



SAN FRANCISCO PENINSULA RAIL PROGRAM EXECUTIVE STEERING COMMITTEE MEETING

MINUTES

Friday, September 22, 2023

TJPA Office
425 Mission Street, Suite 250
San Francisco, CA

9:30 a.m. to 10:30 a.m.

EXECUTIVE STEERING COMMITTEE

Peninsula Corridor Joint Powers Board/Caltrain, Michelle Bouchard (Chair)
San Francisco County Transportation Authority, Tilly Chang (Vice Chair)
California High Speed Rail Authority, Boris Lipkin
City and County of San Francisco, Alex Sweet
Metropolitan Transportation Commission, Alix Bockelman
Transbay Joint Powers Authority, Adam Van de Water

PUBLIC PARTICIPATION

This meeting will be held in person at the location listed above. Members of the public may attend the meeting to observe and provide public comment at the physical location listed above or may watch live online using the link below:

<https://transbaycenter.webex.com/transbaycenter/j.php?MTID=m15015b3d786671b8455dd1c087ca746c>

PUBLIC COMMENT CALL-IN: 1-855-282-6330
Access Code: 2552 764 6794# #

When the item is called, dial *3 to be added to the speaker line. When prompted, callers will have two minutes to provide comment unless otherwise noted by the Chair. Please speak clearly, ensure you are in a quiet location, and turn off any TVs or computers around you.

AGENDA

1. Call to Order

Chair Bouchard called the meeting to order at 9:34 a.m.

2. Roll Call

Secretary Bonner noted that Member Bockelman was absent and that therefore, Lisa Klein would be sitting in as her alternate.

Members Present: Lisa Klein, Boris Lipkin, Alex Sweet, Adam Van de Water, Tilly Chang, Michelle Bouchard

Members Absent: Alix Bockelman

3. Communications

Secretary Bonner provided instructions on the Public Call-in/Comment process.

- Chair's Report

Public Comment:

There was no member of the public wishing to comment.

4. Action Item:

Approval of Meeting Minutes: August 18, 2023

The motion to approve the minutes was made by Member Van de Water and seconded by Vice Chair Chang. A unanimous voice vote approved the motion.

5. Informational Item:

Presentation of The Portal Procurement Schedule and Process

TJPA Deputy Project Director – Engineering, Anna Harvey and Stephen Polechonis, TJPA's Program Management/Program Controls (PMPC) consultant jointly presented the item.

Member Klein inquired about the readiness of the procurement documents, in particular, the risk of releasing the request for qualifications (RFQ) for the civil and tunnel progressive design-build (PDB) contract in the event that release of the second step of the procurement, the request for proposals (RFP), is delayed. Additionally, she inquired how responses to today's meeting would be relayed to the Integrated Program Management Team (IPMT).

Ms. Harvey explained the type, frequency, and extent of the team's engagement in developing the procurement approach. She stated one of the complexities in developing the procurement approach is the lack of completed transportation PDB contracts to look to as models for The Portal. The TJPA has engaged with agencies that have PDB contracts underway, namely the Los Angeles County Metropolitan Transportation Authority and Sound Transit in Seattle. She stated that these agencies have provided the TJPA with valuable feedback and lessons-learned and have shared their documents and work processes. Additionally, staff has been conducting industry soundings with the contracting industry, resulting in invaluable feedback from the bidder's perspective. She explained that the TJPA has a robust procurement team led by experts from Mott McDonald with experience on other PDB contracts within the Bay Area. The team is augmented by construction counsel and general counsel, who are involved in the drafting of the documents and have participated in multiple day-long workshops on development of the RFQ. The team has engaged experts with experience in the City and County of San Francisco's process in developing and administering alternate delivery contracts as well as experts in insurance and bonding and is leveraging additional resources such as the Design Build Institute of America. As the team and their processes matured over the summer, members of the IPMT signed non-disclosure agreements (NDAs) and were engaged weekly in 90-minute sessions where they delved into the RFQ. Ms. Harvey explained that the two-part procurement timeline has allowed the team to push some decisions to the RFP stage, which will allow time to leverage the collective expertise and gain consensus with the partnering agencies.

