



# CALIFORNIA High-Speed Rail Authority

## BUSINESS ADVISORY COUNCIL MEETING MINUTES

**DATE:** Thursday, June 18, 2015

**TIME:** 10:07 a.m. to 12:08 p.m.

**LOCATION:** 2015 E. Shields Ave, Fresno, CA

### CALIFORNIA HIGH-SPEED RAIL AUTHORITY REPRESENTATIVES:

Thomas Fellenz, Council Chair

Tom Richards, CHSRA Board of Directors

Jose Camarena, CHSRA Director of Contract Compliance

Diana Gomez, CHSRA Central Valley Regional Director

Bobby Pentorali, CHSRA Project Engineer

Abraham Mendoza, CHSRA

Patricia Padilla, CHSRA – PMT

Olivia Fonseca, CHSRA – PMT

Tony Dupré, CHSRA –PMT

Austin Kidwell, CHSRA – PMT

### MEMBERS PRESENT:

AICC: Adam Holt

ACEC: Arvin Chaudhary

AAAE: Eddy Lau

AAa/e: Linden Nishinaga

AGC: Sam Hassoun

CMAA: Esther Shaw

GFACC: Debbie Hunsaker

KMCA: Marvin Dean

LRRT: Paul Guerrero

NAACP: Betty Williams

NCA: Diana LaCome

SFAACC: Fred Jordan

WCOE: Lee Cunningham

SAME: Vida Wright

WTS: Maritza Acosta

### MEMBERS ABSENT:

CAACC: Tanya Motta

CBCC: Aubry Stone

CHCC: Darrel Saucedo

DVBA: Chris Coles

ESDVOBN: Rick Fowler

LBA: Leonard Ortiz

NAMC: Peter Varma

USPAACC: Clyde Wong

### ALTERNATES PRESENT:

AAAE: Ellen Lee

AGC: John Cooper

CHCC: Jesús Vargas

DVBE: Laura Uden

NAMC: Jaime Gonzales

NCA: Patricia Preston

SFAACC: Caesar Churchwell

USPAACC: Mayling Liang

WTS: Charissa Frank

### GUESTS

Gregory Akhenaton, TPZP

Bart Bohn, VSCE

Derf Butler, SFAACC

Robert Delgado, Arcadis

Lee Ann Eager, EDC

Tate Hill, FMBCC

John James, Dragados/Flatiron JV

Bernard Johnson

Jesús Larralde, Fresno State

Tanya Little, Department of General Services

Algerine McCray

Ram Nunna, Fresno State

Tshaka Touré, Toure Associates

Maurice Young, TPZP

Michael Guzman, P&A



## ***BUSINESS ADVISORY COUNCIL MEETING MINUTES***

### **ITEM I: WELCOME/INTRODUCTIONS (Thomas Fellenz, Council Chair)**

Council Chair Fellenz opened the meeting at 10:07 a.m. by welcoming everyone.

