



Alameda Corridor-East Construction Authority

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ACE Construction Authority Board of Directors January 25, 2010 Meeting Minutes

1. Roll Call – Chairman Spohn called the meeting to order at 2:01PM at the City of Irwindale Council Chambers. In attendance were:

Tim Spohn, Industry
Tom King, SGVCOG
David Gutierrez, San Gabriel
Patricia Wallach, El Monte
Robert Urteaga, Montebello
Michael Antonovich, County of Los Angeles
Steven Atchley, Pomona
Paul Eaton, SANBAG

Staff

Rick Richmond, Chief Executive Officer
Joe Silvey, Counsel
Deanna Stanley
Charles Tsang
Victoria Butler
Carlos Monroy

Guests

Alan Ude, LA County Public Works
Jeanne Harvin, Jacobs Engineering
Bryce Little, PB Americas
Gary Neely, Senator Bob Huff
Polly Ann Walton, Athalye Consulting

2. **Pledge of Allegiance** – Member Gutierrez led the pledge of allegiance.
3. **Approval of December 21, 2009 Minutes** – A motion was made to approve the minutes of December 21, 2009. M/S/C/Gutierrez/Wallach /Unanimous
4. **Public Comments** – There were no public comments.
5. **Chair Report** – Chairman Spohn encouraged members to attend an ACE-sponsored Asian American community press event on Friday, January 29 in San Gabriel. Congresswoman Judy Chu, Senator Carol Liu and Assembly member Mike Eng were scheduled to speak. He also encouraged Board members to attend the Finance Committee meeting on Tuesday, January 26 at the ACE offices at 11AM.

6. **Chief Executive Officer's Report** – Mr. Richmond referenced page 4 of the agenda and reported the recovery of \$123,847 from AECOM for their share of costs related to the bridge installation at the now completed project at Nogales and Valley. He reported that this project began in 2003 and opened to traffic in 2005 but during bridge tensioning the bridge rotated. The work was stopped and required additional work to correct. Staff determined that all three parties, the designer, construction manager and construction contractor had some degree of responsibility. It was also determined that as such each should be held responsible for equal share of the financial implications involved in the repair. The designer and construction contractor had previously paid their share but ACE has not been able to recover the share from the designer, AECOM until recently.

He also reported that staff continues to work with the financial advisors to review options to replace the commercial paper program. Lastly he reported that a milestone had been reached at the Sunset Avenue project with placements of the girders. Victoria Butler reviewed construction project progress photos of the Sunset Avenue grade separation project. She highlighted the girder placement and indicated the next milestone on this project would be its opening. Charles Tsang reviewed progress photos of the Temple Avenue project. Mr. Richmond reported that though the pictures showed impressive work, the latest storm caused significant damage to the recently completed slopes which will require additional work to be done to restore them to what would be deemed acceptable by the Union Pacific. He also reported the quarterly mitigation monitoring reports were included in the agenda which showed comments and measures taken for projects in construction.

7. **Election of Officers** – Chairman Spohn opened the nominations for Chair. A motion was made by Member King to nominate Tim Spohn to continue his role as Chair. The motion was seconded by member Gutierrez and passed unanimously.

Chairman Spohn opened nominations for Vice Chair. Member Wallach nominated David Gutierrez as Vice Chair. The motion was seconded by member Antonovich and passed unanimously.

8. **Approval of Task Order Amendments with MWH Americas, Inc. for Environmental Testing** - Mr. Richmond indicated this item and the one following were for increased level of environmental work for the Sunset Avenue grade

separation project which was uncertain at the time FY 2010 budget was prepared. He reported there was increased amount of soil contamination than originally determined. He reported MWH was an ongoing support contractor operating under task orders and that request for FY 2009 task order amendment was for work invoiced after the task order was closed out in the amount of \$7,952.

A motion was made to authorize the Chief Executive Officer to amend the FY 2009 and FY 2010 task orders with MWH Americas, Inc. to provide additional services for environmental compliance, soil testing and storm water management service for the Sunset Ave grade separation and other ACE projects. The additional costs for FY 2009 task order is \$7,952 for a final FY 2009 task order of \$108,952. The additional costs for FY 2010 will not exceed \$98,108 for a revised FY 2010 task order of \$253,866.

M/S/C/Gutierrez/King/Unanimous

9. **Approval Task Order Amendment with Terry A. Hayes & Associates (TAHA) for Environmental Services** - Mr. Richmond reported TAHA produces NEPA/CEQA documents and monitoring reports. He also reported that when the budget was approved but before initial excavation was done it was not determined the level of phased requirements which would be applicable to the San Gabriel Trench project. However, after excavation because of the location of the San Gabriel project, adjacent the San Gabriel Mission, Caltrans directed us to implement further phases of Section 106 historic preservation requirements.

