



Citizens' Oversight Committee Meeting Minutes

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| Meeting No. 3 – Scheduled Meeting | Meeting Date February 15, 2007 | | | |
| Meeting Time 4:30 – 6:20 p.m. | Recorded By A. Charles | | | |
| Attendees: <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> Members: B. Barksdale R. Jee G. Miller C. Paul </td> <td style="width: 33%; vertical-align: top;"> Alternates: A. Chakos H. Franklin </td> <td style="width: 33%; vertical-align: top;"> Staff: A. Charles T. Horton K. Mayo M. McArthur S. Schroeder </td> </tr> </table> | | Members: B. Barksdale R. Jee G. Miller C. Paul | Alternates: A. Chakos H. Franklin | Staff: A. Charles T. Horton K. Mayo M. McArthur S. Schroeder |
| Members: B. Barksdale R. Jee G. Miller C. Paul | Alternates: A. Chakos H. Franklin | Staff: A. Charles T. Horton K. Mayo M. McArthur S. Schroeder | | |
| Agenda Item | Action Taken | | | |
| <i>Welcome & Introduction</i> | Introduction of Members, Alternates, and Staff present. | | | |
| <i>Public Comment</i> | No comments. | | | |
| <i>Review of Administrative Matters:</i> <i>Review and Approval of June 8th Meeting Minutes</i> | COC members voted unanimously to formally adopt the minutes from the June 8 th meeting. | | | |
| <i>Update on COC Meeting Advance Notification methods</i> | Per the request of G. Miller, Community at Large Member, staff researched methods of publicizing the COC meetings. Staff reported that the BART DSS signage inside all BART stations was used to publicize the February 15 th meeting. The information was broadcast system-wide on the DSS four times per hour for the entire week prior to the meeting. | | | |
| <i>Response to questions from COC Chair</i> | <p>The COC Chair posed a number of questions in a letter to project staff dated January 16, 2007. The project team addressed these issues as follows:</p> <p><i>Clarification of contingency allowance:</i> During design about 25% of the construction value is being carried in contingency. At 65 – 75% of design the contingency will drop to 15%. At actual bid time the</p> | | | |



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contingency will drop to 10%. BART generally does not go below 10%. The COC members asked about why the contingency is not broken out in the engineer's estimate. Answer: The contingency value is not revealed during the bid for reasons of competition for the best bid.

The COC members asked if there would be any land acquisition for the project. Answer: There will be no permanent land acquisition for the project, only temporary access as needed for construction.

Escalation allowance: Escalation was increased from 5% annually to 6% because of the current construction market. This was achieved by applying the cost savings from some of the retrofit work that is not as extensive as previously thought. The cost savings have been applied to escalation rather than putting into reserves.

Risk Analysis: The project staff is holding risk analysis workshops for all of the major pieces of the project. The analysis for the Transbay Tube and San Francisco Ferry Plaza work is complete. The California Public Utilities Commission requires that BART complete a hazard analysis related to risks that the work poses to the operating system and passengers.

Value Engineering: A design value engineering workshop with the aerial structure section designers has been completed. Based on this exercise, the project team is now processing variances to the design criteria. A design value engineering workshop for the aerial station work has been scheduled for the end of February.



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The COC members asked for clarification of the nature of the retrofit work at the stations. Answer: The foundation and column retrofits are similar to those of the aerial structures. The aerial stations are a combination of an aerial structure and a bridge. In some cases their design introduces additional forces at the deck level that are not seen with the aerial structures.

The COC members asked for additional information on the organization of the value engineering workshops, and the way in which the designers are brought together. Answer: A facilitator was brought in to lead the three-day session. It began with a brainstorming session, where hundreds of ideas were captured. The ideas were then priced and then it was determined which solutions were most cost effective to pursue. At the end of the session there were 50 – 60 suggestions. Of those, the project team is actively pursuing about 10. There are significant savings from these suggestions, as well as suggestions for avoiding additional costs.

Financial Management – Estimating – Estimates are revised at the major design review levels: 35%, 65%, 95% and bid.

Forecasting – BART has standard forecast and completion reports which include: approved change orders, pending change orders, anticipated change orders, potential claims, and liquidated damages. The COC members asked for a copy of the forecast at completion report and inquired about the frequency of the report. Answer: The forecast and completion report is done monthly and with change orders.



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Actual Vs. Financial Progress – The financial progress tends to run pretty close to actual progress and is re-estimated at each invoice.

