



**Joint Meeting of  
Finance Committee and  
Project Oversight Committee  
Ali'i Place, Suite 150  
1099 Alakea Street, Honolulu, Hawaii  
Thursday, August 27, 2015 9:30 am**

**MINUTES**

**PRESENT:**

Colleen Hanabusa	Michael Formby
Ivan Lui-Kwan	George Atta
Damien Kim	William "Buzz" Hong
Terrence Lee	Donald G. Horner

**ALSO IN ATTENDANCE:**  
(Sign-In Sheet and Staff)

Dan Grabauskas	Joyce Oliveira
John Moore	Cindy Matsushita
Chris Takashige	Andrea Tantoco
Russell Honma	Gary Takeuchi
Barbra Armentrout	

**EXCUSED:** Ford Fuchigami

**I. Call to Order by Chair**

Project Oversight Committee Chair Colleen Hanabusa called the joint meeting of the Finance and Project Oversight Committee to order at 9:35 a.m.

Ms. Hanabusa announced that agenda item V.A., Core Systems Contract Nine Month Delay Claim Resolution, would be deferred upon staff's recommendation.

**II. Public Testimony on all Agenda Items**

Ms. Hanabusa called for public testimony.

Russell Honma testified regarding the cost of change orders, and suggested that the Board look to China for the sourcing of its materials.

Minutes of the Joint Meeting of the Finance Committee  
and Project Oversight Committee  
August 27, 2015

III. Approval of the July 30, 2015 Minutes of the Joint Meeting of the Finance Committee and Project Oversight Committee

Ms. Hanabusa called for the approval of the July 30, 2015 minutes of the joint meeting of the Finance and Project Oversight Committees. Committee member Donald G. Horner made a motion to approve the minutes, with Committee member Ivan Lui-Kwan seconding the motion. There being no discussion, or objections, the minutes were unanimously approved as circulated.

HART Executive Director and CEO Daniel Grabauskas suggested taking up the change order approval next.

V. Change Order Approval

B. Kiewit Subcontractor Commercial Metals Escalation

Ms. Hanabusa agreed that the committee would take up item V.B. – Kiewit Subcontractor Commercial Metals Escalation change. HART Deputy Director of Projects John Moore made a PowerPoint presentation on the change order, attached hereto as Attachment A.

Mr. Moore said that the change order, part of the West Oahu/Farrington Highway contract, was due to a delay of notices to proceed (NTP) 2, 3 and 4. The NTPs were anticipated to be issued in March 2010. However, the Federal Transit Administration's Record of Decision had not yet been received at that time, resulting in 20 months of delay. After a period of work, from February 2012 to August 2012, the ruling in the Hawaii Supreme Court case brought construction to a halt for 13 more months. The total 33-month delay caused the substantial completion date to change from October 2013 to July 2016.

Mr. Grabauskas added that HART had dealt with two different types of delays: delays for contracts that the City had entered into prior to HART's existence that HART was subsequently not in a position to proceed on, and the construction delay due to the Supreme Court case. He said that contractor Kiewit had settled with HART on all delay and escalation claims, with the exception of the one before the joint committees. He asked Mr. Moore to explain escalation.

Mr. Moore explained that in 2009 when the contract was signed, the contractor calculated a cost to complete the work. Over time, however, the cost of labor and materials increased. In this case, the cost of rebar has gone up due to inflation and other factors. This particular change order was evaluated on that basis.

Mr. Moore detailed the categories that comprised the change order, including craft labor, staff, craft labor shortage, materials, and freight. The scope of the change order included the labor to fabricate the rebar, ship it to Honolulu, truck to the assembly and installation site, and final installation. He explained the evaluation process for each line item.

Minutes of the Joint Meeting of the Finance Committee  
and Project Oversight Committee  
August 27, 2015

Mr. Moore detailed the painstaking examination of subcontractor CMC's certified payroll that led to the exclusion of craft labor shortage from the final settlement amount.

After an initial disagreement on escalation methodology for materials, HART and CMC settled on the actual cost escalation, rather than anticipated escalation. The contract provided that CMC was entitled to materials escalation when the cost of materials exceeded the contract price by 10%. CMC had requested an amount of \$5,889,562.

Mr. Moore explained the evaluation for staff costs for Associated Steel and Commercial Metals. The requested amount was \$294,965, with the final settled amount being \$253,981.

He then detailed HART's evaluation of freight escalation, which included the elimination of rail freight costs after an examination of bills of lading. The total settled freight amount was \$536,872, from a requested amount of \$762,129.

