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ACA Newsletter

Austin City Council Ordered Re-Bid On Dunlap Substation Project Due To MBE/WBE Non-Compliance



Austin— Austin City Council in a 4-2 vote Thursday June 26th rejected a city staff’s recommendation to award \$5.4 million contract to Lambda Construction for Austin Energy’s new Dunlap 345kV Substation due to MBE/WBE non-compliance issues.

The decision came after several speakers voiced their objection during the regular council meeting to the controversial recommendation made by the city’s Contract Management Department despite Lambda’s non-compliance status with the city’s own MBE/WBE Procurement Program.

Council Member Martinez motioned to rebid the project, seconded by Council Member Spelman. The motion was passed 4-2 with Morrison excusing herself and Mayor and Tovo voting against.

Speaking on behalf of the Minority Trade Association Alliance, comprised of the Asian Contractor Association, Austin Area Black Contractor Association, and the Hispanic Contractors Association, Carol Hadnot (seen in the photo above), Program Manager of Austin Area Black Contractors Association, expressed her frustration with the city’s habitual disregard of the city’s own MBE/WBE

participation goals when awarding contracts.

She said the alliance found the recommendation “disturbing” especially after Lambda Construction was deemed as “non-compliant” by the city’s Small and Minority Business Resources Department. “There is a blatant disparity between the first low bidder and the other two low bidders. How is this (decision) possible? It is beyond my comprehension,” Ms. Hadnot said.

The city originally recommended using the second lowest bidder Utility Lines Construction, which had allocated participation goals of 12.9% African American, 3.9% Hispanic, 1.1% Native/Asian American, and 15.3% WBE. Utility Lines Construction was found to be compliant with Contract Management Department and MBE/WBE requirements, according to a memorandum from Rosie Truelove, Director of Contract Management Department, to the mayor.

Lambda Construction however filed an official protest in May against the initial recommendation, and an protest hearing was held on June 13 in front of city staff and an independent third-party hearing officer. The hearing officer subsequently advised to uphold Lambda’s protest, which was accepted by CMD, according to the memo.

“The hearing officer does not have fresh eyes. We need someone who knows the ordinance, knows how to fairly evaluate protest hearings,” Ms. Hadnot said.

“The message you are sending is that you need not achieve the goals,” she said. “Council needs to do some soul searching because when it is dealing with people with color, it does not matter.”

The project had participation goals of 1.55% for African American subcontractors, 3.24% for Hispanic, 1.09% for Asian/Native American, and 1.87% for WBE. Lambda Construction had the lowest bid, with 0.1% (\$5,000) set aside for Asian/Native American contractors, 2.63% (\$135,201) for WBE, but 0% for both Black and Hispanic contractors.

Third lowest bidder Pike Electric had 10.48% African American, 7.3% Hispanic, 1.09% Native/Asian, and 2.14% WBE.

The Council’s decision is hailed as a major victory for minority contractors. It also sends a resounding message to city staff and the construction community that minority participation goals should not be taken lightly and that people of a different color do matter.

Asian Contractors Corner



Austin— Mr. Frank Lam is the owner of Frank Lam & Associates, Inc. He talks to Asian Contractor Association about his background and his minority engineering business, that has won many projects with the City of Austin and other government agencies.

1. Where were you born? What brought you to the States? What inspired you to start your own company in Austin, TX?

Frank was born in Hong Kong and came to the United State to attend college, received his B.S. in Architectural Engineering in 1975 from UT a Austin. He worked for several years in Canada before coming back to Austin to study for his M.S. at UT. Frank worked part time for Jose Guerra Engineering Inc. while attending school at UT and continued his career at Jose Guerra after receiving his M.S. in Civil Engineering (Structural Emphasis) in 1980. Frank started his own company in 1990.

2. What projects have you done in the past for both the public and private sectors including awards, achievements?

Frank Lam & Associates, Inc. offered Structural Engineering Services for a wide variety of clients including governmental agencies, universities, architectural and engineering firms, manufacturers, contractors, and service organizations in the building industry. The service it provides ranges from higher edu-

cational institutions, commercial offices, and high-tech industrial buildings to multi-million dollar hospitals, wastewater and water treatment plants, and other infrastructures.

3. What is your view on the City's MBE/WBE procurement program -- how it has impacted your business, how important the program is to minority vendors, and how it can be improved in the future?

Frank Lam is the first Asian to serve as board member on the MBE/WBE advisory committee. He witnessed many successes among minority businesses and fully appreciated the importance of the program and its impact in helping minority businesses with more opportunities to do business with the City. MBE/WBE program helped Frank Lam & Associates in getting started with offering its services to the City in the same manner.

5. As a 2009 recipient of the Small Business of the Year award from the city, what have been the key elements to your success, and what is your advice for any minority vendors interested in doing business with the city?

Frank Lam & Associates Inc. has been committed to the highest professional standards in Structural Engineering Services. It has distinguished itself as a firm with a reputation for dependability and excellence. The company operates on the principle of absolute values of uncompromising professionalism and integrity and ethical decision-making. This is one of the most important factors in doing business with anyone including the City of Austin.

Minority-Owned General Contractor, Flintco, Is In The People Business



Austin— Flintco, LLC is the largest Native American-owned contractor and 46th largest contractor in the USA. It has operations in 30 states including Texas. The company was selected in 2011 by the City of Austin to design and build the Asian American Resource Center, which began construction in June this year. Below is a Q&A session with Mike Hutter (see left photo), LEED AP, DBIA, Vice President, Business Development.

Flintco is a minority-owned general contractor ranked among the top commercial contractors nationwide. It has also remained a privately-owned family business since 1908 through three generations. What do you think are the key elements to Flintco's success?