A motion was made to amend the fiscal year 2010 task order for Terry A Hayes Associates to provide additional services necessary for an EIR/EA and Section 106 historical preservation services – Phase II and III for the San Gabriel Trench. The additional costs will not exceed \$195,768 resulting in a new FY 2010 task order of \$676,500.

M/S/C/Gutierrez/Atchley/Unanimous

10. **Approval of Increased Authorization for Construction Contract with Ortiz Enterprises, Inc. for the East End/Reservoir Grade Separations.** Mr. Richmond reviewed the history of the East End Avenue and Reservoir Street contract. He reminded the Board that Reservoir was constructed first and early there were contributing delays such as Union Pacific installation of the shoofly, issues with Verizon and UP agreements and a series of change orders. Those

delays ultimately affected the schedule for the East End project. In May, 2009 he reported we had on-going contractual disputes and staff has been preparing to resolve them through the dispute resolution process. After repeated discussions with Ortiz, staff is recommending that \$300,000 is a reasonable amount due the contractor. He indicated this agreed settlement would avoid the costs associated with taking the claim through dispute resolution process and there would be no further claims from Ortiz Enterprises related to the East End/Reservoir grade separation projects.

A motion was made to the Board increase the Chief Executive Officer's change order authorization by \$300,000 for a total contract authorization of \$37,734,247 to accommodate final contract settlement of all outstanding issues.

M/S/C/Gutierrez/Atchley/Passed Antonovich Abstain

- 11. Approval of Amendment to Property Purchase Agreement with Baldwin Valley Property Partnership for the Baldwin Avenue Grade Separation** – Mr. Richmond reminded the Board that full acquisition of the property at 4210 Baldwin Avenue in El Monte was deemed necessary for the Baldwin Avenue grade separation project due to its loss of access during and after construction. The original purchase agreement was approved in May, 2009 for \$3,260,000 along with moving expenses of \$1,209,000. He reviewed photos of equipment in Lucky KT noodle, a 24 hour operation. He indicated after the build out of the replacement site was thought complete the County Health, Building, Safety and Fire department has required additional improvements such as re-sloping of flooring, additional structural support for roof-mounted equipment and property access. Staff has had a third party review the costs associated with such building preparation and finds the costs reasonable and recommends ACE pay 70% of the total costs of \$129,800 in the amount of \$91,000.

A motion was made to authorize an amendment to the purchase price and sale agreement with Baldwin Property Partnership to increase ACEs share of relocation costs by \$91,000 to a total of \$1,300,000.

M/S/C:King/Urteaga/Unanimous

- 12. Approval of Mid Year Budget Revision** – Mr. Richmond reminded the Board that the budget, approved every May is an estimate on funds necessary based on the rate of progress on each project. Each January the budget is reviewed and staff reports any changes which may significantly change the forecast. He requested a change of \$975K to the current design budget of \$14,270 to a

revised amount of \$15,065,000. The change was due to acceleration of design of the San Gabriel Trench project. A decrease of \$5,520,000 is requested to the utility relocation budget of \$10,576,000 for a revised budget of \$5,056,000 due to deferred construction on the San Gabriel Trench. A change of -\$2,625,000 was requested to the construction management budget of \$5,365,000 for a revised budget of \$2,740,000. The reduction in the construction management budget is also resulting from deferred construction on the San Gabriel Trench. Lastly, a reduction in the construction budget of \$8,825,000 is requested due to deferred construction on the San Gabriel Trench and Nogales projects. Reduced costs on Temple and accelerated spending for Sunset were also factored into the final number.

A motion was made to approve the mid year budget revision for fiscal year ending June 30, 2010 reducing the total budget by \$14.354 million to a new budget of \$97.828 million.

M/S/C/Gutierrez/Wallach/Unanimous

13. **Quarterly Report** – Mr. Richmond summarized each exhibit in the quarterly report. He also reviewed the project cost which has increased \$8.8M due to Baldwin Ave increased right of way and legal costs, East End/Reservoir construction close out costs, Sunset Ave increased construction costs, Temple Ave 4th track legal costs and Nogales LA right of way and utilities. He reported an addition of three months is expected for the Temple Avenue 4th track project due to Caltrans encroachment permits and workaround for UPRR delays on pipeline and fiber protection. He reviewed the accomplishments which included completed pier protection, flood control wall and grading at Temple Avenue; completed central walls, installed Orange Ave bridge and construction of Sunset Avenue abutments; relocations and demolitions nearing completion at Baldwin Avenue and 100% designs submitted to UPRR for the Nogales Street project.
14. **Closed Session** – Counsel reported the Board would adjourn to closed session in accordance with Government Code Section 54965.9(a) to discuss existing litigation: Los Angeles Superior Court Case No. BS 1223376 Edward Rowland LLC and Golden Pacific Realty vs. ACE Construction Authority and Caltrans. The Board returned to open session and counsel announced there was no action taken by the Board.
15. **Adjournment** –The meeting was adjourned at 3:09PM