Project No. 8. The loan to be repaid in full on December 31, 1986, or sooner, at an annual simple interest rate of 9 percent;
- d. By decreasing the appropriation to the Old Sacramento Waterfront in the amount of \$1,041,654.00 for the anticipated interim financing.

Section 11. The Redevelopment Agency of the City of Sacramento hereby makes a finding of benefit to Project No. 4 from Project No. 2-A and No. 8 based on the fact that activities as proposed in this report will allow for a substantial increase in private investment and tax increments. These increments will then be used for rehabilitation of properties in Project Areas No. 2-A and No. 8 upon the combining of project areas. There are no surplus funds from Project No. 4, all funds are fully committed and therefore, there are no other funding alternatives other than a loan from Project Nos. 2-A and 8.

Section 12. The Executive Director is authorized and directed to include Phase II Construction as an activity to be funded in a future proposal for a tax allocation bond issue.

Section 13. The Executive Director is directed to study and report back on a location, facilities and costs for a permanent gathering place for events in Old Sacramento, including a permanent or temporary stage.

Anne Reider

CHAIRMAN

ATTEST:

William H. Flynn

SECRETARY

CERTIFIED AS TRUE COPY
REDEVELOPMENT AGENCY

of Resolution #84-004

MAR 26 1984

DATE CERTIFIED

Lorraine Meyer
Acting Secretary

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

CPRR FREIGHT DEPOT AND LOADING PLATFORM

PROJECT CHRONOLOGY

| <u>Date</u> | <u>Activity</u> |
|--------------------|--|
| May 10, 1983 | Agency adopts Resolution No. 83-037 approving the Old Sacramento Riverfront Master Plan providing design direction for the implementation of the project including the incorporation of the CPRR Freight Depot. |
| September 28, 1983 | Agency adopts Resolution No. 83-069 authorizing the Executive Director to accept and execute an Offer of Grant from EDA. (Subsequently the Agency was notified of the elimination of the then Agency-proposed EDA Grant project from first round consideration.) |
| January 20, 1984 | EDA notifies Agency that a new scaled-down Agency project which EDA might be able to fund in June or July 1984 could be resubmitted to EDA for reconsideration for partial funding. |
| January 24, 1984 | Agency adopts Resolution No. 84-004 approving the revised Phasing and Financing Plan for reconstruction of the Old Sacramento Riverfront. (Section 2 authorized the Executive Director to Bid and award the Contract for the construction of Phase I. Section 7 authorized the Executive Director to take all necessary actions to complete construction of four historic building shells of which the CPRR is one.) |
| July 10, 1984 | Agency adopts Resolution No. 84-042 approving revision to Financing and Phasing Plan to accelerate construction of the hulk, GLOBE and the CPRR Freight Depot and Loading Platform as a part of the Phase I construction. |
| September 4, 1984 | Agency receives EDA Offer of Grant to fund up to 46% of Old Sacramento Riverfront sewer, water, drainage and fire protection system and CPRR Freight Depot subject to EDA terms and conditions and schedule of performance from date of Agency acceptance of Grant: |
| | Completion of final construction documents 30 days |
| | Receive Bids 45 days |
| | Award Contract 75 days |
| | Commence construction 90 days |
| | or by December 29, 1984 |
| | Complete construction within 1 year |

| <u>Date</u> | <u>Activity</u> | | | | | | | | | | |
|--|---|--------------------|-------------------|--------------------|-------------------|--|-------------------|--|-------------------|-----------------------|-------------------|
| September 25, 1984 | Executive Director, per Resolution No. 83-069, accepts and executes EDA Offer of Grant. Agency and Spink Corporation execute Contract for Professional Services separating from previous Contracts all EDA project-eligible related work and adding additional new eligible work to complete scope of EDA project to develop Agency's match. | | | | | | | | | | |
| October 25, 1984 | Final construction documents for CPRR Depot submitted to EDA. | | | | | | | | | | |
| October 29, 1984 | Project advertised for Bid. | | | | | | | | | | |
| November 7, 1984 | Pre-Bid Conference. | | | | | | | | | | |
| November 13, 1984 | Question arose regarding design of steel structural system and long-term building maintenance cost. | | | | | | | | | | |
| November 14, 1984 | Bids received. | | | | | | | | | | |
| November 16, 1984 | Agency informed of discrepancies in dimensions, details and historic appearance and confirms tenant-desired changes and corrections and desirability of redesign over change order. | | | | | | | | | | |
| November 19-21, 1984 | Agency advises EDA of intention to reject Bids and rebid, EDA concurs, Bidders noticed of rejection of Bids and invited to rebid. EDA reminds Agency of requirement for 15-day bid period and that construction must start by December 29, 1984. EDA approves new schedule: | | | | | | | | | | |
| | <table border="0"> <tr> <td>Advertise for Bids</td> <td>November 29, 1984</td> </tr> <tr> <td>Pre-Bid Conference</td> <td>December 6, 1984</td> </tr> <tr> <td>Receive Bids</td> <td>December 12, 1984</td> </tr> <tr> <td>Pre-Construction Conference and Notice to Proceed by</td> <td>December 19, 1984</td> </tr> <tr> <td>Start construction by</td> <td>December 29, 1984</td> </tr> </table> | Advertise for Bids | November 29, 1984 | Pre-Bid Conference | December 6, 1984 | Receive Bids | December 12, 1984 | Pre-Construction Conference and Notice to Proceed by | December 19, 1984 | Start construction by | December 29, 1984 |
| Advertise for Bids | November 29, 1984 | | | | | | | | | | |
| Pre-Bid Conference | December 6, 1984 | | | | | | | | | | |
| Receive Bids | December 12, 1984 | | | | | | | | | | |
| Pre-Construction Conference and Notice to Proceed by | December 19, 1984 | | | | | | | | | | |
| Start construction by | December 29, 1984 | | | | | | | | | | |
| November 27, 1984 | Agency informed of Contractor's protest over rejection of Bids and notice of rebid. Staff instructed to report back to Agency prior to rebid. Report due December 4, 1984. | | | | | | | | | | |
| November 28, 1984 | EDA apprised of postponement of rebid. New schedule set: | | | | | | | | | | |
| | <table border="0"> <tr> <td>Advertise for Bids</td> <td>December 5, 1984</td> </tr> <tr> <td>Pre-Bid Conference</td> <td>December 12, 1984</td> </tr> <tr> <td>Receive Bids, award, Notice to Proceed</td> <td>December 19, 1984</td> </tr> <tr> <td>Preconstruction Conference</td> <td>December 21, 1984</td> </tr> <tr> <td>Start construction by</td> <td>December 29, 1984</td> </tr> </table> | Advertise for Bids | December 5, 1984 | Pre-Bid Conference | December 12, 1984 | Receive Bids, award, Notice to Proceed | December 19, 1984 | Preconstruction Conference | December 21, 1984 | Start construction by | December 29, 1984 |
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| Pre-Bid Conference | December 12, 1984 | | | | | | | | | | |
| Receive Bids, award, Notice to Proceed | December 19, 1984 | | | | | | | | | | |
| Preconstruction Conference | December 21, 1984 | | | | | | | | | | |
| Start construction by | December 29, 1984 | | | | | | | | | | |
| December 4, 1984 | Report back to Agency. | | | | | | | | | | |