Ms. Hanabusa asked about the total amount of the change order, and Mr. Moore said that it was \$6,228,324.<sup>1</sup> Ms. Hanabusa pointed out that the WOFH design-build contract, which was let to Kiewit in 2009, actually predated HART's inception in 2011. She clarified that HART had all the rebar provided for in the first ten miles of the alignment, and Mr. Moore confirmed.

Mr. Lui-Kwan commended Mr. Moore on his excellent work in scrutinizing the claimed amounts, thus realizing a savings of \$3.8 million. Mr. Formby said that he appreciated the rigors of the change order review process. He pointed out that slides in the PowerPoint presentation had two different totals for the change order. Mr. Moore indicated the correct total was \$6,228,324.<sup>2</sup>

Mr. Horner said that HART had paid substantially more for rebar than it originally contracted for. However, he pointed out that the cost of the guideway bid came in substantially below original estimates, so the contract is still within the Full Funding Grant Agreement budget.

Committee member Terrence Lee asked whether the contractor had submitted their claim in a timely manner. Mr. Moore said that in April 2010, one month after the NTP date, the contractor put HART on notice that the delay would have a financial impact.

Ms. Hanabusa asked for public testimony. There was none.

Ms. Hanabusa called for a motion to approve the change order. Mr. Lui-Kwan so moved, with Committee member Damien Kim seconding the motion. All being in favor, the

---

<sup>1</sup> The correct amount is \$6,228,445; this was later stated on the record at the Board of Directors meeting that followed the joint committee meeting.

<sup>2</sup> The correct amount is \$6,228,445; this was later stated on the record at the Board of Directors meeting that followed the joint committee meeting.

Minutes of the Joint Meeting of the Finance Committee  
and Project Oversight Committee  
August 27, 2015

motion carried unanimously. Ms. Hanabusa expressed her appreciation for Mr. Moore's thoroughness.

IV. Change Order Process Overview Presentation

Mr. Grabauskas introduced HART Director of Design and Construction Chris Takashige, and invited him to give a brief personal background.

Mr. Takashige said that his background following his graduation from the University of Hawaii is mostly military. He worked briefly for Hawaiian Dredging and then served as a test engineer at Pearl Harbor Naval Shipyard. He then worked in operations and maintenance in the Army Public Works sector. He then worked with the Army Corps of Engineers, during which he was a warrant contracting officer. He also held positions with the City and the State. Mr. Takashige said that his PowerPoint presentation, a copy of which is attached hereto as Attachment B, was intended to address members' questions from the previous month about HART's change order process.

Mr. Takashige said that the change order process begins in the field, initiated either by HART or its contractor, when a deviation is noted from the contract. Field personnel then make a determination of merit, which involves reading the contract. If there is merit, the contractor is informed in writing that the change will proceed. The contractor drafts a request for change, while HART staff requests an independent cost estimate from technical staff. At this point, staff may also be requested to do a myriad other tasks, including technical design review. Field staff concurrently looks at level of effort (i.e., man hours, board feet of lumber, etc.), from which the cost is ultimately calculated.

Mr. Takashige said that staff seeks approvals from the officer in charge, as well as from contract administration. As an aside, he noted that he is working with contract staff to simplify change order documentation to make it clearer. Mr. Takashige pointed out that although there is no formal review by a change review board as Mr. Formby asked the previous month, the different technical levels of review constitute the same scrutiny as a board review. Staff then formulates a position based on level of effort, or target figure prior to negotiation. During negotiations, contract administration personnel participate to ensure conformance to the contract and procurement law. When the change order documentation is being prepared, Corporation Counsel performs its review for form and legality. Following that, the Board of Directors is presented with the change order for their approval (for those change orders reaching the million dollar threshold for Board of Directors review).

Mr. Takashige said that the validity of the process is underscored by the HART's compliance with federal, state and city procurement standards. Checks and balances are also built into the process to ensure that tax monies are utilized properly, and to ensure fairness for the contractor.

Minutes of the Joint Meeting of the Finance Committee  
and Project Oversight Committee  
August 27, 2015

Committee member William “Buzz” Hong asked if Mr. Takashige was employed by Hawaiian Dredging at the time it bid on rail contracts. Mr. Takashige said he was not.

Ms. Hanabusa said that the change order process should begin with the threshold question of the legal basis for the change, i.e., what does the contract provide, whether the change order is in compliance with the contract, whether it is timely, and how it is structured.