- Council Chair Fellenz introduced California High-Speed Rail Authority Board of Directors Member Tom Richards and invited Mr. Richards to give introductory comments.
- Mr. Richards praised the Business Advisory Council (BAC) for its contributions to the High-Speed Rail (HSR) Program and for giving voice to small businesses (SB). He reiterated the commitment of the Board of Directors to making every effort to meet the program's small business goals. He welcomed both the constructive criticism from the Council and the challenges that the Authority will confront in meeting its small business goals as construction of the High-Speed Rail Program ramps up. Finally, he praised council members for their voluntary contributions and for serving the public interest as Business Advisory Council Members.
- Council Chair Fellenz initiated introductions, and invited council members and guests to direct questions and comments to Mr. Richards.
  - Member Guerrero informed Mr. Richards that the Department of General Services (DGS) was moving to adopt a new system for evaluating Small Business utilization that evaluates agencies and programs using a "stoplight" system in which agencies and programs meeting their small business goals are given a color green, agencies and programs close to meeting their goals are given a color yellow and agencies and programs failing to meet their small business goals are given a color red. Mr. Guerrero stated that the Authority is currently colored yellow. Mr. Guerrero requested that the CHSRA Board of Directors discuss this coloring system and use it to grade contractor's commitments to meet the SB goal.
  - Member Cunningham praised the Board for responding to requests to include vendors in the Authority's SB program and stated that many SB vendors are now getting contracts as suppliers for the HSR program.
  - Member Hausson thanked Mr. Richards for his commitment to the SB Program.
  - Member Vargas thanked Mr. Richards and expressed that the Conference of Minority Transportation Officials would like to partner with the Authority as a BAC member.
  - Tanya Little stated that the DGS is looking to reward prime contractors who have good relationships with their subcontractors and actively strive to meet their SB goals. She encouraged council members to nominate potential awardees.
  - Tshaka Touré and Tate Hill expressed that SBs would benefit from technical support and that the SB Supportive Services contract will assist with technical assistance.
  - Member Jordan praised Mr. Richard's role in advocating for the Authority to adopt a SB Program.
  - Member LaCome thanked Mr. Richards and added that the Construction Committee has some requests. These include: incentives for prompt payment (with Dallas Airport as an example of the process the Committee would like the Authority to adopt); for

subcontractors to be paid retention upon completion of the subcontractor's work rather than wait until the Prime Contractor's work is completed; and for the Authority to adopt the 30/10/3 SB goal for all interagency and 3rd party contracts.

#### **ITEM II: APPROVAL OF APRIL MINUTES (Thomas Fellenz, Council Chair)**

Council Chair Fellenz presented the draft minutes from the April 15, 2015 meeting.

- Member Dean moved that the April 15, 2015 minutes be adopted. Member Guerrero seconded the motion. The minutes were adopted by majority vote.

#### **ITEM III: ADMINISTRATIVE ITEMS (Thomas Fellenz, Council Chair)**

Chairman Fellenz announced that an updated request tracking form was included in members' packets and that it included three new requests from the Professional Services Committee. Council Chair Fellenz invited Jose Camarena to report on the status of these three (3) requests.

- Mr. Camarena reported that the requests are:
  1. Adopt the Safe Harbor Rate guide as an option for calculating overhead rates.
  2. Modify its debriefing procedures to invite all members of the team that did not win the procurement, including SB subcontractors, to participate in a debriefing with the Authority on why the team failed to win the procurement.
  3. Apply the 30/10/3 SB goal to the design component on a design build contract.
- Mr. Camarena announced that he was meeting with Assistant Chief Program Manager Scott Jarvis and Principal Transportation Engineer Lam Nguyen to discuss them. Further discussions will be taking place soon and the Authority should be able to respond to the requests shortly.
- Member Wright requested information on what the next step of the request process was once a request was submitted and asked if the Committee would be allowed to further make its case should the Authority be negatively inclined towards a request.
  - Mr. Camarena responded that the Authority would consider the request and then state its position on the request to the Committee. He further stated that the Committee would be given the opportunity to further make its case on the request once the Authority determined its position.
- Member Nishinaga asked if the Authority would be able to respond to the request in time for the BAC's next meeting in August.
  - Mr. Camarena responded that he anticipated that the Authority would be able to respond to the requests in time for the August meeting.
- Member Cunningham stated that while there is a Professional Services Committee and a Construction Committee there is no committee for suppliers and vendors and asked that the Committees be cognizant of suppliers and vendors in making their requests.

#### **ITEM IV: PRESENTATION ON PROMPT PAYMENT PROCESS (Diana Gomez, Central Valley Regional Director on behalf of Chief Financial Officer Russell Fong)**

The High-Speed Rail Authority follows the State of California's Prompt Payment provisions.

