



DRAFT

**FINANCE AND AUDIT SUBCOMMITTEE MEETING MINUTES
May 10, 2017**

**Secretary of State
1500 11th Street
Room #270
Sacramento, CA 95814**

The Finance and Audit Subcommittee of the California High-Speed Rail Authority (Authority) Board met on May 10, 2017 at 8:00am

Committee Board Members Present:

- Mr. Michael Rossi, Chair
- Mr. Tom Richards

Board Members Present:

- Mr. Ernest Camacho

Authority Staff Present:

- Mr. Jeff Morales, CEO
- Mr. Tom Fellenz, Chief Counsel
- Mr. Russell Fong, CFO
- Mr. Jon Tapping, Director of Risk Management and Project Controls
- Mr. Scott Jarvis, Chief Engineer
- Ms. Paula Rivera, Chief Auditor
- Mr. Mark McLoughlin, Director of Environmental Services
- Mr. Paul Engstrom, Third Party Manager
- Mr. Alan Glen, Director of Real Property
- Ms. Patty Nisonger, CIO

Rail Delivery Partner Staff Present:

- Mr. Mark Zehnder, Interim Program Director

Minutes prepared in the order items were presented during the meeting.

Agenda Item: March 15, 2017 Meeting Minutes

- Mr. Richards said he had a list of follow up items from the March meeting that he wanted to address if they did not come up in the course of the meeting.

Agenda Item: Action Items from Previous Finance and Audit Committee Meeting

- None.

Agenda Item: Financial Reports

Mr. Rossi opened the meeting by introducing new Board Director Mr. Ernest Camacho. Mr. Rossi then asked Mr. Fong to start with his update.

Executive Summary

Mr. Fong started with the Executive Summary Accounts Payable Aging Report. He was happy to report the aged report is zero.

Mr. Fong moved onto the Cash Management Report. Mr. Fong wanted to point out that at the March Board Meeting we had Agenda Item #2 and the Board had requested that we find \$3.726M in savings. On our Cash Management Report it is highlighted that we were able to find \$1M in Prop 1A and \$2.726M in reserve for Cap and Trade. We will hold that on the report and it will be up to the Board how we will spend that. We did accomplish that so it allows for Agenda Item #2 to go forward.

Mr. Fong continued, good news, as you know, we successfully sold bonds of \$1.25B. The even better news is, in record time, on April 27, 2017 we received the cash. We have the \$1.25B in cash and ready to go. We have some items that we are going to spend it on immediately. Mr. Richards asked if it was in an interest bearing account? Mr. Fong stated it is over at the Treasurer's Office and yes, it is. Mr. Rossi asked how much do they pay? Mr. Fong replied .769% as of March 17th.

Mr. Fong moved onto the Administrative Budget. Of the \$42M budget, we are at 75% of the Fiscal Year completed. We have spent 57%, which is fairly normal. We will catch up in the fourth quarter. The vacancy rate went slightly up. Last month it was 14.6% and this month it is 15.5%. Our Capital Outlay Budget is \$1.7B and again at 75% of the fiscal year, we are at 51%, again which is fairly normal of where we should be. Moving over to our ARRA spend, the Total Project Expenditure Report with Forecasts, I am really happy to announce that of our \$2.553B ARRA grant agreement, we have spent \$2.491B, which equates to 98%. That leaves us a balance of \$62M remaining, which is a little less than 2%. Mr. Rossi asked what was the burn rate on that? Mr. Fong and Mr. Morales replied the average burn has been around \$75M for the last six months. Mr. Rossi asked what burn rate was needed to finish up? Mr. Morales replied \$31M a month, less than half of what we've been averaging. Mr. Fong agreed. Mr. Fong replied all signs are good.

Mr. Rossi asked if we have any outstanding issues with any submissions? Mr. Morales replied that we recently reconciled most of them. We had a few things we've had discussions with FRA. We expect, over summer, to have some back and forth on a few small items but nothing that should impact the overall expenditure rate. Mr. Rossi replied great. Mr. Fong commented that the team has done a great job on that.