V. Executive Session

There was no need for executive session.

VI. Adjournment

There being no further business before the joint committees, Ms. Hanabusa adjourned the meeting at 10:24 a.m.

Respectfully Submitted,

  
Cindy Matsushita  
Board Administrator

Approved:

  
Ivan Lui-Kwan  
Chair, Finance Committee

  
Colleen Hanabusa  
Chair, Project Oversight Committee

SEP 24 2015  
Date

## ATTACHMENT A



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas  
EXECUTIVE DIRECTOR AND CEO

FINANCE  
COMMITTEE MEMBERS

Ivan M. Lui-Kwan, Esq.  
CHAIR

George I. Atta  
Michael D. Formby  
Ford N. Fuchigami  
Donald G. Horner

August 27, 2015

**TO:** HART Board of Directors

**THROUGH:** Daniel A. Grabauskas  
Executive Director and CEO

**FROM:** Charles S. Carnaggio  
Officer-in-Charge

John M. Moore  
Deputy Director of Project Management

**SUBJECT:** Escalation due to Schedule Impacts  
West Oahu Farrington Highway Guideway  
Contract No.: CT-HRT-10H0137

PROJECT OVERSIGHT  
COMMITTEE MEMBERS

Colleen Hanabusa  
CHAIR

Damien T.K. Kim  
VICE CHAIR

Michael D. Formby  
William "Buzz" Hong  
Donald G. Horner  
Ivan M. Lui-Kwan, Esq.

## Overview

This Contract Change Order will compensate Kiewit for costs incurred due to price escalation experienced by Commercial Metals (CMC) for reinforcing steel material and installation cost, including, but not limited to, wage rate increases for craft and staff labor, ocean freight and trucking, and material escalation costs resulting from the Archeological Inventory Survey (AIS) delay and the Notice To Proceed (NTP) delays which affected the project schedule.

## Recommendation

HART Board of Directors to approve a Lump Sum Change Order in the amount of \$ 6,228,445.00.

## Justification

The project schedule incurred a 13-month delay resulting from litigation-related AIS work. Additionally, the project schedule incurred a 20-month extension due to the NTP delays. The Contractor, Kiewit Infrastructure West Co. (Kiewit) submitted a

request seeking compensation for the cost escalation experienced by their Subcontractor CMC resulting from these delays. This Contract Change Order provides funds to compensate Kiewit's Subcontractor CMC for actual and anticipated costs which have been and will be incurred as a result of price escalation, related to the AIS delay and the NTP delays to the Contract.

**Fiscal Impact**

There is not sufficient contract allocated contingency budget remaining. The cost will be covered as a budget transfer from unallocated contingency to the Contract's contingency. Remaining balance for unallocated contingency is \$6,228,445.00.

# **HART**

HONOLULU AUTHORITY for RAPID TRANSPORTATION

## **Evaluation of WOFH Commercial Metals Escalation Proposal August 27, 2015**

# Proposed Action

- Authorizes the Chief Executive Officer to execute Change Order 00068 with Kiewit Infrastructure West Co. under the West Oahu/Farrington Highway Guideway contract for the settlement of Commercial Metal Companies Escalation Costs due to the delay in issuing Notice To Proceed 2, 3, and 4 and the delay due to the Archeological Investigative Survey all totaling Thirty Three (33) months in the amount of \$6,228,324.