Mr. Polechronis discussed the schedule (slide 16, Path to the RFP) showing the start and finish dates of various activities. He acknowledged that some of the dates are aggressive, largely due to the approved accelerated schedule, which reduced the project's four-year development timeline by a year. He emphasized to ESC members that the procurement is not a "hard money" bid. Rather, the team is expecting a process very much like the engineering or consulting proposal process whereby selection is based on qualifications. He stated there may be a cost element and noted this is part of ongoing coordination with the IPMT and offered to present an update to the ESC. Further, he explained that development of the procurement documents is a collaborative process that includes formal reviews by the partnering agencies. The formal review process is 40 working days.

Member Klein stated while she appreciated details on the schedule, she was not hearing a lot of confidence about our readiness and added that it is important for IPMT members to feel confident. Mr. Polechronis responded that prior to engagement of the IPMT, the team progressed the work to meet the schedule and suggested that staff needs to a better job of raising confidence and provide better and more timely communication to IPMT members through meetings and workshops. Ms. Harvey added that the IPMT meeting agendas could be bifurcated such that all IPMT members would meet for the regular agenda first and then those who signed NDAs would remain for the balance of the meeting to discuss procurement. She suggested that this could be a good way to balance the IPMT agendas and address Member Klein's comments.

Vice Chair Chang requested clarification on whether staff is proposing separating the RFQ from the other stage gate 1 items (slide 8). Ms. Harvey explained that the TJPA's

procurement policy does not require staff to take the start of procurement to the TJPA Board of Directors (the Board) and that the proposed process is responding to the requirements the San Francisco Peninsula Rail Program Memorandum of Agreement (MOU). Currently, the Board's October 12 agenda includes an item to request authorization to release the RFQ. The current ESC presentation is informational, and the ESC would likely need to convene for a special meeting prior to the October 12 deadline.

Mr. Polechronis confirmed the proposal is, indeed, to separate the RFQ from the other stage gate items. He elaborated that this process change is a result of how the Federal Transit Administration's (FTA) process and the project's schedule have evolved to meet the Master Schedule, which is targeting the end of 2032. He said that the intent would be to fully meet each of those stage gate requirements before the February 2024 release of the RFP.

Vice Chair Chang stated she views procurement readiness as more than just the actual procurement documents; she said that readiness is the reflection of the items in the stage gate 1 milestone because they represent some necessary signal about risk. Additionally, she would be interested in knowing the status of other activities, such as the involvement of other agencies. Further she suggested holding more IPMT meetings instead of trying to squeeze in an action item to recommend the release of the RFQ in two weeks, so that the ESC can work through the full stage gate package of items. She noted that unexpected issues after release of the RFQ could delay the RFP and confuse the market. She expressed her appreciation for Deputy Project Director Harvey's participation at a recent SFCTA board meeting and acknowledged her own board members' concerns over funding and other matters.

Ms. Harvey responded that convening additional IPMT meetings is almost certain; she sees the need for additional discussion and coordination based on the briefings related to this item and will take action to convene members that have an interest in the procurement on a more regular basis, particularly in the next several weeks.

Member Lipkin acknowledged that the project has a significant number of baseline documents. He inquired whether the team would have time to incorporate changes to the baseline documents into the RFP, should there be changes. Ms. Harvey responded that this is a matter of extreme interest to the TJPA's project controls team who are currently focused on the process of "baselining" the budget and schedule and is conferring with agencies in Los Angeles with relevant experience in large projects. Concurrently, the procurement team is monitoring the procurement milestones. She emphasized that these two teams are coordinating to make sure that their schedules are aligned. The controls team oversees the 40-day review process, and to date they have not seen an issue with timing as long as the close coordination continues. Mr. Polechronis added that the PDB delivery strategy allows for flexibility to work collaboratively with the selected design-build team on changes that might occur over the 18-month preconstruction stage. The PDB delivery method is a good risk mitigation tool to help mitigate and minimize risk or allocate the risk to the party that can best manage it.

Chair Bouchard noted that the ESC has now spent considerable time understanding the PDB process and inquired what is being asked of the ESC. She asked whether the ESC would be

asked to consider the construction manager/general contractor (CMGC) contracts in a similar manner, referencing slide 5, Project Delivery. Mr. Polechronis responded that it comes down to the interpretation of the governance documents; in other words, is board action required for each procurement or just the broad procurement framework, provided that regular updates on progress are provided.

