



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

ALAMEDA CORRIDOR-EAST CONSTRUCTION AUTHORITY BOARD OF DIRECTORS REGULAR MEETING AGENDA

Monday, February 22, 2010 – 2:00 P.M.

Irwindale City Hall
5050 Irwindale Avenue
Irwindale, CA 91706

Members of the public may comment on any item on the agenda at the time it is taken up by the Board. We ask that members of the public come forward to be recognized by the Chair and keep their remarks brief. If several persons wish to address the Board on a single item, the Chair may impose a three-minute time limit on individual remarks at the beginning of the discussion.

- | | | |
|-------|--|--------------------|
| I. | Pledge of Allegiance | |
| II. | Roll Call and Introductions | |
| III. | Approval of Minutes of January 25, 2010 Board Meeting (Pages 1-5) | Action |
| IV. | Public Comment | |
| V. | Chairman's Remarks | |
| VI. | Chief Executive Officer's Report (Pages 6-8) | Information |
| VII. | Approval of Contract Amendment with Demetriou, Del Guercio, Springer & Francis (Page 9) | Action |
| VIII. | Approval of Emergency Contract with Miller Demolition for Demolition at the Baldwin Avenue Grade Separation Project (Pages 10-11) | Information |
| IX. | Closed Session: The Board will adjourn to closed session in accordance with Government Code Section 54965.9(a) to discuss pending litigation: Los Angeles Superior Court Case No. BS 1223376 Edward Rowland LLC and Golden Pacific Realty vs ACE Construction Authority & Caltrans | Possible
Action |
| X. | Adjournment | Action |

The ACE Construction Authority is constituted of seven (7) member jurisdiction; the Cities of El Monte, Industry, Montebello, San Gabriel and Pomona, the County of Los Angeles and the San Gabriel Valley Council of Governments. A San Bernardino County Council of Governments representative is an ex-officio Board member. Each member or alternate has one vote. A quorum of the ACE Construction Authority is no less than four (4) of its total voting membership. Actions taken by the ACE Construction Authority shall be by simple majority of the members present with a quorum in attendance except for personnel actions, the annual budget, matters dealing with the Administrative Code or matters requiring subsequent approval by the SGVCOG, all of which shall require five (5) votes. All disclosable public records related to this meeting are available for viewing at the ACE office above during normal working hours.



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

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



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

MEMO TO: ACE Construction Authority Board Members & Alternates

FROM: Rick Richmond
Chief Executive Officer

DATE: February 22, 2010

SUBJECT: CEO Report

The following are items of note since the last meeting:

Asian American Press Conference – ACE hosted an Asian American Community Press Conference and Project Update Luncheon at the San Gabriel Hilton Hotel in San Gabriel on January 29. Congresswoman Judy Chu, State Senator Carol Liu, State Senator Bob Huff, Assemblyman Mike Eng and San Gabriel Valley Economic Partnership President and CEO Cynthia Kurtz spoke in support of the ACE grade separation projects scheduled to start construction this year in Valley cities with significant Asian American communities. In addition, a statement from Congressman Adam Schiff was read at the event. The event was a success in attracting significant media interest and coverage with 22 reporters representing eight Chinese-language newspapers and seven television and radio outlets in attendance.

Washington DC Reception – ACE staff is busy making arrangements for the San Gabriel Valley Congressional Appreciation Reception next month in Washington D.C. which is co-hosted by ACE, the SGVCOG, San Gabriel Valley Economic Partnership and Foothill Transit. The event will be held on Monday, March 15 from 5:30 p.m. to 7:30 p.m. in Rayburn House Office Building Room 2253, during the annual National League of Cities Conference in Washington, D.C. For more details, please see the invitation flyer which is available from ACE staff.

Community Outreach Update – Staff has conducted the following project outreach activities:

- Distributed construction alert notices regarding bridge girder installation for the Sunset Avenue grade separation project;
- Provided staff assistance for the Construction Management Services Pre-Proposal meeting;
- Staffed information booth at the Construction Management Association of America, Southern California Chapter Owners' Night expo;
- Participated in a parents' meeting at Nelson Elementary School to discuss the Sunset Avenue grade separation project;
- Conducted ongoing business support program, community outreach and construction coordination activities for the Sunset Ave. grade separation and Temple Ave. projects.

Contracting – Our Administrative Code delegates to the CEO the authority to approve new contracts or change orders for Board-approved contracts within certain limits, with a requirement that I report to the Board any such contract action. In addition to the changes identified in the monthly construction reports, the following changes have occurred:

<u>Consultant/Vendor</u>	<u>Reason for Change</u>	<u>Change Amount</u>	<u>Total Contract Value</u>
Del Richardson & Associates, Inc.	Upward adjustment of costs as a result of audits through June 2005	\$42,852	\$1,098,669

In addition, staff issued a Request for Proposals for Construction Management Services for Grade Separation projects, including the Nogales Street (LA Subdivision) grade separation project which will bid later this year, and the San Gabriel Trench Grade Separation – Advanced Utility Relocation – Fiber Optic Package that is estimated to bid this summer. Proposals are due in early March, with a recommendation for selection anticipated at the April 2010 Board meeting.