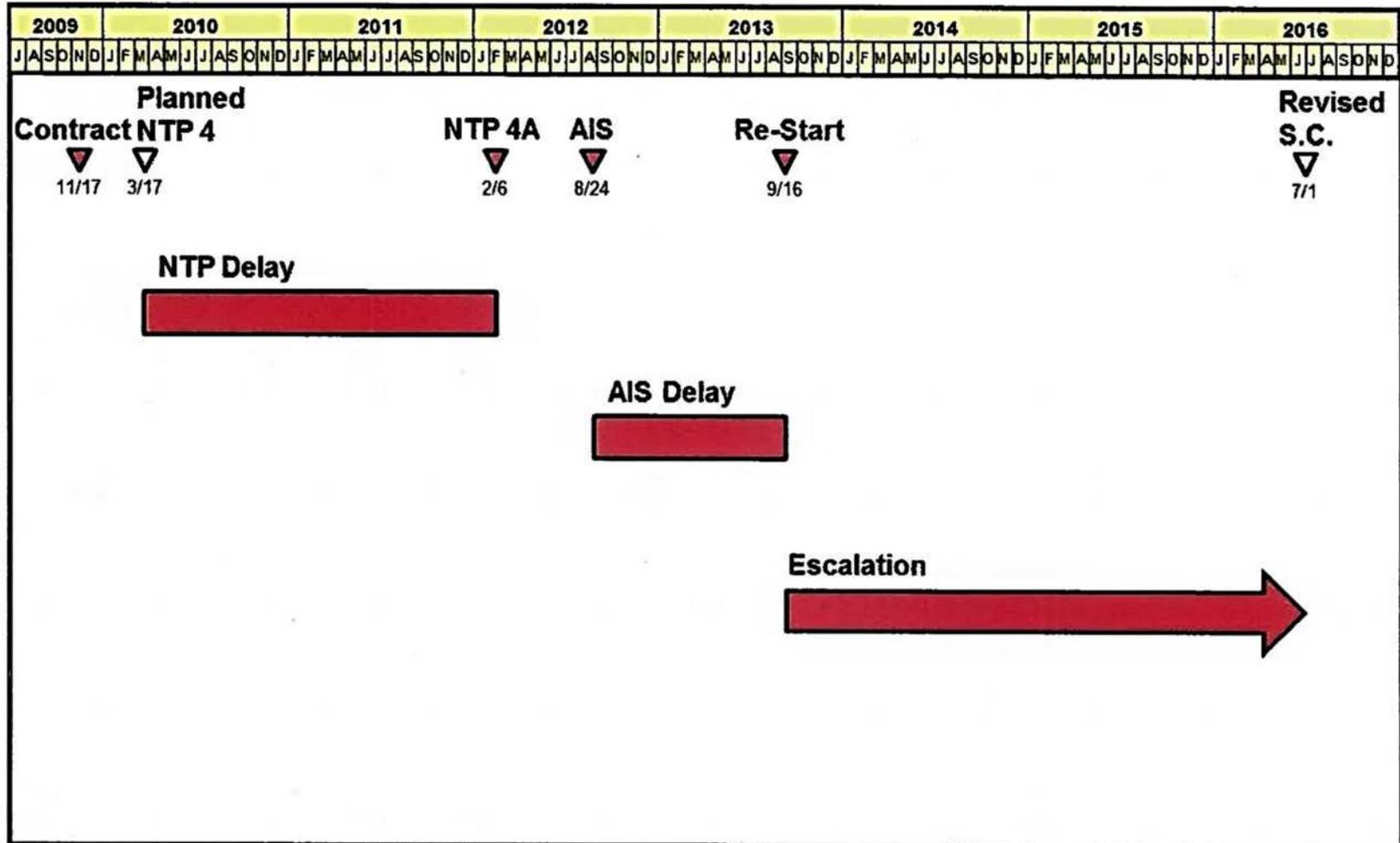
# NTP Delay and AIS Suspension Schedule Impact

NTP Schedule Delay Impact	20 months
AIS Suspension Delay	13 months
Total Time impact to West Oahu/Farrington Highway Contract (WOFH)	33 months
Change to Substantial Completion Date	Changed date from Oct. 1, 2013 to July 1, 2016
<b>Escalation is being calculated from September 1, 2013</b>	

# WOFH Contract Delay

- The following events delayed the WOFH DB Contract:
  - The delayed issuance of NTP 2, 3, & 4
  - Program's construction was halted due to court ruling requiring completion of the Archeological Investigative Survey (AIS)
- Resolution of the cost with KIWC due to delay were stagnated. A path forward was developed to come to an equitable adjustment with KIWC. It consisted of:
  - Complete the AIS Audit, Develop Provisional Sum Change Orders, Individual Item Evaluation
  - All other issues with WOFH contract are resolved with change orders issued
  - KIWC subcontractor, Commercial Metals (CMC) was broken out and settled directly
- Initial Claim submitted on September, 2013 and settled July, 2015

# WOFH Contract Delay Overview



# Delay Change Order Summary

Category	Requested Amount	Settled Amount
Craft	\$ 1,061,418	\$ 880,154
Staff	294,965	253,981
Craft Labor Shortage	1,406,400	0
Materials	5,889,562	3,908,114
Freight	<u>762,129</u>	<u>536,872</u>
Total	<u>\$ 9,414,474</u>	<u>\$ 5,579,121</u>

KIWC Mark-up = \$649,324 (10.45%). Original Request = \$1,095,700  
 Total Agreed Amount including KIWC Mark-up = \$6,228,445