Ms. Harvey confirmed her understanding that the feedback from ESC members is more discussion at IPMT is necessary to ensure that ESC members are comfortable. Chair Bouchard stated that it is critical to know what types of approvals will be required for future RFPs, reiterating that two other streams (the two CMGC procurements) are following close behind the PDB. She requested staff to describe the path forward if the Board approves release of the RFQ at its next meeting and what the consequence of a month's delay would be. Mr. Polechronis responded that any delay will tap into the schedule contingency for the target revenue operations date and is, therefore, undesirable. Referring to the project delivery schedule, he explained that the 18-month preconstruction stage for the PDB contract is not generous. During preconstruction, the selected design-build team will review, validate, and make more efficient the 30% design; develop design documents to the 60-90% level; and negotiate a guaranteed maximum price for the construction phase. Ms. Harvey proposed that additional IPMT meetings be convened twice a week to bring members up-to-speed with the near-complete RFQ draft. Since the Board meets early in October, staff would recommend a special ESC meeting to recommend approval to the Board. Ms. Harvey proposed preparing a supporting staff report and robust memo to support the special meeting and proposed ESC action. The documentation would summarize the IPMT's involvement (including the details that can be provided about the RFQ) and the steps toward release of the RFP.

Chair Bouchard stated that such supporting documentation would have to be highly detailed. She would not support the recommendation on the RFQ being construed as a "kickoff" for all of the procurements.

Member Klein added that the ESC collectively agreed to the stage gates as a way to manage risk. She continued it is very important to be transparent about how the team is maneuvering through the stage gates, given the proposal to proceed with the RFQ before the other stage gate requirements have been met. She stated she would need to be convinced that the IPMT concurs with procurement readiness. Mr. Polechronis responded that staff has been mindful of the stage gate process and acknowledged the difficulty of writing each stage gate to fully reflect the many decision-makers involved in meeting each stage gate milestone. He explained that while the TJPA is in a "very good place" with the FTA, it would be imprudent to advance the baseline documents ahead of the FTA's approval of the TJPA's pending request to enter the Capital Investment Grants Engineering phase.

Member Lipkin reminded members that they are dealing with an RFQ, not an RFP. The RFQ concerns only the qualifications to propose on the contract.

Member Van de Water proposed that the ESC could meet prior to the Board meeting and concur on adding the action item to the Board agenda. He continued that the content at the ESC level would not change; rather, what is important are the internal workings of the IPMT

to achieve consensus. With the Board's October 12 approval, the RFQ could proceed on schedule. Staff can proceed with the remainder of the stage gate 1 documents once the FTA releases their project rating and response to the baseline schedule and budget late this year. The ESC could retain the option to recommend authorizing the CMGC contracts. He inquired if members concurred with the path forward.

Chair Bouchard questioned if the ESC is recommending approval to issue the RFQ, would staff come back to the ESC for the RFP. Mr. Polechronis responded that staff would come back to the ESC for a recommendation on the RFP in December.

Vice Chair Chang stated what she heard earlier was that there is a relationship between the timing of the FTA's response and the baseline documents and the RFP and suggested it may be too large an assumption to suggest that the ESC could recommend approval of the RFP in December. Mr. Polechronis responded that, clearly, the scenario would change completely if the FTA does not allow the project to enter Engineering. However, the TJPA has already reached agreement with the FTA on the cost and schedule with the nuance laying in FTA's share of the project cost. To the extent that they participate at a level lower than what the TJPA hopes would clearly affect the funding plan and, thus, the schedule.

Vice Chair Chang again referred to the purpose of the stage gates and stated staff needs to help the ESC collectively advise the Board about the overall profile of risk and reward because it cannot wait for all the risks to be zero—that will never happen. She requested understanding the process for all five stage gates and a look-ahead regarding the procurements. She cautioned against proceeding with implementation before hearing from the FTA. She also noted that staff capacity, given the current workload, is also an issue. Mr. Polechronis responded that based on FTA's schedule, staff does not expect to hear from the FTA until November or December, saying that the FTA is very clear about their internal process; they are working on their readiness report now.