Scheduling – BART uses standard scheduling techniques for scheduling progress, such as Primavera.

The COC Members asked if there would be an opportunity to see a summary of the actual schedule versus forecast schedule. Answer: Project staff indicated that the Bond Financial Report was intended to serve as the summary, and per the COC's request at the June 15 meeting, a number of additional items were added to the report, such as the actual versus forecast schedule.

Claims Resolution — Each construction contract offers partnering. If the contractor chooses to participate in the partnering, one of the first activities is the creation of a dispute resolution ladder, indicating who will resolve issues at various levels. If dispute resolution is necessary BART generally favors mediation.

Program Management Plan: A PMP was drafted very early on in the program. That draft is now being used to satisfy the Federal Highway Administration requirements for a program management plan under the Safety Transportation bill. The draft PMP was provided to the COC members for their review. BART is subject to FHWA requirements because of the funding received through Caltrans for the retrofit of the structures that cross over state roads and highways.

Contract Advertisement: The COC was provided with a list of the methods BART Procurement uses to advertise contracts. Advance



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| | <p>notice is provided to bidders lists about upcoming contracts. Advertisements are placed in various professional, technical and contracting publications depending upon the type of services being sought. The information is provided on the BART website. Contract information is also sent to plan rooms. The District staff participates in public works nights and hosts DBE vendor fairs, which are sponsored by BART Contracting and Office of Civil Rights to encourage DBE participation.</p> |
| <i>Selection of Chairperson and Vice Chairperson for 2007</i> | <p>Discussion regarding the responsibilities of the Chairperson and Vice Chairperson.</p> <p>B. Barksdale was selected as the Chairperson for 2007.</p> <p>C. Paul was selected as the Vice Chairperson for 2007.</p> |
| <i>Replacement of Seismic Seat Alternate</i> | <p>Recommendation of project staff is to have the request for the replacement of the Seismic Seat Alternate and the report to the BART Board of Directors occur at the same meeting. The COC members concurred.</p> |
| <i>Discussion on timing of update to BART Board of Directors</i> | <p>Discussion regarding the timing of the report to the BART Board of Directors. General consensus was to have the meeting during the spring. Discussion ensued regarding the contents of the report to the board. The report will contain the minutes from the meetings held to date, with an abstract that will form the basis of the report for edit and review by the COC members.</p> |
| <i>Auditing Overview</i> | <p>S. Schroeder provided an overview of the types and number of audits for which the Controller/Treasurer's office is responsible. The District is contracted with Macias and Ginni to conduct the audits, approximately 15 per year. Generally the District has an Independent</p> |



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Audit conducted once each calendar year, which serves as the master audit for the District. The first audit of the Earthquake Safety Program is being scheduled for the summer of 2007, as they are approaching the milestone of the first \$100 million spent and the second tranch of bonds will be issued soon. Audits of the project will then be done annually through the duration of the program. The audit report is typically completed in the fall, and will be presented to the BART Board in December for acceptance.

Discussion ensued regarding the level of audit that will be conducted on the Earthquake Safety Program – program level or project specific – and the scope of the audit. S. Schroeder suggested that if there are specific areas of concern that the COC members would like to include in the scope of the audit they should them to his office through COC support staff. S. Schroeder also suggested that he could provide the scope of audit to the COC members for review prior to the start of the audit.

Discussion focused on the audit report and its components. COC members requested to see a copy of the Executive Summary of the audit report.

The COC Members asked about an internal audit vs. an external or financial audit for the project. Members asked for information about the internal audit department for the District. The COC requested that a member of the internal audit department attend the next meeting to address the committee.

Discussion followed regarding quality control and assurance audits.



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| | <p>Project staff reported that the General Engineering Consultant has an audit team that is currently auditing the section designers to ensure they are following the established quality procedures for the project. During construction, quality control and assurance audits will be set up to QA the contractor's quality control process, independent of the resident engineer.</p> |
| <p><i>Project Update: Completed Activities</i></p> | <p>Project staff provided an overview of the completed activities for the Earthquake Safety Program, which include: Preliminary Engineering for the Ferry Plaza retrofit, the aerial structures along Highway 24 and in West Oakland; Lake Merritt Administration Environmental Clearance; Value Engineering Workshop for Aerial Structures; Retrofit of the Oakland Ventilation Structure for the Transbay Tube.</p> <p>The COC members asked for clarification regarding the percent complete shown on the Bond Financial Report for the Oakland Ventilation Structure contract. Answer: The retrofit work has been completed and the contract is now in close out. The COC members asked about the forecast for the contract versus the engineer's estimate. The COC was provided with a copy of the engineer's estimate for the Oakland Ventilation Structure project. The contract did exceed the engineer's estimate. The COC asked why the project team believes that the engineer's estimate differed to greatly from the bid. Answer: The contract involved working over the active BART trackway, which required protecting the operating system. There was an under-characterization of the existing conditions report for utilities. There were also problems with the structural design, which necessitated a redesign. By comparison, a second contract currently in close out, which is not funded by bond funds, is coming in 12% under the bid.</p> |



