



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, September 26, 2011 – 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 Special Meeting of August 29, 2011 (Pages 1-3) | Action |
| IV. | Public Comment | |
| V. | Chairman's Remarks | |
| VI. | Board Member Comments | |
| VII. | Chief Executive Officer's Report (Pages 4-5) | Information |
| VIII. | Task Orders 1 and 2 for Encroachment Removal for the San Gabriel Trench Project (Page 6) | Information |
| IX. | Approval of Reassignment of Construction Management Services for Fiber Optic Relocation for the San Gabriel Trench to Jacobs Management Co. (Page 7) | Action |
| X. | Update on Legislation (Page 8-9) | Information |
| XI. | 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 August 29, 2011 Special Meeting Minutes

Roll Call – Chairman Spohn called the meeting to order at 1:00 PM at the City of Irwindale Council Chambers. In attendance were:

Tim Spohn, Industry
Angel Carrillo, SGVCOG
David Gutierrez, San Gabriel
Freddie Rodriguez, Pomona
Frank Gomez, Montebello

Staff

Rick Richmond, Chief Executive Officer
Joe Silvey, Counsel
Alan Sozio, Counsel
Deanna Stanley, staff
Genichi Kanow, staff

Guests

Emma Enriquez, Gresham, Savage
Judith Gillespie, GRDM
Ralph Megna, MIPCO

1. **Pledge of Allegiance** – Vice Chair Gutierrez led the pledge of allegiance.
2. **Approval of August 22, 2011 Regular Meeting Minutes** – A motion was made to approve the minutes of the Board of Directors regular meeting of August 22, 2011. M/S/C/Gutierrez/Gomez/Unanimous
3. **Public Comments** – Comments on item #XII were deferred until discussion of that item. There were no public comments.
4. **Closed Session** – Mr. Silvey announced the Board would adjourn to closed session in accordance with Government Code section 54956.9(a) to discuss existing litigation (two cases) – Los Angeles Superior Court Case No. BC429699, Alameda Corridor-East Construction Authority vs MIPCO LLC and Los Angeles Superior Court Case No. BS 125565 MIPCO LLC vs ACE Construction Authority.

The Board returned to open session and Mr. Silvey announced there was no action taken by the Board that needed to be reported. Mr. Silvey requested the

minutes to reflect Member Wallach joined the Board at the beginning of closed session.

5. **Approval of Resolution No. 11-12 Finding and Determining the Terms of the Resolution of Necessity No. 09-04 Adopted by the ACE Board on September 28, 2009**– Ms. Emma Enriquez, representing MIPCO LLC, addressed the Board. Ms. Enriquez indicated MIPCO has expressed numerous concerns to property access for its tenants. She indicated the tenants were in the grocery business and limited access would cause delays and delays in the grocery business means damages. MIPCO also was concerned that other properties were acquired in full. She indicated prior to the September 2009 Resolution ACE was in discussions with MIPCO to take the property in full. Ms. Enriquez expressed at length, concerns with alleged inconsistencies and administrative handling of documents related to the September 2009 Resolution including a Declaration of Necessity signed by Lou Cluster under penalty of perjury. She raised concerns of that the Lis Pendes filed in January with the Resolution submitted, signed by Deanna Stanley which described a full property take. She indicated if ACE legal counsel believed this was an error they should have resolved this early on. Ms. Enriquez further addressed at length MIPCO's issue with discovery and concern why Ms. Stanley was not able to produce notes from the September 2009 Board meeting until recently.

Joe Silvey indicated the agenda item was merely a way to correct the administrative confusion. He indicated MIPCO counsel has mischaracterized the facts. He reminded the Board that there has been consistency with all materials presented to the Board that point at authorization to staff to obtain easement rights. Nothing MIPCO has presented can suggest anything otherwise. Further MIPCO knew ACE wanted easement rights and the minutes reflected the passing of the Resolution attached. If there were any discussion of anything contrary to the staff report the minutes would have reflected such. Negotiations were underway in September and full acquisition was discussed. However, it was never a part of a Resolution. Mr. Silvey indicated the staff report would be presented to the judge so he can consider all actions and will find this was simply a clerical error. Ms. Enriquez referenced there were documents signed by Ms. Stanley and Mr. Cluster which did occur. However, neither of them at the time realized the Resolution was incorrect. Mr. Silvey indicated, when the error was realized an errata was filed with the court. Further, the ACE Board approved the September 2009 minutes in October 2009 and MIPCO was represented at both meetings. He indicated, if there was any reference to a full take the minutes would reflect such. Further, if the September 2009 minutes were incorrect he was

certain MIPCO would have objected at the October 2009 meeting where they were approved. Mr. Silvey indicated if the Board approved the recommendation today this would be revised to include the following and submitted to the court: The date of the Resolution No. 11-12 passed will reflect today's date. In section 1, the third line makes reference to materials presented – that will reference 'Monday August 22, 2001 and August 29, 2011'.