Member Sweet requested the group to define the risk at issue, referring to member Lipkin's comment regarding the RFQ relative to the RFP. Member Klein stated the ESC, as a culture, seems to be putting risk second to schedule. Member Sweet asked Member Klein whether Member Van de Water's proposal for a special ESC meeting accompanied by detailed documentation would offer her reassurance. Member Klein responded that that strategy would help. Member Sweet confirmed that, ultimately, the ESC needs to make a policy decision whether to recommend approval of the RFQ or delay its release. Chair Bouchard asked what is to be gained by delaying a month. Vice Chair Chang explained the ESC must practice transparency; she reiterated Chair Klein's statement about developing a "culture" and said that "discipline" should be added to that discussion, so that if the ESC is going take action out of order, it is doing so for good reason because it believes that the risk-reward tradeoff makes sense. She said the stage gate items are bundled for a reason and they need to be looked at in their totality. Decisions can be disaggregated, but it is important for the ESC's logic and assumptions behind its decisions to be clear.

Chair Bouchard suggested hearing public comments and then returning to the discussion.

Public Comment:

Roland Lebrun recommended re-evaluating the procurement schedule to better align issuing of proposals as there may be additional design elements that may need to be incorporated. Mr. Lebrun also noted that the two slides titled Path to the RFP are missing from the presentation posted on the TJPA's website.

Chair Bouchard reopened the discussion among ESC members and inquired if the detailed documentation proposed by Ms. Harvey with the possibility of a special ESC meeting, given Vice Chair Chang's and Member Klein's concerns, which the Chair said she shared to some degree. She acknowledged that a lot of the work has already been done but that it would need to be formally documented so that IPMT members can better understand the risks, challenges, and rewards. She requested that this be taken as direction to Mr. Polechronis and Ms. Harvey to take back to the IPMT.

Member Lipkin recapped the proposed path forward for the ESC as follows: (1) approval of the documentation, or "justification memo," (2) a special meeting prior to the October 12 Board meeting, and (3) recommendation to the Board to approve the RFQ. Member Klein concurred and said it seemed consistent with Ms. Harvey's proposed course of action.

Member Van de Water suggested that to preserve the option to request the Board's approval to release the RFQ on October 12, the item would need to reflect this discussion and be added to the Board's packet. He stated that the ESC could meet later if members were comfortable with forwarding the item and "holding" their recommendation of it between packet delivery to the Board and Board meeting itself. He explained that he was proposing a creative solution to preserving the ability for ESC members to meet and for the partnering agencies to be comfortable with the proposed course of action. Members agreed that this would give the IPMT more time. Chair Bouchard suggested incorporating into the language the intent of the ESC to give the IPMT and ESC as much time as possible, within the framework of the Brown Act, to consider the action.

Member Van de Water stated that in terms of articulating risk, the IPMT is being given the time to consider the RFQ only, whose sole purpose is to ask for contractor qualifications. The IPMT is not being asked to authorize any other aspect of the procurement, such as guaranteed maximum price. He reiterated that his intention is to allow the time at the IPMT staff level while taking an item to the Board on the broader release of the RFQ to keep the procurement schedule on track. The ESC would then reconvene to address the remaining stage gate items for the PDB RFP and CMGC procurements. Members concurred. Regarding the logistics of public meeting notices and the Board's agenda, TJPA Chief of Staff Nila Gonzales added that staff will work to be prepared and give the ESC as much time as possible.

6. Public Comment:

Members of the public may provide comments on matters within the ESC's purview that are not on the agenda.

Roland Lebrun noted the proposed high-speed rail platforms at the Fourth and Townsend Street Station may not be necessary. Additionally, he noted the forecasted RFQ for the trainsets may not align with previous feedback received from California High-Speed Rail peer review groups.

7. Discussion Item:
ESC Agenda items for upcoming meetings

There were no agenda items suggested for upcoming suggested.

8. Adjourn

Chair Bouchard adjourned the meeting at 11:06 a.m.

DRAFT

ACCESSIBLE MEETING POLICY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (Campaign and Gov't Conduct Code, Article II, Chapter 1, § 2.100, et seq.) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3124 and website: www.sfethics.org.