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| | <p>The COC asked about the next contract that will be put out for bid.</p> <p>Answer: The next big contract will be released this fall for the Ferry Plaza. The project team anticipates that the forecast budget for that contract will be significantly reduced because the section designer has reduced the scope of work. The COC members were provided with a handout illustrating the revised retrofit to the Ferry Plaza, which reduces the number of piles needed for the retrofit and the type of material that will be used. This is possible because the project team has determined through additional soil investigations that the building sits on stiffer clay than was previously believed. This project will be re-estimated prior to bid.</p> |
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| <p><i>Current Activities</i></p> | <p>Review of the current activities for the project, which included final design, procurement and construction.</p> <p>The COC members asked about the number of companies that are involved with the project. Answer: There are over 130 companies involved currently. Each of the section design contracts is awarded to a different company; there is no duplication. The COC asked how the design criteria would be standardized among all of the companies. Answer: The General Engineering Contractor (GEC) is responsible for ensuring that the designs are standardized. There is one contractor that is designated as the reviewer for all of the bridge designs. There are also technical review groups within the GEC for each discipline.</p> <p>The COC members asked about the difference between the actual design costs versus the forecast costs. Answer: Design costs are a little higher than projected, which is typical for retrofit projects, but the projects are staying within overall costs. The project team is only negotiating Preliminary Engineering, because a number of retrofit concepts are initially developed and BART does not know which concept will be selected. Final Design will be renegotiated with the final retrofit concept.</p> <p>The COC members asked what the design costs were as a percentage of the \$980 million from bond funding. Answer: The design costs are 15.77% of the \$980 million. The project team has worked with the section designers to focus on cost savings. Although this requires a little extra effort during the design phase, we believe it has already yielded good results and will pay off during construction.</p> |
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Financial Report

Review of the financial report, which includes project elements, dollar amount forecasted, dollar amount spent and percent spent through December 2006. Currently the project has spent \$39,594,608. Almost \$100 million has been committed. The next tranch of bond funds will be issued this summer for \$300-400 million. The financial report has been refined, in response to COC requests, to show the baseline schedule, relative to the current forecast schedule. It also shows the percent complete for the forecast budget, a break out of program costs, and a line item for the LMA Dismantling project. An additional change is that the Oakland Landside Retrofit project is now funded by the Transportation Congestion Relief Program (TCRP) and therefore will be deleted from future G.O. Bond-only Financial Reports to the COC.

COC members asked about the difference in the forecast numbers from the previous financial report. Answer: In the April 2006 report the forecast included funding from some non-G.O. Bond sources, which has since been removed. There were also program costs that were inadvertently included in the line item for construction costs in the April 2006 version.

COC members asked about how the reduction in costs from value engineering, etc. will be shown on the financial report: Answer: The savings that are captured are currently being added to escalation. When there is no need for additional escalation those savings will be added to the reserve. The COC members asked if the cost savings could be applied to additional projects that were not included in the list of approved projects for the bond. Answer: BART is delivering the scope that was approved in the bond measure and the District hopes



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| | to deliver it under the \$980 million. It is possible that with the cost savings anticipated from value engineering that the project might not have to request the full \$980 million. |
| <i>Selection of Future Meeting Time and Date</i> | The next COC meeting is scheduled for Thursday, September 20, 2007 at 4:30 pm. |
| <i>Request to Add Items to Future Meeting Agenda</i> | The COC members requested that the following items be added to the September 20 th meeting agenda: <ul style="list-style-type: none">□ Audit plan for External Auditor□ Presentation from BART Internal Audit Department. |
| <i>Public Comment</i> | No comments. |
| <i>Adjournment</i> | Meeting was adjourned at approximately 6:20 p.m. |