Mr. Fong moved onto the Contracts and Expenditures Report. We have a little over 405 active contacts and purchase orders with a total value over \$5.3B. Our small business utilization rate is at 19%. Mr. Fong stated he would like to remind folks that this 19% represents all active qualified contracts from the time the contract was activated to current. Mr. Richards asked if this is from the time we established the policy? Mr. Fong replied yes, back to 2012. There are only a handful of contracts that were established before the policy and they are listed on the footnote. Mr. Richards replied ok.

Mr. Fong moved onto the Projects and Initiatives Report. We have fourteen red - six of those are IT, seventeen yellows and nine greens. This is consistent with last month's report.

Mr. Fong finally wanted to point out that the State's Treasurer's Office and State's Controllers Office have postponed going on FISCAL this summer which impacts us with more manual workarounds. Mr. Fong asked if

anyone had any questions.

Mr. Richards stated that we always get concerned as we get towards the end of the fiscal year, with regards to the percentage of the year that has gone by and how much we have spent. So every year, I think we get the same report from you by the time we finish the year. Is that the way it has actually turned out? Mr. Fong replied, yes. Most of the invoices and our biggest expenditures come in the fourth quarter. We do have a 15% vacancy rate and will be under budget but it will catch up quickly in the fourth quarter. Mr. Richards replied ok.

Mr. Rossi asked how much under budget to you think we will be by the end of the fourth quarter? Mr. Fong replied that we will probably spend about 85-90%. Mr. Richards asked if that was primarily because of vacancy? Mr. Fong replied that it was because of vacancies, efficiencies and things we planned that we did not do. Mr. Fong stated again that it will be under budget. Mr. Rossi asked for a dollar amount. Mr. Fong stated that out of the \$42M, we are probably at \$37M to \$38M. Mr. Rossi stated that then you are looking at \$4M. Mr. Fong replied yes.

Mr. Richards asked with regards to small business utilization percentage, I think it is primarily because we are not advanced enough in our construction spending, would that be your assessment Mr. Jarvis? Mr. Jarvis replied yes, that is part of it. For CP1, we are pretty close to 30%. We are quite far behind on the other Construction Packages and there is a lot of opportunity once we get into construction. Mr. Fong stated that if you look at our contracts, in the planning phase, it will be difficult to get to the 30% but as we progress more into construction that is where we anticipate ramping up quite a bit. Mr. Jarvis replied that there are a lot of opportunities for CP2-3 and CP4 to improve small business utilization. Mr. Richards stated that we keep hovering at 18% or so. Mr. Fong replied yes.

Mr. Richards replied that he was concerned that we do not see much movement from that number so you are suggesting that there is nothing we need to be concerned about hitting our aspirational goal of 30%, when we are heavily into construction phases? Mr. Jarvis replied that he thinks it will still be a challenge to hit the goal. Mr. Morales commented that each of the projects has met the 30% commitment at the front end as identified by what work they would give in terms of the obligation. The numbers that we are reporting are the actual spend rates. We are seeing an uptick even in the numbers of small businesses. We are now up to 373 small businesses total. We are seeing them get under contract and we should start seeing the utilization increase slightly but it is very much tied to the ramping up of construction. Mr. Rossi commented that is an interesting goal, 30%, given the size of the project and the number of small businesses, is it a realistic goal? Mr. Jarvis replied that, frankly, it gets more difficult as we go on. Mr. Rossi agreed and stated that it is fine to have an aspirational goal but that we need to have a better handle on how many small businesses there are that are going to be able to bid and participate. We could end up hitting a very large number of qualified small businesses and not hit our 30%. When you look at the small business array of skill sets across the state there are 3,347,000 small businesses and 75% have one employee, the owner. We are talking about 30% on a \$68B project. It is a great aspirational goal but we really need to be sure that we know what we are saying so when someone says why are you not meeting your goal and it may be we are doing everything possible, there just are not enough players in the market. Mr. Richards stated that story needs to be told. Mr. Rossi agreed.