Chairman Spohn asked the Resolution No. 11-12 include under Section 1 (a), second line after September 28, 2009 the wording 'that the record clearly establishes that...'

Member Gutierrez also pointed out that page 5 of the staff report, item #2 the year in the date should reflect August 22, 2011 rather than 2001.

A motion was made to adopt Resolution No. 11-12 as revised by counsel with the inclusion of Chairman Spohn's language, and corrected date as stated by Vice Chairman Gutierrez.

M/S/C/Gomez/Spohn/Unanimous

The meeting was adjourned at 2:05PM



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: September 26, 2011

SUBJECT: CEO Report

The following are items of note since the last meeting:

ACE Project Update to SGVCOG Governing Board – I gave the first of what should be quarterly ACE Project briefings to the SGVCOG Governing Board at their September 15 meeting. The project update covered project cost and schedule forecasts, financial status, a GANs update, significant accomplishments and upcoming events.

ACE Project Briefing and Tour – A project briefing and tour was arranged in late August for MTA Deputy Executive Officer Shahrzad Amiri and her staff who were joined by Congresswoman Judy Chu's transportation field deputy, Carina Lieu, a former MTA intern. Ms. Amiri's responsibilities include goods movement policy and the San Gabriel Valley geographic area, and her long-time involvement in and support for the ACE Project has been sincerely appreciated.

Demolition for Nogales Street Project – Contractors demolished a gas station on Nogales Street in August in preparation for the Nogales Street grade separation and roadway widening project in the City of Industry near Rowland Heights. The work was needed to clear the way for the construction of a roadway widening on Gale Avenue and Walnut Drive as part of the grade separation project on Nogales Street just north of the 60 freeway. Construction is anticipated to commence in early 2012.

Preparation of Pre-Construction Demolition Contract – Staff is preparing a pre-construction demolition contract for buildings at the Baldwin, Nogales and San Gabriel Trench projects.

Utility Relocation for San Gabriel Trench – Construction crews worked over the summer and into the fall to relocate underground utilities on Mission Road and San Gabriel Boulevard in preparation for the San Gabriel Trench project. The work included investigatory drilling and conduit installation. ACE staff distributed notices in English, Spanish and Chinese regarding the work and associated lane and sidewalk closures.

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

- Distributed construction alert notices in English, Spanish and Chinese regarding temporary lane and sidewalk closures during utility relocation work for the San Gabriel Trench grade separation project;
- Staffed ACE Project information tables at the annual Mobility 21 regional transportation conference as well as at the San Gabriel Mission Elementary School's back-to-school night event; and,
- Conducted ongoing community outreach and support activities for the San Gabriel Trench, Baldwin Avenue, and Nogales Street grade separation projects.



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: September 26, 2011

SUBJECT: Task Orders 1 and 2 for Encroachment Removal for the San Gabriel Trench Project

At your June 2011 meeting, you authorized the Chief Executive Officer to increase the budget for on-call demolition and construction related services for work that will be needed on the San Gabriel Trench and Baldwin Ave. projects, as well as other projects that may require similar work.

On August 24, staff issued bid documents and conducted a mandatory site walk for the four previously selected on-call contractors for demolition and other construction-related services for the San Gabriel Trench. The following proposed contract task orders were issued:

- Task Order No. 1 – 205, 313 and 327 E. Main Street (residential properties)
- Task Order No. 2 – 130 and 210 Agostino Road (commercial properties)
- Task Order No. 3 – 101 E. Main Street (residential property)

Clauss Construction (Clauss) was the only pre-qualified contractor who submitted bids for the three task orders on September 14. Based on staff review of Clauss' bids, their bids for Task Order Nos. 1 and 2 were either under or within the engineer's estimate and were determined to be responsive:

Task Order	Bidder	Bid Amount
No. 1	Clauss Construction	\$175,422
No. 2	Clauss Construction	\$40,582

Both task order values are within my contracting authority, therefore, I have awarded the two task orders to Clauss. Execution and notice to proceed for each task order will be contingent upon the approval of the contractor's bond and insurance policies in accordance with the agreement.

