

**BART Earthquake Safety Program  
Citizen's Oversight Committee**

**Report to the BART Board of Directors**

**August 28, 2014**

**Report No. 3  
August 2014**

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**I. Overview**

The Earthquake Safety Program Citizens' Oversight Committee (COC) has been in existence since January 2006. The current Committee is the fourth Committee empanelled by the BART Board of Directors to carry out the duties specified in Measure AA.

**II. Establishment of the Citizens' Oversight Committee**

The BART Earthquake Safety Program Citizens' Oversight Committee was created as required following the passage of Measure AA on November 2, 2004. The measure, which authorized the BART District to issue bonds for \$980 million dollars to make earthquake safety improvements to BART facilities in Contra Costa, San Francisco and Alameda counties, stipulated that BART establish a Citizens' Oversight Committee (COC) to verify that bond revenues are spent as promised.

The measure called for a five-member panel to be created from interested individuals who must reside within the three-county BART District. Each member must have specific expertise and fulfill one of the following:

- ❑ One member shall have expertise in seismic retrofitting
- ❑ One member shall have expertise in auditing
- ❑ One member shall have expertise in engineering
- ❑ One member shall have expertise in public financing or project management
- ❑ One member shall represent the community at large

**III. Duties and Responsibilities of the Committee**

The Committee Members assume no professional liability as to the quality and soundness of the design and construction of any element of the Program. The members of the COC

have three key duties to fulfill, as set forth in BART Board Resolution 4920, passed by the BART Board in June 2004. They are to:

- ❑ Review scheduling and budgeting of projects to be funded by the bond measure.
- ❑ Confirm that work is completed and bond funds are expended in accordance with the bond measure.
- ❑ Inform the public concerning the expenditure of bond revenues.

#### **IV. Selection of the COC**

On January 24, 2013, the BART Board of Directors selected five members and four alternates to serve as the Citizens' Oversight Committee. The length of service for this panel will be two years – from January 24, 2013 to January 24, 2015. The current Committee is the fourth Committee to serve.

##### **2013-2015 Membership**

- ❑ Matt Wrona, Seismic Seat – Committee Chair
- ❑ Ralph Mason, Public Financing/Project Management Seat – Vice Chair
- ❑ Sayed Sultan, Engineering Seat
- ❑ Robert Barksdale, Auditing Seat
- ❑ Juliano Waldron, Community At Large Seat

##### **Alternates**

- ❑ Richard Pipkin, Engineering Seat
- ❑ San Bak Lee, Public Finance/Project Management Seat
- ❑ Ching Wu, Seismic Seat
- ❑ Prabhat Goyal, Community At Large Seat

#### **V. Report**

Five COC meetings and an Ethics and Public Training meeting have been held under this Committee and are covered by this report. During the course of these meetings, the Committee has asked staff for a wide range of information on the seismic upgrade program, from the Audit practices employed, to the Transbay Tube retrofit construction progress, to the Berkeley Hills Tunnel Study, to contingency funding and status of funds from funding sources.

##### **Summary Financial Report**

At each meeting, a financial report is presented to the committee detailing how much money has been spent out of the total \$980,000,000 in General Obligation Bond funds. At the February 2014 COC meeting, staff reported that 25 contracts within the Earthquake Safety Program were complete, with two currently in construction. The project has expended \$529,130,402 as of December 2013 which amounts to 54% of the total Bond funds.

A summary of the meetings follows:

### **February 26, 2013 -- Orientation Meeting**

An orientation meeting was held on February 26, 2013 for new Citizens' Oversight Committee Members and Alternates. The Committee was provided with an overview of the function of the Citizens' Oversight Committee and a review of its responsibilities and duties.

The Committee was provided with the following:

- General Obligation Bond Language
- Resolution 4920
- Committee By Laws
- Brown Act
- Conflict Interest Code
- Earthquake Safety Program Fact Sheet
- Earthquake Safety Program Scope
- Form 700
- Exhibit A: Reportable Interests
- BART Contacts information
- Earthquake Safety Program Bond Financial Report
- Contracting Status Report
- Project Progress Report

Staff invited members of the Committee to introduce themselves and share some of their work experience.

New members reviewed the history of the Citizens' Oversight Committee and the Earthquake Safety Program, as well as the language of Measure AA. The Committee also reviewed all sources of funds for ESP, the Brown Act, the Conflict of Interest Code and associated exhibits, and the COC Bylaws. The Committee and alternates were informed that they would undergo Ethics and Public Service Training in a separate meeting.

Staff detailed the construction of the BART system, and the seismic issues related to it, including vulnerability and various retrofit concepts. Staff provided an overview of the program's progress since the last meeting, noting the completed activities, the current activities, the upcoming activities, and the schedule. Staff also reviewed the Financial Status Report with the Committee.