Mr. Richards asked where are we with tracking also with the veterans business goal? Mr. Morales replied that all contracts have hit the 3% goal, for all the state funded contracts, and we are actually at 10% of actual achievement of that. Mr. Richards replied great. Mr. Rossi commented that we will have that same problem with that number over time as this project grows. Mr. Morales stated that when the Board set the 30%, we were in a somewhat unique position, just to use Caltrans as an example, they do and other agencies that have had programs ongoing that do disparity studies that look at actual award of contracts and what the market looks like and they can set the goal based on the availability and other factors. We did not have that because we have not awarded any contracts to look at what was an achievable goal, but to date we have set the 30% for

every contract. We had aggressive outreach programs to work with the primes and the subcontractors as well to make sure we can hit the goal going forward. Mr. Rossi stated that meeting the goal at the front end is not actually meeting the goal. The goal is met at the backend, and I do not think people who sign up for the numbers realize how difficult it is going to be for them to deliver as a small business over time. The front end part is nothing to be terribly proud of. It is where you are over time but towards the end you look at the total number of small businesses in the state and the size of this project, and you talk about actual dollars spent, it is really difficult to see how they match up so we just need to be very, very careful what we are telling people.

Project and Initiatives Report

Mr. Rossi commented that as you look through the Projects and Initiatives Report, looking at the projects you see the same reds. Mr. Rossi asked Ms. Nisonger and Mr. Zehnder, as appropriate, to spend a few minutes on where they think we are since this has been redlined now for a long time and understands that people are working on it. Ms. Nisonger, please bring us up to speed on what we can expect in thirty days? Mr. Morales wanted to quickly note that Ms. Nisonger was previously on loan to HSR from Caltrans and now has taken on the official role of CIO. Mr. Richards and Mr. Rossi thanked and welcomed Ms. Nisonger officially to HSR. Ms. Nisonger said thank you.

Ms. Nisonger stated that she understands that these IT projects have been delayed for some time, much to the consternation of her business partners, who really need these systems in order to make their jobs a whole lot easier. We met about a week ago to talk about how we can turn these, specifically the PMIS projects, around to deliver that needed functionality to the business. Ms. Nisonger met with her RDP partners, including Mr. Zehnder and one of his lieutenants, Agnes Otto, who is helping us out from their IT organization. We put together a plan to identify the issues related to these five projects and come up with a well thought out plan to turn them around and deliver the actual systems. Over the next thirty days or so, we are going to just do a very deep look at specifically the Cost Management System, the Contract Management System, Schedule Management System, Enterprise Document Management System and the Risk Management System. That touches a lot of the organization. We are first going to ensure that we are meeting with and talking to the right people to ensure that their requirements are captured and understand what the business needs those systems to do. We are going to confirm or finalize the scope of what that effort needs to include, in other words, what functionality do we really need to deliver? We are going to validate that the solution, if one has already been selected, is the right solution. We are going to determine the current state, if you will, of the project because a lot of work has been performed on these projects so we are going to validate that it is the right work, that it is thoughtful work. We will start over if we find gaps or we will fill those gaps and come up with a meaningful schedule to deliver them. So at the end of the thirty days, what you can expect is a meaningful schedule on all five projects of when in fact they will be delivered.

Mr. Rossi asked Mr. Zehnder his thoughts. Mr. Zehnder replied that he fully supports this effort and we are working hand in hand with Ms. Nisonger, Ms. Otto and team. We have really geared up our team to meet the needs of this thirty day timeframe, and Ms. Nisonger said it very well that it is time to get to these things in place to see the value of what these systems can do throughout the organization. We are with it and in support of delivering it with Ms. Nisonger.

Mr. Rossi stated he hopes Mr. Zehnder has more people to help him. Mr. Rossi stated he has not had the opportunity to meet Ms. Otto and asked if Ms. Otto was going to be here permanently? Mr. Zehnder stated that she is here for the next thirty days and she is permanently associated with the program. Mr. Rossi asked if she was here permanently. Mr. Zehnder stated that the conversation he had with Ms. Otto right now is that she is here the next thirty days and then we will make sure she is here as required. Ms. Otto is out of Kansas City and she is our Director of IT for the WSP program so she has other responsibilities. She has set those aside for this workshop and we have brought in several new resources to be a part of this. We are going to support this endeavor through completion. Mr. Zehnder said he could not verify right now that she would be here

permanently. Mr. Rossi stated so Ms. Otto is here for the next thirty days and asked who are the two new resources? Mr. Zehnder stated Mahesh who was on the program previously and has come back to it, and Randy Ivory is a resource associated with the program and he is back on it full-time. Mr. Rossi asked if they are both here, full-time? Mr. Zehnder replied yes.