- The Authority is obligated to pay prime contractors within 45 days of receiving an undisputable invoice.
- The Authority has a robust team of staff tasked with monitoring that the prompt payment provisions are followed. The team tracks invoices, monitors processing times and prepares an “aging report” for the monthly Finance and Audit report for the Board of Directors Finance Committee.
- Member Wright asked if there is language in the contract between prime contractors and the Authority that requires prime contractors to pay subcontractors promptly.
  - Ms. Gomez deferred to Ms. Fonseca, however indicated that payment information would be in the contract between the subs and the prime. Olivia Fonseca clarified that contract language says subcontractors must be paid within 7 days of the Authority paying the prime contractor on construction contracts and within 10 days on professional services contracts.
- Member Guerrero stated that it is his understanding that the law says subs must be paid within seven (7) days of the prime being paid, or the prime will be assessed a monetary 2% penalty.
- Members Dean and Acosta asked if and how prompt payment is tracked by the Authority.
  - Patricia Padilla answered that it is tracked through the monthly Form 103, commitment verifying the invoices for SB utilization and monitoring dates paid.
- Member Preston offered the example of a process used in San Francisco in which subs are sent an email when the primes submit invoices to the Agency. Then an email is sent to the SB again when the prime is paid, which allows subs to know the precise timeline in which they will be paid and ensure that the prime is promptly submitting invoices. Member Preston stated that this system resulted in primes promptly paying subs. Member Preston recommended that the Authority consider the system if not over taxing.
  - Ms. Gomez stated that the Authority would look into the recommendation.
- Tanya Little stated that the total processing time a State Department should pay an invoice from a certified SB or DVBE performing as a prime contractor should be 30 days from when receipt of an undisputed invoice.
- Ms. Little further stated that a report on subcontractors being paid must be submitted to the State Department within 60 days of final payment to the prime.
  - Ms. Fonseca clarified that Ms. Little’s comments apply to 100% State funded contracts and not federal aided contracts.
- Member Dean offered the example of the process used when he works with housing companies as 1<sup>st</sup> tier sub in which Member Dean was required to get his lower tier subs to sign a release certifying they had been paid that was then submitted to the prime.
- Member Vargas stated that he works as a subcontractor on the HSR project and his firm has been promptly paid.

**ITEM V: PRESENTATION ON RELEASE OF RETENTION (Project Engineer Bobby Pentorali and Central Valley Regional Director Diana Gomez)**

- As work progresses, a certain percentage of payment is withheld, to be released once a contracted work is completed.

- For CP 1, the percentage withheld is 5 percent, up to a maximum of \$10 million.
- Retained funds are released within 60 days of the work being accepted.
- Member Guerrero asked if retention is released to subcontractors once the subcontractor finishes its portion of the work, as opposed to when the prime completes its work.
  - Mr. Pentorali answered that retention is released once the subcontractor's work is complete and accepted regardless of if the prime has completed the contract.
- Maurice Young emphasized that retention is paid upon work being accepted, rather than work being completed. This is done in case there are problems with the work in order for such problems to be rectified.
- Member Cunningham asked if retention applied to suppliers and vendors.
  - Mr. Young answered that it does not; no payments are retained from suppliers.
- Member Dean stated that if retention is not paid quickly upon work being accepted that it could place small businesses in financial jeopardy. He further noted that the increasing number of contracts on the program will make it harder to monitor that retention is paid quickly. He also asked who a SB complains to if they are not paid promptly.
  - Ms. Little stated that responding to SB complaints is the responsibility of the Small Business Advocate.
  - Mr. Camarena stated that he was currently in this role but that a fulltime SB Advocate will be hired sometime soon.
- Member Guerrero commented that in the past contractors have issued letters to subcontractors clearly indicating when the retention is due.

**ITEM VI: CONSTRUCTION PACKAGE 1 UPDATE (Maurice Young, TPZP)**

- CP1 is continuing its design phase, but is also beginning some initial field construction activities. Current work includes:
  - Design Support which entails surveying, utility investigations, and geotechnical investigations including a test pile at the Fresno River.
  - Property acquisition, which includes abatement and demolition.
  - Construction activity including storm drain relocations in downtown Fresno and the construction of the first major High-Speed Rail structure, the Fresno River Viaduct
- The project will quickly begin to accelerate and construction will ramp up through 2015.
- The project is currently utilizing 48 SBs, including 17 DBEs and 5 DVBEs. There are 11 SB vendors/suppliers including 1 DVBE.
- To date, 41.6 percent of the project is committed to subcontractors. 29.85 percent is committed to SBs, 19.26 percent to DBEs and 2.18 percent to DVBEs.
- An additional 1.33 percent commitment to SBs is in process, as well as a further 0.087 percent commitment to DBEs and 1.085 percent to DVBEs.
- TPZP is focusing on connecting subcontractors with potential SB lower tier subs and promoting TPZP's vendor database.