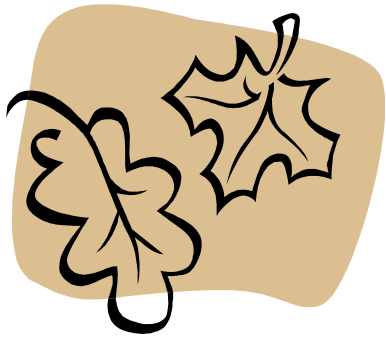
A big part of our long-term success is our knowing that we are not in the brick and mortar business. We are in the people business. It's our people who are responsible for the company's success and we have created a company structure and culture designed to let high performers excel. Flintco's 'bottom-up' management style has resulted in an entrepreneurial environment for all positions within the organization. Our family focused culture that respects the contributions and innovations of the individual provides an open door policy that fosters flow of information and has flexibility in policies to accommodate individual circumstances. Flintco's culture is one that is focused on integrity and that is non-political. Wins are jointly celebrated and missteps are discussed openly and viewed as lessons-learned.

Your firm's commitment to serving minority communities through training and offering employment opportunities is well-documented. In your firm's experience working with Native American subcontractors, what have you found are the best ways to assist minority contractors to participate in projects, private or public, as subcontractors?

Flintco has a strong commitment to support our own minority heritage by proactively developing a diverse work force. Our multi-faceted program includes proactive development of a database of minority firms and suppliers and we use the services and assistance of the local minority agencies to help us in this effort. We meet with minority contractors and business leaders in the minority community to thoroughly explain upcoming work, how it will be run, and the opportunities available. We encourage involvement, including telephone follow-up and personal visits. We structure the work packages on projects to maximize minority firm participation and develop instructions for bidder packages which detail minority participation requirements. Flintco has also developed training and programs to assist minority companies with bonding and insurance requirements. We also provide training on trades, safety, operations and accounting. We have had several formal minority mentoring programs. Flintco's innovative programs to engage and develop the minority community resulted in our being named National Minority Business Advocate of the Year from the U.S. Department of Commerce Minority Development Agency for outstanding performance in the service industry and excellent service to the minority community. Flintco also received the Minority Construction Firm of the Year from this agency due in part to its active role in the progression of minority business development and its tireless efforts to maximize minority participation on all of its construction projects.

As the general contractor for AARC (Asian American Resource Center), what is your advice to Asian contractors who are looking to establish a working relationship with GCs in terms of what a GC is looking for in a minority subcontractor?

Our advice for minority contractors is to meet face to face with the GC prior to submitting a bid proposal. This introduction allows for the GC to better understand the subcontractor's capabilities and to determine the size and scopes of work for which the minority firm is best suited. The subcontractor has the opportunity to learn more about the project and learn the GC's expectations. It is important for the minority subcontractor to fully read the bid packages and fill out all of the proper proposal documents completely and accurately.



Do you think public policy plays an important role in helping minority contractors to compete for government projects?

Yes, public policy plays a significant role in helping minority contractors compete for government projects. Public entity owners such as the City of Austin, the State of Texas and the federal government have detailed, prescribed requirements for meeting minority goals. HUB/MBE/WBE plans are a part of the selection criteria for general contractors and minority participation is tracked and measured throughout the construction project.

The University of Texas System, one of our clients, presents annual awards to general contractors who excel in minority participation on UT construction projects. This is one way public owners encourage contractors to extend their efforts to maximize opportunities for minority subcontractors. We are proud to have received UT Outstanding HUB participation awards for exceeding HUB goals on three of our projects with UT.

Do you think Austin's MBE/WBE Procurement Program is a successful program and why?

Yes, the City of Austin's MBE/WBE program is successful because it promotes and encourages MBE/WBE firms to participate in contracting opportunities in the Austin community. The City's Small and Minority Business Resource Department program is committed to maximizing MBE/WBE participation of all ethnicities in construction projects and Flintco supports this philosophy. I have a working relationship with the SMBR department that dates back to 2000 and we understand and have experienced the benefits of the city's program. Working with the city on our current City of Austin Asian American Resource Center, Flintco exceeded all of the MBE/WBE participation goals for the project.

How do MBE/WBE, HUB, and DBE government programs impact the relationships between prime contractors and minority subcontractors?

Having MBE/WBE programs creates an environment that encourages more communication between prime and minority contractors, thus enhancing the relationships and ultimately creating more project opportunities.

While many general contractors do sincerely try meeting MBE/WBE participation goals, we've also heard accounts from minority subcontractors stating that some general contractors, in order to successfully win government projects, would solicit support or endorsement from them promising to follow minority participation goals, but failed to do so after obtaining the contracts. What do you think is the reason for it?

The biggest challenge is assuring there are sufficient minority participants that meet the required contract criteria including safety performance and insurance requirements. This is one reason Flintco's program includes proactive development of minority companies with which we do business so we can help them develop these criteria in advance of bidding opportunities.

Flintco currently has operations in 30 states. How is the economic climate for construction in Texas compared to other states or to the rest of the country?

Construction overall experienced a significant downturn nationally. Texas however, continues to be one of the best markets based on new construction starts in the country. The challenge is that it is also one of the most competitive markets and there are many companies moving into this market to take advantage of its continued relative stability.

Could you tell us about your work at Flintco and your history with the firm?

Flintco opened the Texas Division in Austin October of 2004. I was one of the original four employees when the office opened and we have grown to a staff of 75 today. I have over 30 years of experience in the construction industry and initially with Flintco, I was director of estimating. My role changed to business development three years ago and I was promoted to vice president two years ago.