Mr. Rossi asked Ms. Nisonger, in thirty days, will you be able to present? I am looking at the Project and Initiatives Report and there are a lot of dates that have been scratched out and are now to be determined. The problem that I have, Ms. Nisonger and Mr. Zehnder, is that we can't stay on top of this project, and you guys can't do your job, unless we have real time data here. Thirty days gets us to a plan. What do you think it will take to get these systems in place and functioning, assuming we have the appropriate people staffed up by WSP? Ms. Nisonger replied that she did not want to give Mr. Rossi an arbitrary date. Mr. Rossi asked as you look at what you have seen to date from a technical sense, give me your best feel. Mr. Morales commented that the point of the next thirty days is to get to that point. I think what we have had in the past was a rolling series of best guesses based on some degree of expectation and hope. The idea here is to have a really focused concrete effort where everyone comes out agreeing on the needs, on what the target is, the resources needed to get to it, and as hard a date as possible. This is intended to be it. Mr. Rossi commented that the only problem with that is that we have spent a pot load of money to get where we are and for people to not have some idea of what it takes to get from where we are to where we think we are going is a little disheartening. All the time we've spent and the \$14M what do you think? Ms. Nisonger stated of the five projects, I think two of them are of less concern, meaning as far as work. Mr. Rossi asked which two? Ms. Nisonger stated Risk Management and Schedule Management are likely to be the two that are going to require the least amount of effort at this point. Mr. Morales commented meaning they are the most furthest along. Ms. Nisonger agreed. Ms. Nisonger stated that she is hoping that both of those will be delivered within three months. Mr. Richards commented that we have an abiding fear here that thirty days is the beginning, unfortunately, and thirty days should have been two years ago. We are where we are and there's no sense in rehashing the past. My concern is that I thought Ms. Otto said as of Monday she was here full-time. I thought that meant she was here full-time, not thirty days full-time. After having listened to her last week, I was very comfortable with that as I passed onto the Chair. I am concerned, since I don't know how she goes away in thirty days and progress continues. That is your business but we can't have a thirty day ramp up and a rush and then fall back into an inability to provide the resources that we need to actually implement this plan says in thirty days. Mr. Zehnder clarified that Ms. Otto is not leaving the program and sorry for the misunderstanding.

Mr. Morales commented that one of the pieces with this process, with Ms. Nisonger in place, is Ms. Nisonger is working with Mr. Zehnder so that Ms. Nisonger will be comfortable with the resources that are dedicated to this. Mr. Richards commented yes, she needs to be comfortable with the resources, because this is her project. Mr. Morales stated that would be part of the process to determine whether it is Ms. Otto or someone else or whatever combination of people are needed to be dedicated to it. Mr. Richards replied ok. Mr. Morales stated Ms. Nisonger will work with Mr. Zehnder to make sure the right people are dedicated and have that commitment from the team.

Ms. Nisonger stated they've delved into only one of the projects so far, since the thirty days started on Monday. We spent a good amount of time yesterday on the Document Management System. That one is going to take some time and effort to unravel and I believe it will end up being delivered in pieces. It may not be one project. It may in fact be split into multiples. I am cautiously optimistic about one piece of it but I also want to make sure we decide what scope that is and everyone understands what we are doing. I am meeting again today with the technical resources that are coming up with the plan. This one is pretty complex to unravel due to years worth of documents that are already sitting somewhere. Ms. Nisonger stated she really did not want to put a timeline on this one until we figure this one out. Mr. Rossi stated that was fine.

Ms. Nisonger stated Contract Management is ready to go but there have been some delays in the procurement

of the solution. Mr. Rossi asked if the solution was buying off the shelf solution software and, if so, is it not available? Ms. Nisonger stated it is actually software as a service, and understands that there are some legal concerns between the vendor, WSP, or the state (believe it is the state) on the terms and conditions. Mr. Rossi understood. Mr. Morales stated that it is literally a procurement issue.

Ms. Nisonger stated that the last but definitely not the least was the Cost Management System. There are some discussions to be had to fully outline the scope and then ensure that we have the right requirements. That may also end up being more than a single effort, depending on what the final needs are and how we go about solutioning the issues. Mr. Richards commented that as a result of last week's conversation, we can also suggest from what you are saying, from the people sitting around the table, that all of our management is involved. They have been assured that their input on what the reports are to supposed to be providing, in a format in which they can operate, is a major part of what is going to occur? Mr. Zehnder replied correct. Mr. Rossi stated there will sign off by all the end users. Mr. Richards agreed, every one of them.