OLD SACRAMENTO RIVERFRONT
 CPRR FREIGHT DEPOT AND
 LOADING PLATFORM

BID TABULATION

NOVEMBER 14, 1984
 2:00 P.M. PACIFIC STANDARD TIME
 REDEVELOPMENT AGENCY OF THE
 CITY OF SACRAMENTO

(12)

EXHIBIT IV

| BIDDER | ITEM 1 FREIGHT DEPOT | ITEM 2 LOADING PLATFORM | ITEM 3 TELEPHONE DUCT | TOTAL 1 AND 2 | TOTAL 1, 2 AND 3 |
|---|-------------------------|----------------------------|--------------------------|------------------|---------------------|
| 1. Stewart + Co. Ma. J. Noel Noel Box 426 Yuba, CA 95640 209-274-2294 | 449,119 | 130,306 | 43,007 | 492,126 | 672,432 |
| 2. Norena Chapek Chapek Construction, Inc. 601 E 27th St. Sacramento 95832 425-3912 | 320,000 | 137,000 | 17,000 | 337,000 | 474,000 |
| 3. Connie Whisher Whisher Software, Inc. 601 University Sac 95825 | 319,000 | 108,750 | 25,000 | 344,000 | 452,750 |
| 4. Roberta Snyder J. F. Roberts Corp. P.O. Box 103 Fair Oaks 95628 | 434,000 | 177,000 | 18,000 | 452,000 | 629,000 |

J. F. Roberts
Billy [unclear]

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OLD SACRAMENTO RIVERFRONT
CPRR FREIGHT DEPOT AND
LOADING PLATFORM

NOVEMBER 14, 1984
2:00 P.M. PACIFIC STANDARD TIME
REDEVELOPMENT AGENCY OF THE
CITY OF SACRAMENTO

(13)

BID TABULATION

| BIDDER | ITEM 1 FREIGHT DEPOT | ITEM 2 LOADING PLATFORM | ITEM 3 TELEPHONE DUCT | TOTAL 1 AND 2 | TOTAL 1, 2 AND 3 |
|--|-------------------------|----------------------------|--------------------------|------------------|---------------------|
| ⑤ ^{MIKE WOODER} Kimmel Const. Inc. 1315 Stockton Block SAC 95316 452-6691 | 349,876 | 148,692 | 20,000 | 369,876 | 518,568 |
| ⑥ ^{STEVE BILLINGS} Don-An Builders, Inc. 2635 F.O.B. Ste #6 SAC 95325 | 316,000 | 120,500 | 20,000 | 336,000 | 456,500 |
| ⑦ ^{CARL STEIN} Carl B. Stein Co. Inc. | 330,773 | 119,133 | 16,893 | 347,666 | 466,804 |
| ⑧ ^{MAUREEN CARTER} Carter/Kelley Inc. | 331,520 | 142,000 | 20,000 | 351,520 | 493,520 |
| ⑨ ^{TOM SMITH} Peschke & Tenaglia 1015 Jackson Ave SAC 95335 | 374,000 | 166,000 | 25,000 | 399,000 | 565,000 |

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2END

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[Handwritten signature]
Kimmel

(3)

OLD SACRAMENTO RIVERFRONT
CPRR FREIGHT DEPOT AND
LOADING PLATFORM

NOVEMBER 14, 1984
2:00 P.M. PACIFIC STANDARD TIME
REDEVELOPMENT AGENCY OF THE
CITY OF SACRAMENTO

BID TABULATION

| BIDDER | ITEM 1 FREIGHT DEPOT | ITEM 2 LOADING PLATFORM | ITEM 3 TELEPHONE DUCT | TOTAL 1 AND 2 | TOTAL 1, 2 AND 3 |
|--|-------------------------|----------------------------|--------------------------|------------------|---------------------|
| <i>⑩</i> ENF Corp <i>C.F. Cowan</i> P.O. Box 15246 | 356,000 | 145,000 | 5000 | 361,000 | 506,000 |

Approved: [Signature]
Recorded: [Signature]
[Signature]
[Signature]
[Signature]