- Request for bids or proposals are anticipated for traffic signals and for electrical and gas utility design and construction.
- There was a recent success story when TPZP was working with PG&E on electrical work. TPZP was able to get a SB added to PG&E's list of acceptable firms for its electrical work.
- Member Nishinaga asked what percentage of the work had been completed and what the anticipated date for completion is.
  - Mr. Young responded that 12 percent had been completed and that the completion date was still being determined.
- Tshaka Touré asked if there would be additional opportunities for new members of TPZP's team as the project progresses.
  - Mr. Young responded that TPZP's team was full and that any additional opportunities would be for lower tiers.
- Member Nishinaga asked who issues the permits for CP 1.
  - Mr. Young responded that there is not a single agency and that the Authority works with a sizeable array of agencies, including the County of Fresno, City of Fresno, Fresno irrigation district, County of Madera, Madera irrigation district and many others to obtain the necessary permits.

**ITEM VII: CONSTRUCTION PACKAGE 2-3 UPDATE (John James, Dragados/Flatiron)**

- The CP 2-3 contract was executed last Friday.
- Dragados/Flatiron will be opening offices in Fresno and Hanford and is looking to expand its staff and update its website.
- Small business outreach is ongoing and the team is actively looking to add small businesses, especially for environmental work. Small business workshops will be held every month.
- In July an environmental workshop will be held in Fresno. The date to be determined.
- It is anticipated that the construction will begin within 12 to 18 months of design planning and acceptance.
- The project will be separated into 3 segments, each with its own project manager.
- Mr. Touré asked about the Dragados/Flatiron team and the timeline for adding small business subcontractors.
  - Mr. James responded that small businesses will be sought out and added at all phases of the project. The team is especially looking for environmental firms to support the design team, including firms that can do environmental field work. Additional subcontracting opportunities will become available as the project progresses.

**ITEM VIII: SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE (JOSE CAMARENA, DIRECTOR OF CONTRACT COMPLIANCE)**

- The latest Plan-Ahead Procurement Report is in members packets. It includes three planned procurements:

- Project Construction Management for Construction Package 4, which will be a 33 to 38 million dollar contract over 4.5 years.
- Tier III Trainset contract, a 5.5 year contract with dollars to be determined and anticipated to be advertised in late fall 2015.
- The details for the Quality Management Service contract are still being worked out.
- There will be a Pre-Bid conference for CP 4 Project Construction Management in Wasco on June 24. It will provide small businesses with the opportunity to connect with potential prime consultants.
  - Member Chaudhary asked if potential primes were mandated to attend this event.
    - Mr. Camarena answered that it is not mandatory but that failure to attend would reflect poorly on the potential prime consultant.
- A small business and certification workshop will be held in Bakersfield on June 26. A flyer for this event is in members' packets and includes a list of documents and information businesses should have with them at the workshop to get SB certified.
- Three workshops will be held each month in the central valley region. Workshops are beginning to be kicked off in Northern California, with the first one held on June 18, 2015 in Gilroy. Efforts are being made to have more Authority sponsored events from now on to include on-site SB certification.
- Survey Monkey is being used to gather information on the value of the Authority small business workshops and to ensure that they are successful.

#### **ITEM IX: ADJOURNMENT**

- Council Chair Fellenz adjourned the meeting at 12:08 p.m.

The BAC members reconvened at 1p.m. Ms. Gomez provided an overview of the project in Fresno and it was followed with a bus tour of the alignment.