Mr. Richards stated it would seem to me that looking at the end dates, there are a lot of things that are supposed to be completed in the next couple of months. That may or may not be happening but we ought to at least take a look at what we are showing here as end dates and make the adjustments if we are not on schedule, and I assume we are not. Mr. Rossi stated we should scratch them all and put to be determined as a result of the thirty day review. Mr. Richards stated he hoped it does not get that severe but it may.

Mr. Richards asked Mr. Morales, for the HMF, we show it as having started in 2015 but did it actually start? Mr. Morales stated no, what that was indicating was the environmental clearance. The intent at the time was to have the Heavy Maintenance Facility as part of the Wye document. We have shifted now to wanting to have the Early Operator have input on that decision. Mr. Richards asked if we would then have a date as when this actually needs to be on-line, in order to meet the certification work that needs to be done? Mr. Morales replied correct. We have cleared the footprint of a half dozen or so of the original site. We have preliminary clearance, the more detailed level of clearance that would be necessary to build the facility but we have done the baseline clearance already. Mr. Richards said thank you.

Operations Report

Mr. Rossi moved onto the Operations Report. Mr. Rossi stated that he knows the Operations Reports needs some work. It clearly is not projecting the future as well as it should. There efforts at this stage to fix that and we will talk about those reports once you guys are ready. Mr. Rossi asked Mr. Tapping if we were looking at first cuts on the 15th? Mr. Tapping replied correct. Mr. Rossi stated the issue with the Operations Report is to project the future. What you guys are projecting is the next three months by looking at the past. You need to start projecting this appropriately. I am not terribly concerned about it at this stage given the work that you are doing right now to get that fixed so I don't really want to talk about anything specific there since it would be unfair at this stage but I would like to talk about it in general.

Mr. Rossi stated that he looked at Mr. Glen's last weekly ROW report and asked him his thoughts. Mr. Glen replied that as he reported last month, we have a little bit of a slowdown. We have been hitting the minimum goal, 40 per month, for several months. We dropped a little in February and came back up a little bit in March to 32 but not the desired goal. In April, we slipped to 25 and we are making some adjustments. May looks promising, I expect mid-thirties. We did have a slippage of the number of OPs (Orders of Possession) coming in. The docket now shows around 50 OP's over the next sixty days on what we should expect. I think things are starting to trend back to where they should be. Mr. Rossi asked if he expects any problems in the summer months with vacation schedules? Mr. Glen replied that he did not think so. Historically the summer has been pretty strong going into the fall. Our historic trends have been weakest in the spring and he was not sure if that had to do with end of year slowdown in terms of court dates and owner availability to meet and settle deals but we have historically been very slow in the spring. We have seen that happen again this year.

Mr. Richards asked for an update with the CP2-3 contractor from the March meeting. Is there anything worth reporting, good or bad? Mr. Morales stated we have seen them wanting to hold off on beginning construction until they really believe they can start and never have an issue with potential demobilization or any slowdown. Mr. Jarvis can go into the details. The good news is that with our partnering session, three weeks ago, they are now on track to have construction begin at multiple sites by July 1 so that is a significant step forward. We continue to struggle with the Right-of-Way but we have made enough progress enabling us to get started, so they are in process of now ramping up construction to start in July. Mr. Richards asked if the issues with mobilization and having to pull back were because of the lack of ROW? Mr. Morales replied that we do not think so and we're working with them making sure that is not the case. Mr. Glen replied that there are large stretches, especially in the north, that have the majority of the parcels ready to go to construction. We expect to have decent delivery over the next three or four months, that won't catch us up but will reflect well. We are still struggling a bit with the number of design changes that have occurred. About 40% of the original parcels had design changes. Mr. Richards asked 40%? Mr. Glen replied yes, 40% of the original parcels. Mr. Rossi asked how do these things get approved? 40% seems large. Mr. Jarvis replied that a big part of it is the narrow footprint that we cleared, so a lot of times acquiring additional ROW is necessary for utility relocation or drainage systems that just will not work from a design stand point within a very narrow footprint. That drives a lot of the design refinements that are occurring. Mr. Richards stated that is important. The costs to ROW and the allocation of the additional cost to the design-built contractor needs to be incorporated as a result of the design changes, as opposed to just looking at a reduction and whatever he/she says the cost of the CP will be.

