



MINUTES

**Board of Directors Meeting
October 6, 2011, 10:00 A.M.
Mission Memorial Annex Conference Room
550 South King Street
Honolulu, Hawaii**

PRESENT:

Carrie Okinaga	Keslie Hui
Ivan Lui-Kwan	Wayne Yoshioka
William "Buzz" Hong	Robert Bunda
David Tanoue	Don Horner
Damien Kim	

ALSO IN ATTENDANCE:

Toru Hamayasu	Al Lardizabal
Gary Takeuchi	Barbara Tanabe
Joyce Oliveira	Maurice Morita
Paul Romaine	D. Taga
Frank Doyle	Laura Figueira
William Spiegelberg	David Wilson
Matt Robertson	Russell Honma
Michael Levine	

EXCUSED:

Glenn Okimoto

I. Call to Order by Committee Chair

At 10:07 A.M., the meeting of the Board of Directors was called to order by Board Chair Carrie Okinaga.

II. Public Testimony

Ms. Okinaga called for public testimony. Russell Honma offered testimony on the Core Systems contract, and recommended that HART explore the option of manufacturing railcars in Hawaii. Board Member William "Buzz" Hong noted that the issue of jobs and the local manufacture of railcars had been brought up by other members of the public at recent town hall meetings.

III. Approval of Minutes of September 16, 2011 Board Meeting

Deputy Corporation Counsel Gary Takeuchi reported that research was done into the Board's rules and Robert's Rules of Order, and no prohibition was found that precludes members who were not present at a meeting from voting to approve the minutes of that meeting. It was further determined that minutes can be approved through general consensus rather than by formal motion.

Ms. Okinaga called for the approval of the minutes of the September 16, 2011 Board meeting. There being no objections, the minutes were unanimously approved.

IV. Report of October 6, 2011 Finance Committee Meeting

Finance Committee Chair Don Horner reported that the Finance Committee held a meeting at 8:00 A.M. on October 6, 2011, at which the Committee adopted the minutes of its August 11, 2011 meeting and its September 8, 2011 joint meeting with the Project Oversight Committee, examined the FY2013 Operating and Capital Budgets, discussed the Balanced Scorecard, and briefly touched upon the September 2011 Financial Plan in the context of the budgets.

Mr. Horner stated that the Finance Committee will take up the FY2013 Operating and Capital Budgets at its next meeting, after which a public hearing will be held, and the budgets will be transmitted to the Mayor and City Council for their consideration before returning to the full HART Board for approval in accordance with the Charter.

Board Member Ivan Lui-Kwan asked whether the budget approval process had been discussed with the Chair of the City Council's Budget Committee. Mr. Horner replied that there has been a good level of communication between stakeholders at HART, the City Council, and the Mayor's Office.

V. Report of September 29, 2011 Project Oversight Committee Meeting

Project Oversight Committee Chair Damien Kim reported that the Project Oversight Committee held a meeting on September 29, 2011, at which the Committee approved the minutes of its August 18, 2011 meeting and its September 8, 2011 joint meeting with the Finance Committee, examined the July 2011 Monthly Progress Report, and heard a briefing on safety and security from HART staff. Mr. Kim reported that the Committee requested that future Monthly Progress Reports be summarized in a clearer form for public consumption.

VI. Report of September 8, 2011 Joint Project Oversight Committee and Finance Committee Meeting

Mr. Kim reported that the Project Oversight Committee and Finance Committee met on September 8, 2011 to hold a videoconference with officials from Ansaldo Honolulu JV and its constituent and parent companies. 15 questions were submitted to Ansaldo Honolulu JV and its constituent and parent companies, and from their answers, more was learned about the partners in the joint venture. Mr. Kim reported that on the whole, the joint venture exhibited financial stability.

Mr. Horner added that the purpose of the meeting was to gather information to explore whether there were material changes to the joint venture's financial capacity. Mr. Horner further stated that the committees' findings were turned over to BFS and officials at HART, who are responsible for the procurement of the Core Systems contract and will be conducting any further investigation. Mr. Horner stated that the minutes of the meeting speak for themselves. Ms. Okinaga stated that the minutes would be posted online, along with the fifteen questions posed to the Ansaldo officials and their slide presentation.

VII. Update on Core Systems Contract

Interim Executive Director Toru Hamayasu thanked BFS for its assistance in the due diligence on the ability of Ansaldo Honolulu JV to fulfill the Core Systems Contract, and reported that he is still waiting for one more piece of information from Finmeccanica. Mr. Hamayasu stated that he will wait for the due diligence process to be completed, and advised that he may request a special Board meeting before sending out the contract.

Board Member Robert Bunda asked whether the bonding language had been reviewed by Corporation Counsel. Mr. Hamayasu replied that the contract language had been examined and reviewed by Corporation Counsel and the Contractor, and that further due diligence is being performed on the Offeror's bond capacity as an added measure. Mr. Takeuchi stated that Corporation Counsel reviews all contracts with bonds that require approval for form and legality.