New members were given a chance to speak with outgoing Committee Chairman, Elmo Wedderburn, for information. Elmo Wedderburn emphasized the Committee's role and suggested quarterly meetings.

Staff proposed to provide a breakdown of funding and cost savings to present at the next meeting.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for April 23, 2013.

### **April 23, 2013 – Ethics and Public Service Training Meeting**

The Committee was provided with the following:

- Laws and Principals AB 1234 Training
- Project Progress Report
- Bond Financial Report
- Contracting Status Report

The Committee underwent Ethics and Public Service Training.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for May 7, 2013.

### **May 7, 2013 -- Second Meeting**

The second COC meeting was held on May 7, 2013. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule
- Contracting Status Report

Staff discussed the selection of a Chairperson/Vice Chair and reviewed the roles and responsibilities of each position. The Committee nominated Matt Wrona for Chairperson and Ralph Mason for Vice Chair and the Committee approved unanimously.

Scott Schroeder, BART's Controller – Treasurer, presented information on BART's General Obligation Bond fund and how the investments have been managed for the Earthquake Safety Program.

The Committee led a discussion about the estimated cost of the Berkeley Hills Tunnel vs. the Fremont Line Project.

The Committee expressed interest in having BART's Auditor be the speaker at the next meeting and requested more information regarding the Transbay Tube Retrofit.

Staff informed the Committee that discussion about the Transbay Tube must be done in a closed session, due to security considerations, and members must sign a confidentiality agreement.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for August 6, 2013.

### **August 6, 2013 – Third Meeting**

The third COC meeting was held on August 6, 2013. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule
- Contracting Status Report

Terry Green, BART Manager of Special Investigations and Audits, gave an overview of the role, responsibilities and procedures of the Auditing Department.

The Committee requested a sample of an Auditing report to be handed out at the next meeting.

The Committee requested that information about the options for the Berkeley Hills Tunnel be part of the presentation at the next meeting.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for October 3, 2013 but was postponed until December 3, 2013.

### **December 3, 2013 – Fourth Meeting**

The fourth COC meeting was held on December 3, 2013. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule
- Contracting Status Report
- Sample Auditing Report

Staff explained to the Committee that BART's internal processes related to the Berkeley Hills Tunnel had not been completed as anticipated and that discussion on that topic would be rescheduled for a later date.

The Committee had a brief discussion with staff about about the progress of the Transbay Tube construction and BART's operations under various earthquake scenarios.

The Committee asked for details about the Report to the Board. Staff informed the Committee that information about the Report to Board would be on the agenda for the next COC meeting in February 2014. The Committee Chair will present the report to the BART Board.

The Committee was provided copy of the sample audit report.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for February 4, 2014.

### **February 4, 2014 – Fifth Meeting**

The fifth COC meeting was held on February 4, 2014. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule
- Contracting Status Report

Staff stated that BART's internal processes related to the Berkeley Hills Tunnel had not been completed as anticipated, and that the COC members will be kept up to date with the progress of the BHT Report. If it has been reported to the BART Board before the next COC meeting it will be put on the subsequent agenda.

The Committee requested that language stating that the audits demonstrate and prove that BART is in compliance with the General Obligation Bonds be included in the Report to the BART Board.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for May 6, 2014.

### **VI. Public Access to the COC**

The Earthquake Safety Program has established a number of systems for the public to contact them with questions. These include:

- A dedicated COC telephone information line
- An email address
- COC section of the BART website

The telephone and email are checked daily by project staff. Any inquiries that are received via phone or email are sent on to the COC Chair and the appropriate COC seat

holder to provide a response. Project staff provides the Chair with additional information or assistance as required. Additionally, when the COC website is updated with the agenda and minutes of the meeting, an email is sent to the Earthquake Safety Program electronic mailing list, which includes 853 members (April, 2014). To date, the COC has received one inquiry from the public.

## **VII. Summary Committee Report**

After completion of the first year of the fourth term of the Citizens' Oversight Committee, members of the Committee reached agreement that information provided by BART staff was presented in an informative manner, helping members understand work schedules and funding processes. During the term, members have reviewed the schedule and budget for projects funded by the General Obligation Bond and confirm that, based upon the information provided by staff, the work is being completed and that funds are being expended in accordance with the Bond Measure.

Members are satisfied with presentations made by BART's Controller – Treasurer and Manager of Special Investigations and Audits departments, in addition to those made by Earthquake Safety Project Staff. The Committee has concluded that the project staff is effectively structured and organized to address potential issues and complete the project.