Is that something that we are now doing? Mr. Morales replied yes, a few things on that. As you look at the other segments that we are going through the clearance process on to get to V to V, Mr. Glen and his team have been working with the environmental team to make sure that the footprint that we are clearing is sufficient based on the experience we have had in the first few segments so that we do not repeat that. That sort of issue is getting a clearer footprint to take care of these issues so they are all being dealt with up front. The evaluation of ATCs is another thing we are looking at and making sure we are factoring in, not just the upfront savings but the total cost being built into the process. Mr. Richards replied ok.

Mr. Jarvis commented that he would like to elaborate on CP 2-3, regarding starting construction in July. We are really taking about two major issues. One is the start of construction and the other is DFJV has submitted a significant change order request for delays and costs. We are going through the process of analyzing that right now and separating the issues so we can keep the construction plan moving forward but there is the issue of their potential change order. Mr. Richards asked when would you expect some clarity on that? Mr. Jarvis replied a couple of months since it is pretty complex. Mr. Richards asked if this was more complex than CP1? Mr. Morales replied no, it is similar. Part of that is the whole discussion of concurrent delays, who owns what portion of delays, who is accountable? Also by contract, they are obligated to mitigate delays so we have to go through all of that process before we get to a number but it is the same process we went through for CP1. It has been factored into the contingency. Mr. Tapping replied that yes, that was a major risk in contingency analysis and in the forecasting currently undergoing related to ROW.

Mr. Richards asked Mr. Tapping where does this put us with regards to the risk assessment that has already been done? How does this impact where we were or where you thought we were in what we have been told? Mr. Tapping replied that it is applying more pressure than we initially thought. Mr. Jarvis added that we are including that in our current estimate at completion, the pressure that Mr. Tapping refers to. We are giving our best analysis of the situation and the delay of costs of that and we have incorporated that into the numbers. Mr. Rossi asked if that included mitigation. Mr. Jarvis replied yes.

Mr. Richards had no more questions but stated that it was important to get the information together, accurate information. Let's get closer to what you know. Mr. Richards and Mr. Rossi would like to see what the risk analysis is.

Mr. Rossi said he is more concerned about the process in a project delivery sense. Are we getting any better at this? Mr. Jarvis replied that I think we are going to get better as time goes on. Mr. Richards asked if we got any better between CP1 and CP 2-3? Mr. Jarvis replied yes, he thought we did. Mr. Richards stated he thought we did too and asked what was the basis for the claims for change orders? What have we given them to believe they are due a change order? Mr. Jarvis replied that their position is primarily based on late Right-of-Way acquisition. The fact that they have submitted a significant potential claim for cost and schedule does not mean we are going to fully agree to that. We are in the analysis process now. Mr. Rossi stated that is true but that is why we are not going to talk about the numbers at this stage because you have some work to do. The question becomes a slightly different one, in fairness, where we end up will be a series of conversations and views. We will get to where we will get. The concept that we started at, 40% changed, is not a great concept. That is the concern that I have at looking at a lot of this stuff over the years that I have seen. That is a big percentage, so I am wondering how much of it is due to the fact that the contractor relies on the bid. Mr. Jarvis replied he believes that a lot of it deals with risk that the Authority held and holds. We went into those contracts without those issues resolved, such as railroad agreements that were not approved and executed. Once they go through the negotiation needed, then we can really look at the terms and conditions that were different from the draft agreement at the time of the bid. That applies to a lot of the other third-party agreements with cities and counties. It also applies to utility work, like excluded utility work for AT&T and PG&E that originally AT&T and PG&E were going to self-perform. They are not doing that, so we had to add that into the contract; that was a significant cost increase as well as some of the provisional sums that we carried the risk on. So when you factor all of those in, those are all extra scope work items that we never got any additional budget for, in our CPs and for Right-of-Way. Thus, changes to requirements for Railroads and other third parties, as well as right-of-way delays, are the three things driving potential additional costs and schedule delays. We are getting better because moving into those future contracts outside the valley, we are much farther along with our agreements with the railroads. We are much further along with dozens of third-parties. We are much further along with the utility companies. Mr. Richard asked if we did a better job at making that provision for the estimates for the third-party agreement upfront than we did in CP1, therefore, whatever the delta may be, between what we had forecast and what they are is smaller than what we went through with Mr. Engstrom with CP1. Did those things occur so the exposure in real and pro-rata dollars is better in CP2-3 than it was in CP1 or are we basically having the same problem we had with CP1? Mr. Jarvis replied that we could have done a better job. Part of the challenge is, we went into CP2-3 with a lot of these agreements, that I have been referring to, were not executed at the time that we opened the bids to CP2-3, either.