Clauss' bid for Task Order No. 3 is over the engineer's estimate. It is staff's intent to repackage the task order and rebid the work.



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: September 26, 2011

SUBJECT: Approval of Reassignment of Construction Management Service for Fiber Optic Relocation to Jacobs Management Co.

RECOMMENDATION: Staff recommends that the Board authorize the Chief Executive Officer to reassign the construction management (CM) services for the Fiber Optic Relocation on the San Gabriel Trench to Jacobs Management Co. (Jacobs).

BACKGROUND: At your August 2010 meeting you authorized the Chief Executive Officer to execute a contract with PB Americas, Inc. (PB) for grade separation construction management services. The contract entails issuance of task orders for the Nogales Street project and San Gabriel Trench fiber optic relocation. Staff has not issued the fiber optic relocation task order to PB awaiting the execution of the Construction and Maintenance (C&M) Agreement between the Union Pacific, the City of San Gabriel and ACE.

At your June 2011 meeting, you authorized the execution of a contract with Jacobs for construction management services for the San Gabriel Trench project. The C&M Agreement was approved on June 2011 and the first phase of the required archaeological excavation adjacent to the San Gabriel Mission is scheduled to begin by the end of this month. Solicitation of the fiber optic relocation bids is contingent upon the start of the archaeological excavation. It is staff's intent to start the solicitation process for the fiber optic relocation within two months.

Staff has determined that it would be logical and cost effective for the agency to reassign the fiber optic relocation construction management services to Jacobs, the same consultant that will serve as the CM for the San Gabriel Trench.

PB remains the construction management consultant for the Nogales Street (LA Sub) grade separation project. PB has been notified of ACE's intent to reassign the work, pending approval from the Board. As of the mailing of this agenda item, no objections have been received.

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



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: September 16, 2011

SUBJECT: Update regarding State Legislation

The first year of the two-year legislative session in Sacramento ended on September 9. This status update concerns those bills on which the ACE Board adopted positions in May. The Governor has until October 9 to sign or veto bills passed by the Legislature. Statutes take effect on January 1, 2012 and the Legislature is scheduled to reconvene on January 4, 2012.

SB 862 (Lowenthal) "Southern California Goods Movement Authority" – Adopted Position: Support in Concept. Status: Held in Committee. Senator Lowenthal held this bill in committee with the intent of reviving it when the Legislature reconvenes. ACE staff will work with the bill author as this legislation is further developed. As drafted, the bill establishes the Southern California Goods Movement Authority, which includes a representative of ACE, to develop a priority list of grade separations and goods movement emission reduction projects in consultation with the South Coast Air Quality Management District. The authority would seek to collaborate with the private sector in establishing a voluntary cargo container fee to fund the projects.

AB 892 (Carter) "NEPA Delegation" – Adopted Position: Support. Status: Sent to the Governor. ACE has sent a letter of support to the Governor for this bill which extends a pilot program delegating the responsibility for reviewing federally funded highway projects for compliance with the National Environmental Policy Act (NEPA) from the Federal Highway Administration to Caltrans. NEPA delegation has resulted in significant time and cost savings for the ACE projects. This bill was sponsored by Caltrans and had no known opponents.

SB 867 (Padilla) "Build California Bonds" – Adopted Position: Support. Status: Held in Committee. This bill was held in the Senate Transportation and Housing Committee. The bill would permit the California Transportation Financing Authority to issue up to \$5 billion of Build California Bonds to fund the construction of local highway and transit projects. Los Angeles County Metro sponsored the bill to add a state financing mechanism for advancing the 30-10 Plan, which places a priority on

transit projects but which includes highway projects. Revenue sources to secure the state-tax-advantaged bonds include local transportation sales taxes, transportation revenues, developer fees, and tolls. If the bill moves next year, ACE staff will monitor and report on its progress.

AB 1229 (Feuer) "GARVEE Bonds"– Adopted Position: Support. Status: Held in Committee. This bill was held in the Senate Appropriations Committee after passing the Assembly with unanimous support. The bill would lift the cap on the issuance by the State Treasurer of tax-exempt Grant Anticipation Revenue Vehicle (GARVEE) bonds based on regional transportation planning agencies' shares of federal transportation program funds. The bill was sponsored by Los Angeles County Metro and is intended to offer a tool to accelerate the 30-10 Plan. If the legislation is reactivated next year, ACE staff will monitor and report on its progress.