

**DRAFT**

**FINANCE AND AUDIT COMMITTEE MEETING MINUTES**

**February 9, 2021**

**Webcast at:**

[www.hsr.ca.gov](http://www.hsr.ca.gov)

The meeting of the California High-Speed Rail Authority (Authority) Finance and Audit Committee Meeting was called to order on February 9<sup>th</sup> at 8:30 A.M. via webinar due to Governor Newsom's State of Emergency declaration regarding the COVID-19 outbreak and in accordance with Executive Order N-25-20 and the Guidance for Gatherings issued by the California Department of Public Health. The Meeting Minutes were prepared in the order items were presented during the meeting.

**Committee Members Present:**

Mr. Tom Richards, Committee Chair  
Mr. Ernest Camacho, Committee Member  
Mr. Jim Ghielmetti, Committee Member  
Ms. Nancy Miller, Committee Member

**Staff Present:**

Mr. Brian Kelly, Chief Executive Officer  
Mr. Brian Annis, Chief Financial Officer  
Mr. Joseph Hedges, Chief Operating Officer  
Ms. Aleksandra Sachowicz, Attorney

**Public Comment**

An opportunity for public comment was made at the outset of the meeting.

**Item #1 – January Meeting Minutes**

The January 21, 2021 Meeting Minutes were moved for approval by F&A Committee Member Camacho and seconded by Committee Member Ghielmetti and approved unanimously by all members.

**Item #2 – F&A Committee Chairman's Remarks, Initiatives, and Updates**

Committee Chair Richards remarked that there is a full Board Meeting today at 11:00 a.m.

**Item #3 – Financial Reports Executive Summary**

Chief Financial Officer Brian Annis presented the Financial Report Executive Summary to the F&A Committee Members.

Question:

Member Richards asked if the CP 2-3 Design Builder (Dragados) has billed for items that were change orders and the work has not been done, is it just a matter of them agreeing to remove the charges from the invoice or invoices?

Response:

Mr. Annis replied a couple of things could happen. There could be agreement on the change orders, or they could withdrawal the invoiced amounts related to those change orders. The process issue going forward is likely corrected so that they won't be submitting change orders that have not been approved. We will be going through the formal process on the prior submitted invoices to reconcile them for agreement to end the disputes.

Question:

Chair Richards asked if Mr. Annis has seen dispute issues like this since joining the project?

Response:

Mr. Annis replied that he does not recall a specific circumstance like this.

Chief Operating Officer added that the Design Builder is using a commercial strategy to highlight change orders they think are due to them and being disputed. A letter has been sent directing them to stop invoicing for change orders that have not been approved.

Question:

Member Ghielmetti asked how soon after a Cap and Trade Auction will we have estimated proceeds for the Authority?

Response:

Mr. Annis responded that estimated proceeds are provided in about one week.

Question:

Member Ghielmetti asked if we will run out of Prop 1A cash before receiving the final allocation?

Response:

Mr. Annis responded that it is dependent on the funding authority or legislative appropriations. We do need an additional Prop 1A appropriation to fund our Central Valley construction because the Cap and Trade funds are expected to be exhausted by the middle of next fiscal year (December/January). We need additional Prop 1A bond authority through legislative appropriation to access funds next fiscal year.

Question:

Chair Richards asked if there is a general policy or procedure for which we determine which pot of funds we use to pay invoices each month?

Response:

Mr. Annis replied yes, and it changes a bit over time. In the early years of Central Valley construction, we were using federal ARRA funds primarily. After that, we switched to Prop 1A funds, and as those became exhausted we are now funding Central Valley construction with Cap and Trade funds.

Question:

Member Camacho asked what the other categories of contingency totaling \$931M are used for?

Response:

Mr. Annis replied there is an "Unallocated Contingency" of \$420M, which is a program-wide contingency set aside to mitigate risk and not associated with any of the construction packages. The "Interim Use/Project Reserve" of \$154M represents a federal required contingency to direct interim use if there is a significant period between full high-speed rail operations and completion of the Madera to Poplar Ave. section. Lastly, the "Other" contingency of \$280M is primarily a program management related contingency that might cover Rail Delivery Partner (RDP), financial advisor contract that was recently implemented, and things of that nature.

**Item #4 – Central Valley Update**

Chief Operating Officer Joe Hedges presented the Central Valley Status Report to the F&A Committee Members.

Question:

Chair Richards asked in determining the charge per day for the delay claim payment in Construction Package 4 (CP 4), are you able to give us a little bit more background on that?

Response:

Mr. Hedges asked Attorney Aleksandra Sachowicz to reply.

Attorney Aleksandra Sachowicz replied that the independent auditor, Douglas Rapp with TM Financial Forensics LLC., conducted an audit of the overhead expenses that were reported by the prime contractor, California Rail Builders (CRB) on CP 4. As a result of his audit, he was able to ascertain the daily rate, which was about \$100,000 less per day than what CRB's original demand was. He ascertained that there were obviously some expenses that were not overhead expenses. Some expenses that were claimed which were not truly time related expenses. He also consulted for national database for salaries and wages and ascertained that some of the executive salaries were way above average, so he adjusted the daily value to bring it down to the national average.

Mr. Hedges added that this is probably some of the best work the Authority has done here. The original Time Impact Analysis (TIA) was for 294 days. As a result of being very proactive, we were able to reduce that by a total of 136 days for a savings of \$9 million.

Question:

Chair Richards asked when you are calculating the charge per day for delay claims, does it mean that the entire contract of CP 4 was at a standstill?

Response:

Mr. Hedges replied no.

Question:

Chair Richards asked if the delay charge is only on the loss of that portion of the contract CRB is not working on and claim is our responsibility or our fault?

Response:

Mr. Hedges replied yes. We extended the substantial completion to December 15, 2021 to account for a delay of 158 days.

Question:

Chair Richards asked what goes into calculating the daily charge number for delays? Are we able to be sure that we are not being charged for things that are inconsistent with their claim for loss?

Response:

Mr. Hedges responded that this audit was very thorough. We negotiated that our auditor be able to go into California Rail Builders accounting system to validate all their claimed charges. The idea was to leave them whole as a result of the 158-day extension. They received no profit or home office overhead.

Question:

Chair Richards asked if land right conveyances are the same as an easement?

Response:

Mr. Hedges replied easements or franchises. It is related to giving access to land and is predominately tied to utilities work.

Having no further business, the meeting was adjourned at 9:30 AM.

The Authority additionally posts on its website transcripts from F&A meetings, which detail the discussion, questions, and answers from the meeting.