Mr. Hong asked whether a review by outside counsel could be performed to ensure that the bond specifications contained within the contract are legal, correct, and will address any future circumstances that may be encountered. Mr. Takeuchi noted that arranging for an expert third-party review may take a long time to complete, as a procurement may be required to obtain the services. Mr. Lui-Kwan stated that the bonding documentation from the Offeror needs to provide the City with adequate security and protection.

Board Member Keslie Hui requested more information regarding the enforceability of the contract with the Core Systems Offeror. Ms. Okinaga agreed with the request, but noted that the bond documents themselves won't be available until HART sends the contracting package to the Offeror and the documents are returned in completed form. Mr. Horner expressed a desire for the Board to hold a meeting before the contracting package is sent

out, and another meeting around twenty days later to examine the documentation contained in the contracting package after it is returned by Ansaldo Honolulu JV.

Procurement and Contracts Officer Wes Mott stated that, in RFP Part 1, the performance and payment bond coverage requirements were one hundred (100) percent of the Design-Build component; however, in RFP Part 2 the coverage requirements were revised to reflect one hundred (100) percent of Design-Build elements classified as Construction and fifteen (15) percent of elements classified as non-construction, such as vehicles. Mr. Mott also stated that, in RFP Part 1, individual Principal Participants in the Offeror's organization were required to have a minimum amount of liquid net assets or would otherwise be required to have a Guarantor make up the difference. AnsaldoBreda did not have the required amount of liquid net assets and Finmeccanica was the Guarantor. The amount of Finmeccanica's Guarantor Commitment on behalf of AnsaldoBreda was \$50M US Dollars. Mr. Mott stated that in Ansaldo's RFP Part 1 proposal there were also declarations of interest for financial support. Mr. Mott stated that pursuant to the solicitation documents, the Surety who provides the bonds must have a minimum rating of A-X by A.M. Best and Company and that the Surety must be listed on Treasury City Circular 570 and be on the list of companies approved by the State of Hawaii. He stated that the Surety who issued the Bid Bond submitted by Ansaldo in their RFP Part 2 proposal was Chartis. Mr. Horner noted that these issues were raised in the September 8, 2011 Joint Meeting of the Project Oversight Committee and Finance Committee, and stated that he looks forward to receiving the final report after the due diligence process is completed.

Ms. Okinaga requested that staff be available to meet with Board members to address their concerns on the Core Systems procurement. Ms. Okinaga also stated that staff at past meetings may have been reticent to discuss the details of the procurement process given the procurement litigation, and so, since a special Board meeting was being contemplated, the agenda for that meeting will list an executive session as an item to allow the Board to discuss the Core Systems procurement without affecting possible litigation.

Mr. Hong asked about the sense of urgency surrounding the Core Systems Contract. Mr. Hamayasu replied that there is the issue of fairness to the vendor, as the vendor provided a certain cost that would be good for a certain amount of time. Mr. Hamayasu also noted that the train control system proposed by the Offeror will affect the design of the system, so it would be beneficial to get the contract out soon.

Ms. Okinaga proposed that the Board meet at 8:30 A.M. on Thursday, October 13, 2011 to take up the issue of the Core Systems Contract. No objections were expressed.

VIII. Establishment of a HART Gift Policy

Mr. Hamayasu summarized a draft gift policy for HART. Ms. Okinaga noted that City Charter has provisions relating to gifts to HART, but also noted that the Board's Financial Policies specifically state the HART will pursue help from the private sector,

which may include grants, gifts, or contributions. Mr. Takeuchi noted that the City Charter empowers the Executive Director of HART, rather than the Board, to accept gifts.

Mr. Lui-Kwan expressed concerns that the gift policy, as drafted, is not sufficiently specific to engender public confidence and trust, and stated that he would feel more comfortable if the policy were more specific. Mr. Kim noted that the HART Board already has an ethics policy, which guides HART Board Member conduct.

Mr. Horner suggested that the gift policy be deferred to a future meeting, and that the Chair and Vice Chair work on improving the gift policy's language. Ms. Okinaga agreed that she would work on the policy with Vice Chair.

IX. Update on Hiring Process for a Permanent Executive Director

Deputy Project Officer Frank Doyle stated that the procurement for an Executive Search Firm is on schedule: proposals were received by the due date, evaluations are currently underway, a selection should be made on October 14, and a notice to proceed should be issued on October 31.

