

**LOS ANGELES COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES
SPECIAL MEETING
INFRASTRUCTURE COMMITTEE
Educational Services Center
Hearing Room – First Floor
770 Wilshire Boulevard
Los Angeles, CA 90017
Wednesday, October 14, 2009
10:00 a.m.**

Committee: Nancy Pearlman, Chair; Mona Field; Miguel Santiago

Participants: Ed Cadena, Swinerton Management & Consulting; Todd Cozolino, Build—LACCD; William Englert, LAHC; Camille Goulet, ESC; Roger Heyman, Heyman Densmore LLP; Brent Hurwitz, Build—LACCD; Tomas Kuehn, Build—LACCD; Christopher McKoy, H & M Electric Company; Jose Moreno, LAHC; Nghi Nghiem, Arcadis; David Orbach, Orbach, Huff & Suarez; Tina Park, Trustee; Fabiola Rivera, Orbach, Huff & Suarez

Trustee Pearlman called the meeting to order at 10:02 a.m.

PUBLIC SPEAKERS

None.

BRIEFING ON LEGAL ISSUES OF DEBARMENT AND THE CONDUCT OF THE HEARING PROCESS

Ms. Camille Goulet indicated that she and Mr. Roger Heyman are serving as counsel to the Infrastructure Committee as a decision-making body separate and apart from counsel on behalf of the staff recommendation. She indicated that the staff recommendation to the Committee is that a particular contracting firm be precluded from conducting further business with the District on the basis of a specific experience with the District. This Committee will present a recommendation to the full Board, which will make the final decision on the matter.

Ms. Goulet read the recommended hearing procedures. She recommended that the Committee adopt the recommended hearing procedures as presented.

Motion by Trustee Field, seconded by Trustee Santiago, to adopt the recommended hearing procedures as presented.

ADOPTED: 3 Ayes

HEARING ON PROPOSED DEBARMENT OF CONTRACTOR

Mr. Christopher McKoy, Mr. David Orbach, and Ms. Fabiola Rivera introduced themselves.

Mr. Heyman indicated that notice was given to Mr. McKoy and to H & M Electric. A copy of that notice has been premarked as Exhibit 1 for the record. The determination is whether or not H & M Electric; any entity owned in whole or in part by Christopher McKoy, Amina McKoy, or McAdoo House Jr.; or any entity in which any of those three persons are the responsible managing officer or the responsible managing employee should be debarred for a time period of up to five years.

Mr. Orbach indicated that he has been entrusted by staff to present staff's recommendations regarding the debarment of H & M Electric. He discussed an incident on August 15, 2008 when an electrical subcontractor at Los Angeles Harbor College (LAHC) violated basic safety rules by cutting two 4,800-volt wires. The cut wires were not sealed. Instead, H & M Electric cut the bottom of the cable, wrapped tape around the bottom, told the District it was fine, turned the power back on, and left the room. A District employee entered the room and energized the cable resulting in an explosion and flash. The voltage caused a shutdown of all of the circuit

breakers and resulted in the closure of the entire campus for the day. H & M Electric was physically removed from the project that day and was formally removed from the project approximately one month later. He stated that it is staff's recommendation that H & M Electric be banned from performing any further work on this project for a period of up to five years. The District will provide oral and written testimony from several witnesses concerning the events of August 15, 2008 including the testimony of Mr. Thomas Jones, Mr. William Englert, Mr. Jose Moreno, and an electrician from the electrical contractor called in by the District to repair the damage caused by H & M Electric.

Mr. Orbach indicated that the District will also provide evidence of the policies and procedures that should have been followed by H & M Electric.

Ms. Goulet indicated that the presentation by Mr. Orbach is not evidence. The evidence will be presented by the sworn witnesses.

Mr. McKoy discussed what occurred at the construction site that resulted in the explosion.

Ms. Goulet recommended that the Court Reporter affirm that the testimony given as well as the testimony to be given would be true and to swear in the witness at this time.

The Court Reporter swore in Mr. Nghi Nghiem.

Ms. Fabiola Rivera discussed Exhibits A – I that were provided to the Committee.

Mr. Nghiem presented his testimony regarding the events of August 15, 2008.

Ms. Goulet indicated that it would now be appropriate for the subcontractor to have an opportunity to cross-examine the witnesses if he wishes to do so.

Mr. McKoy cross-examined Mr. Nghiem.

Mr. McKoy inquired as to why G2000 Construction Inc., which is a general contractor, is not present at this hearing.

Mr. Orbach responded that G2000 Construction Inc. is not present because the company was not directly responsible for the actions of the subcontractor. They hired a specialty subcontractor to have the specific responsibility to cut the wire. The explosion occurred and G2000 Construction Inc. replaced the subcontractor immediately.

Trustee Field inquired if the subcontractor was copied on the letter that was sent to G2000 in which the subcontractor was told to never return to the campus.

Mr. Orbach indicated that the electrical subcontractor was removed from the project the next day. The general contractor then took action to substitute a new electrical subcontractor in place of H & M Electric.

The Court Reporter swore in Mr. Jose Moreno.

Mr. Moreno presented his testimony regarding the events of August 15, 2008.

Mr. McKoy cross-examined Mr. Moreno.

The Court Reporter swore in Mr. William Englert.

Mr. Englert presented his testimony regarding the events of August 15, 2008.

Mr. McKoy presented his testimony regarding the events of August 15, 2008. He admitted that he cut two of the high-voltage wires, that he did not have caps for the wires, and that he was asked to go to Santa Fe Springs to purchase them but did not do so because it was getting late and it was too far. He testified that instead he put on electrical tape that he obtained from the campus electrician. He further admitted that he stated at that time that it was safe to energize the high-voltage switchgear and that he made a mistake by not cutting the third wire and this mistake caused the explosion and blackout.

The Court Reporter swore in Mr. Todd Cozolino.

Mr. Cozolino explained the subcontractor's responsibilities versus those of the general contractor.

Ms. Goulet indicated that the District contracts with the general contractors, not the subcontractors.

Mr. McKoy continued his testimony.

DISCUSSION AND RECOMMENDATIONS FOR FURTHER ACTION

Motion by Trustee Field, seconded by Trustee Santiago, that the Committee recommend the staff recommendation and that the subcontractor be debarred from working for the District for a minimum of four years.

Ms. Goulet indicated that this Committee will make a decision today. Staff will then prepare a draft decision. The Committee will identify which of its members will review the final draft. The final draft will then be presented to the full Board. An individual who has addressed the Committee cannot address the Board on the same item unless it is substantively different. She further stated that the debarment will apply to any entity owned in whole or in part by Christopher McKoy, Amina McKoy, or McAdoo House, Jr.

APPROVED: 3 Ayes

Trustee Field nominated Trustee Pearlman to review and finalize the draft prepared by staff.

Trustee Santiago seconded the nomination.

APPROVED: 3 Ayes

New Business

None.

ADJOURNMENT

Motion by Trustee Field, seconded by Trustee Santiago, to adjourn.

Without objection, so ordered.

The meeting adjourned at 12:37 p.m.