A cost difference of \$3,835,353 or 59.2% of the requested amount

# Evaluation of Craft Labor Escalation

Category	Requested Amount	Settled Amount
Shop Labor Associated Steel	\$ 180,357	\$ 172,228
Staff Labor Associated Steel	268,273	122,898
Field Labor Commercial Metals	<u>632,788</u>	<u>585,028</u>
Total	<u>\$ 1,081,418</u>	<u>\$ 880,154</u>

A cost difference of \$201,264 or 81.3% of the requested amount

# Evaluation of CMC Claim for Iron Worker Short Supply Labor

CMC claimed that due to a short supply of qualified journeymen Iron Workers that their labor efficiency was negatively impacted and requested \$1,406,400. CMC's claim was based upon a 40% apprentice usage rate experienced by CMC.

1. HART established a data base created from certified payrolls of journeymen and apprentices provided by CMC and ASW.
2. HART reviewed actual journeymen and apprentice hours realized by both companies from September 2013 through May 2015.
3. The actual hours worked in this time frame was slightly less than the CMC forecasted hours for the required work.
4. HART rejected the short supply request for compensation. The actual hours worked did show a 40% usage of apprentices, however, as the actual hours worked were less than those forecasted by CMC, no negative impact was experienced and it was agreed that the cost was zero dollars.

# Evaluation of CMC Claim for Reinforcing Steel Material

CMC initially based their escalation cost for material by utilizing published announcement letters from a major rolling mill in the western portion of the United States. HART did not accept this approach and suggested utilizing nationally accepted indices for determining escalation cost for reinforcing material. Since neither party could find common ground it was decided to address escalation when it occurred, rather than forward price material costs based upon anticipated escalation which had not yet occurred.

CMC's requested amount based on published letters	\$ 5,889,562	
Settled amount based on actual cost	<u>3,908,114</u>	
Cost difference	<u>\$1,981,448</u>	66.3%

# Evaluation of Staff Labor Escalation

Category	Requested Amount	Settled Amount
Staff Labor Associated Steel	\$ 80,587	\$ 65,859
Staff Labor Commercial Metals	<u>214,378</u>	<u>188,132</u>
Total	<u>\$ 294,965</u>	<u>\$ 253,981</u>

A cost difference of \$40,964 or 86.1% of the requested amount

# Evaluation of Transportation Escalation

CMC originally planned to manufacture the reinforcing steel in their new mini-mill located in Nevada. Their transportation costs were based upon rail shipping to the State of Washington, ocean freight to Hawaii, and trucking to the local fabrication sites on Oahu. Their original requested cost of \$762,129 was based upon these three factors.

1. HART determined in reviewing actual bills of lading that CMC had elected to not manufacture the rebar but to purchase bulk rebar from a small mill in the State of Washington, eliminating the need for rail freight. The amount of \$159,277 was removed from the requested cost.
2. HART reviewed actual ocean freight bills and agreed to \$380,210 prior to mark up
3. HART accepted the cost for trucking on Oahu which was \$105,339 prior to mark up

Total requested freight	\$ 762,129	
Total settled freight	<u>536,872</u>	
Cost difference	<u>\$ 225,257</u>	70.4%

# Questions

Mahalo!

## ATTACHMENT B



# Change Order Process Overview

August 27, 2015

# Change Order Process

- **Initiation of a Change**
  - Merit
  - Fact Finding
  - Field Personnel
  
- **Request For Change (RFC) and Independent Cost Estimate (ICE)**
  - Concurrent Actions
  - Technical Cost Support

# Change Order Process (con't)

- **Analysis and Negotiation Strategy**
  - Level of Effort
  - Contract Administration Support
  - Officer In Charge Approvals
  
- **Negotiations and Change Order Document**
  - Fair and Reasonable
  - Contract Administration Participation
  - Corporation Counsel Review
  
- **Approvals**
  - Various Levels

# Validity of the Process

- **Procurement Compliance Standards**
  - Federal Acquisition Regulation
  - FTA Circular 4220.1F
  - Hawaii State 103D
- **Checks and Balances**
  - Internal HART Board Review
  - Fair and Reasonable
    - Protects the Taxpayer
    - Provides Minimum Requirement

*Mahalo!*



*HONOLULU RAIL TRANSIT*

H O N O L U L U   R A I L   T R A N S I T   P R O J E C T

[www.HONOLULUTRANSIT.ORG](http://www.HONOLULUTRANSIT.ORG)

**HART**

HONOLULU AUTHORITY for RAPID TRANSPORTATION