ALAMEDA CORRIDOR EAST

PROJECT STATUS REPORT

SUNSET AVENUE GRADE SEPARATION PROJECT For the Month: January 2010

Scope:	Construction of grade separations at the UPRR crossings at Orange Avenue and Sunset Avenue. Orange and Sunset Avenues will be lowered slightly and the tracks raised on embankments and two steel thru-girder bridges. California Street will be raised and reconstructed to meet the new track locations. Valley Boulevard will be reconstructed at all three intersections. Trackwork will consist of a new raised mainline track; at grade drill track and industry track connection to the north; and a temporary shoofly to the south requiring temporary closure of the northerly lane of Valley Blvd.	
Contractor:	Atkinson Contractors, LP	
Construction Manager:	PB	
Contract Award:	August 28, 2006	
Notice to Proceed:	November 14, 2006	
Original Completion:	November 18, 2009	Schedule % Complete
Revised Contract Completion:	January 1, 2011	64

Schedule Summary	Estimated Start	Estimated Completion	% Complete
California Ave Shoofly & Street Restoration	January 2007	December 2007	100%
Railroad ROW storm drain system	February 2007	June 2010	98%
Valley Blvd Shoofly	May 2007	August 2008	100%
Drill Track	April 2008	August 2009	100%
Main Line Retaining Walls & Backfill	August 2009	March 2010	75%
Sunset & Orange Bridge Steel Fabrication	November 2007	September 2009	100%
Sunset & Orange Bridge Installation	December 2009	March 2010	85%
Valley @ Sunset & Orange Street Restorations	August 2009	October 2010	35%
Landscaping & Irrigation	October 2010	December 2010	0%

Financial Summary			
Original Contract Value	\$41,938,421.50		
C.O.s Approved This Month	\$0		
C.O.s Approved to Date	\$9,867,659.36		
Current Contract Value	\$51,806,080.86		
Invoiced to Date (% of revised contract)	\$37,376,275.38		72%
Release of Liens are Current	<input checked="" type="checkbox"/>		



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

MEMO TO: ACE Construction Authority Board Members & Alternates

FROM: Rick Richmond
Chief Executive Officer

DATE: February 22, 2010

SUBJECT: Approval of Amendment to Legal Services Contract with Demetriou, Del Guercio, Springer and Francis, LLP for the Altec Industries Case

RECOMMENDATION: Staff recommends that the Board authorize the Chief Executive Officer to execute an amendment to the legal services agreement with Demetriou, Del Guercio, Springer and Francis, LLP (DDSF) for the not-to-exceed amount of \$71,000 for a total contract value of \$944,000.

BACKGROUND: The Demetriou firm was first retained as a subcontractor to Burke, Williams & Sorensen (BWS) to supplement BWS on eminent domain cases arising on Phase I of our project. In June 2009, the Board approved the assignment of the agreement to ACE.

At that time, the Altec Industries property acquisition associated with the Temple 4th track project had been assigned to DDSF. It consists of the acquisition of a permanent easement of 9,429 square feet at the rear of property owned by Altec Industries. When the case was assigned to DDSF we estimated a cost of \$100,000-\$140,000 should it evolve into an eminent domain case. Since we were unsure if the matter would resolve or proceed to eminent domain, we did not seek approval of the entire budget at that time.

The Altec Industries matter has gone to condemnation, and DDSF has estimated that its total budget for the case will be approximately \$142,000. The budget includes the cost of preparation of pleadings and motions, settlement conference expenses, coordination with ACE staff, expert witness costs, including a noise consultant and expert appraisers, as well as the trial itself. To fully fund their anticipated budget and allow them to complete the case will require a budget augmentation of \$71,000.

BUDGET IMPACT: Funds for this work are available from Federal and MTA funds and have been included in the FY 2010 budget.



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

MEMO TO: ACE Construction Authority Board Members and Alternates

FROM: Rick Richmond
Chief Executive Officer

DATE: February 22, 2010

SUBJECT: Notification of Emergency Procurement for Demolition at Baldwin Avenue
Grade Separation Project

Both the Authority's Administrative Code and Procurement Manual provide that ACE may conduct a procurement when a situation creates an immediate threat to the public health, welfare or safety. An emergency condition creates an immediate need for goods or services that, if not provided expeditiously, would threaten the health or safety or any person, preservation or protection or property, or continuation of necessary Authority functions.

Under emergency procurement authority, I have issued a contract task order to Miller Environmental, Inc. an amount not to exceed \$76,505 for demolition of an ACE owned building at 10200 Bessie Avenue in the City of El Monte.

In 2008 ACE began acquiring properties necessary for the Baldwin Avenue grade separation. Due to vandalism and safety issues, in late 2008 ACE conducted a procurement to solicit on-call demolition and construction related services. Four contractors were selected for the panel. Four assignments have been awarded to date – all but one have been competitively bid amongst the panel.

ACE acquired the property at 10200 Bessie Avenue in the City of El Monte by eminent domain. Despite payment for the property and an agreement to vacate the premises, the prior property owner refused to leave the site. On February 5, 2010, the Los Angeles County Sheriff's Department (LACSD) served eviction notice on the property. On February 10, an ACE contractor accompanied by LACSD personnel changed the locks on the property. On February 12, the former owner returned to the property and gained access to the house and reportedly threatened harm to himself. The El Monte Police Department responded, and the property owner was removed. The property has been boarded up and the site secured by fencing, however, there are on-going concerns about the potential for a repeat incident.

Based on the foregoing, I determined on February 12, that the most prudent course of action was to demolish the existing structures under the emergency procurement authority. As long as the structure is standing, there is a potential for a repeat incidents, and that represents a threat to the public health and safety.

Staff has issued a contract task order to Miller Environmental, Inc. who has been awarded two of the four demolition packages at Baldwin Avenue to date. On their prior assignments, Miller has provided competitive pricing, furnished bonds and insurance, and worked with the expedited timetables required on Baldwin. They were highly responsive and completed their work professionally and quickly.

BUDGET IMPACT: Funds for this contract task order are available from Federal and MTA grants.