



Chautauqua, Cattaraugus, Allegany & Steuben Counties

Southern Tier Extension Railroad Authority

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Gerard Fitzpatrick, Chairman

STERA Executive Committee Meeting June 16, 2006

Minutes

Present: John Margeson, James Griffin, Robert Walrod, and Joseph Eade

Others Present: Thomas Barnes

The Executive Committee of STERA met by a series of telephone conference calls between May 30, 2006 and June 16, 2006. Calls involved Mr. Barnes and either individual members of the Executive Committee or several members of the Executive Committee at one time. The minutes report a summary of the events that transpired over this period, leading to the final resolution by the Executive Committee.

1. RFQ for Engineering Services

Mr. Barnes discussed the history of the RFQ for engineering services. NYS DOT had requested that STERA consider an RFQ for engineering services that would be good for a number of smaller construction projects utilizing NYS DOT funds over the next year to three years, as opposed to going through an RFP process for each contract.

Mr. Barnes noted that Mr. Griffin had brought up the issue in the last STERA Board meeting of whether this process would be allowed under the provisions of the new Public Authorities Accountability Act. Mr. Barnes indicated that he had been advised by Harris Beach orally that the RFQ process was consistent with both the Public Authorities Accountability Act and STERA's own procurement policy. Mr. Margeson had indicated that he wished to obtain a written opinion from Harris Beach. Mr. Barnes had indicated that he would pursue this.

Mr. Barnes described the process through which a review committee comprised of Mr. Rychnowski (STERA), Mr. Burt (WNYP), Ms. Fox (WNYP) and Mr. Barnes (STERA) had opened the submissions and rated each submission on six parameters, and then normalized the ratings and ranked the bids. The Committee recommended the selection of Clough Harbour & Associates to provide engineering services.

Mr. Griffin noted that Clough Harbour had had performance and inspection issues. He urged further investigation prior to selecting Clough Harbour. Mr. Barnes indicated that he would

pursue this with Mr. Burt and NYS DOT, and Mr. Griffin indicated that he would contact Mr. Burt as well.

Over time, Mr. Barnes continued to pursue the written opinion from Harris Beach, and discussed and ultimately obtained the written approval of the selection of Clough Harbour from NYS DOT. In the interim, Mr. Burt provided the following emailed report on Clough Harbour:

“I did hear from Jim (Griffin) and we discussed this.

“The litigation he referred to is a lawsuit by TTA, a railcar rebuilder located on our B&H line at Kanona NY. The suit alleges design mistakes by CHA in designing some plant trackage. Jim thinks highly of TTA's founder, whose main office is in Hornell. B&H, however, has its own rather extensive experience with TTA and based on that, I would tend to discount the idea that the lawsuit reflects much on CHA's performance as a rail consultant.

“The other issues Jim referred to related to highway consulting work that the Rochester office of CHA did for Region 6. Jim states that as a result of this work Region 6's director, Peter White, has expressed a lack of confidence in CHA and will require a DOT inspector in addition to any CHA inspector working on a job. That may be. Our rail projects do not involve CHA's Rochester office, however. Moreover, who inspects rail projects is determined by NYSDOT's Albany office. So far this year, each grant agreement has arrived with a cover letter specifying who the project coordinator is, and most often it has been John Camerota. It is already the case that they expect each Region's rail coordinator to assist with inspection, under the direction of the designated project coordinator.

“STERA should notify NYSDOT in Albany (John C. would be the best initial contact) about our choice. It would be appropriate and helpful to transmit documentation of the RFQ process we went through. If "DOT" has a problem with CHA, they will almost certainly let us know with a phone call. If not, you will get a letter saying that DOT blesses the choice. LAL just received such a letter with regard to its recent choice following a somewhat less formal RFQ process than the one we designed.

“I recall that Paul Pastecki expressed some concerns about CHA during our conference call in 2003, the gist of which was that CHA tended to overpromise. My impression is that CHA has spent the last three years working to rebuild confidence. WNYP's own direct experience with them last year did not indicate any reason for concern over this issue.

“It may be necessary for me to speak with Peter White to ensure smooth sailing, after the choice is made, but I don't think we ought to let his troubles with another CHA office dictate who we choose. Strictly speaking, if NYSDOT's Albany office issues the approval letter, then DOT has spoken.

“I don't see a close "second" in the RFQ ratings that would easily substitute for CHA. In general, I think only CHA, Whitehead, and Bergmann were really able to handle a job of this scope. Whitehead is weakened by the fact that Joe Abati does not bring rail experience and the main office is in North Carolina, while Bergmann priced themselves out of the running. It has been suggested in the past that we can choose a consultant, then negotiate their fees, but what assurance is there that they would come down, once chosen?”

The Executive Committee discussed and on June 16 adopted a Resolution to accept engineering services proposal from Clough Harbour & Associates LLP, contingent upon receiving an opinion letter from Harris Beach indicating that the selection and engagement of Clough Harbour & Associates LLP was done in compliance with the PAAA and STERA procurement policies (Eade, Walrod, passing, with Eade, Margeson voting yes and Griffin voting no).

2. Adjournment