Mr. Hui asked about the interaction between the selected firm and the HART Board: who from the Board would serve as the point of contact, how many Board members will serve on the candidate selection committee, and what topics (e.g. salaries) should be discussed in executive session. Mr. Hui noted that there had been a suggestion that the HR Committee serve as the Executive Search Committee, but that there had also been discussion that the full Board should be involved. Ms. Okinaga stated that the full Board will be involved in selecting the final candidate and would make decisions on compensation and benefits. Ms. Okinaga noted that the Board Chair has the ability to add any interested Board member(s) to the HR Committee. Mr. Doyle stated that the purpose of the Executive Search Committee is fairly limited: to identify a work plan which can be presented to the full HR Committee.

Mr. Horner stated that it would make sense for the HR Committee to serve as the Executive Search Committee, and also that it would be helpful if the finalized work plan, the job description, salary range, etc., could come back to the full Board before being sent back to the HR Committee for implementation. Mr. Hui stated that the Executive Search Committee will bring the work plan to the full Board to approval.

Mr. Horner also stated that it would also be helpful if the top few candidates be able to meet with Board members to allow those candidates to be assessed, and noted that there might be a sensitivity regarding the privacy of non-selected candidates.

Mr. Hong queried whether it would be advantageous for an Executive Director to have expertise in construction at this stage of the project, and then have expertise in operation and maintenance once the system is running. Mr. Hui noted that the HR Committee's list of qualifications included an engineering and/or construction background.

X. Report of the Interim Executive Director

Mr. Hamayasu briefly reviewed the items contained in his weekly report, attached hereto as Attachment A of these minutes, and extended an invitation to meet individually with Board members on a regular basis to provide more detailed information on the project.

Additionally, Mr. Hamayasu relayed information on why it was necessary to create a revised draft of the Financial Plan, and briefly touched upon some of the key differences between the April 2011 and September 2011 drafts, which included a decrease in the cost of the project, from \$5.3 billion to \$5.174 billion, and a decrease in the expected revenue from the GET surcharge.

XI. Adjournment

Mr. Hong commended HART staff for organizing the recent town hall series.

Having no other pending business, Ms. Okinaga called for the meeting to be adjourned. There being no objections, the meeting was adjourned at 12:03 P.M.

Respectfully Submitted,



Tyler Dos Santos-Tam
Board Administrator

Approved:



Carrie Okinaga
HART Board Chair

OCT 13 2011
Date

[ATTACHMENT A]

Activities and Current Events

- 1) HART-related items at the City Council:
 - a. At the September 16, 2011 City Council meeting, Resolution 11-227, *urging the Honolulu Authority for Rapid Transportation to establish an art in transit program*, was approved by a 7-1 vote (no vote cast by CM Berg). In this resolution, HART is asked to submit a report to Council by December 1, 2011 on the status of establishing an arts-in-transit program, which HART is already in the process of completing.
 - b. Resolution 11-248, on the Core Systems Contract, was placed on the September 28, 2011 Budget Committee agenda for discussion, but was deferred. Councilmember Tom Berg, who introduced this resolution, requested the deferral until Bombardier could be present before the Budget Committee.
 - c. At the September 29, 2011 Transportation Committee meeting, Resolution 11-249, *urging the State Legislature and the Governor to authorize the City to impose a county surcharge to the general excise tax for highway and bikeway construction*, was deferred.
 - d. At the September 29, 2011 Zoning and Planning Committee meeting, Resolution 11-271, authorizing CMs Anderson, Cachola and Kobayashi to investigate issues relating to the city's rail project and TOD while in Denver, Colorado on October 21, 2011, was approved.
- 2) Crews commenced work on September 19 between Pearl City and Aloha Stadium for pre-engineering activities along Kamehameha Highway. The work consists of drilling to locate utilities and soil sampling tests.
- 3) An informational community meeting on the City Center Archaeological Inventory Survey was held at Farrington High School on September 26.
- 4) The Archaeological Inventory Survey of the City Center section, from Kalihi to Ala Moana Center began on September 26. Lane closures will be required during non-peak traffic hours, and may include possible night work in approved areas.
- 5) Informational Town Hall meetings were held from September 27 to October 5 in five locations around the island: Kapolei, East Honolulu, Pearl City, Windward Oahu, and urban Honolulu.
 - a. All meetings were well-attended, with about 500 attendees in total. Many attendees voiced their desire to start construction soon and create jobs.
 - b. Questions centered largely on operational issues, such as parking, transit fares, and security in and near the stations. Other questions dealt with construction issues, including traffic delays, the start of guideway construction and jobs. There were also questions regarding project costs, including queries regarding the GET tax surcharge revenue, the cost of extending the route to UH Manoa and Waikiki, and retail and development around the rail stations.
 - c. In addition to several of our HART board members, several state and city leaders attended as well, including City Managing Director Doug Chin and City Council members Tom Berg, Ikaika Anderson, Stanley Chang, Breene Harimoto and Tulsie Gabbard. State lawmakers who attended included Sen. Michelle Kidani; Rep. Isaac Choy, Rep. Mark Hashem, and Rep. Aaron Johanson.