Mr. Rossi asked did we plan a bigger number predicated on previous experience? Did we learn the lesson? Mr. Rossi stated the question Mr. Richards is trying to ask is we bid "X" in CP1 and we know that did not work, was not sufficient. For CP2-3, did we build in a bigger number/bigger percentage on a pro-rata basis? Mr. Jarvis replied that we did not build in a big enough number for these unknown risks that are now extra work to the contracts. Mr. Rossi replied ok. Mr. Rossi commented that as we go into future ones, Mr. Tapping, you need to be on a risk management basis, applying bigger numbers, right? Mr. Tapping replied absolutely. Mr. Rossi replied ok. Mr. Richards commented that since we were so much farther along on ROW on CP2-3, I was going to suggest to Mr. Tapping that shouldn't that create a higher level of confidence in what the costs are going to be and foolishly thinking maybe we don't need as much contingency because we have less unknowns, but that clearly does not seem to be the case. It does seem to be the case that we are certainly in a better position in terms of the percentage ROW that you brought under contract than where we were on CP1. We will be interested in seeing on the broader scale what you are working on for cost to complete. Mr. Jarvis replied that we are in a better position but we still did not meet our contractual dates for ROW acquisition, and Mr. Glen will agree with that. For the contractor, that is what is important to them. The

contract said we are going to deliver these groups on these dates and we did not do that.

Mr. Morales commented that this is where there is a significant difference of approach between CP1 and CP2-3 contractors as well. We got work started on CP1 because frankly we had an aggressive innovative contractor, who started with, I believe, 20% of Right-of-Way when construction began on CP1. We are well over 50% here so that factors into that. They will submit a claim based on what they say is a deviation from the schedule of what was in the contract originally. It does not mean that they are entitled to it because they have obligations to meet as well. Not all of them have been met in order to entitle them to the claim they are seeking. That is the process we will go through. We are well ahead of where we were relatively speaking. We got a much better start. What has happened and Alan has noted, we have not maintained the full benefit of that earlier start because we have had some slowdowns. We are looking to pick that back up and get to a point where Right-of-Way becomes a non-issue. We are trying to get to that point as quickly as we can so it is not really an obstacle to consult on implementation with the design-builder.

Project Development

Mr. Rossi moved onto page 44 of the Project Development Schedule. There are a number of these schedules pushed out, correct? Mr. McLoughlin replied that is correct. Are any germane to V to V? Mr. McLoughlin replied that San Jose to Merced, Central Valley to Wye, and the LGA are part of the top three agreed to by the FRA. The remainder are noted by footnote, those have not been codified by the FRA. We are under negotiations to codify them to make them final, for all of these so that we can commit to those and budget and proceed with that solution accordingly based on the timeframe. Mr. Rossi confirmed San Francisco to Merced, Central Valley Wye and LGA? Mr. Morales replied that LGA is one of the three but it is not part of the V to V. Mr. McLoughlin replied that is correct. Mr. Morales stated just the first two are for V to V. Mr. Rossi asked if pushing these out, is that going to cost more money? Mr. McLoughlin replied yes. Mr. Rossi asked if that was in the plan that we will be seeing? Mr. Morales replied yes and again we have a plan with mitigation strategies that we are working on now to minimize any cost increases associated with the schedule change.

Mr. Rossi asked if those dates are going to impact the projected construction? Mr. Jarvis replied that if the RODs are moved out, yes, that can impact construction. Mr. Rossi asked if that is going to be factored into the numbers? Mr. Jarvis replied yes. Mr. Rossi replied ok.

Mr. Rossi thanked everyone for coming.

There were no further discussions and meeting adjourned at 8:50 am.