

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

Report to the BART Board of Directors

March 9, 2017

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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 fifth Committee empaneled 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

The current Committee is the fifth Committee to serve. The membership is shown below:

2015-2017 Membership

- ❑ Ralph Mason, Engineering Seat
- ❑ Sang Bak Lee, Public Financing/Project Management Seat
- ❑ Ching Wu, Seismic Retrofitting Seat
- ❑ Clinton Loftman, Auditing Seat
- ❑ Janine de Hart, Community At Large Seat

Alternates

- ❑ Derek Schaible, Seismic Retrofitting Seat – Committee Chair
- ❑ Karen Varnado, Community At Large Seat – Vice Chair

Upon resignation of Ralph Mason, the Committee made the following changes:

- Ching Wu was appointed to the Engineering Seat to take over the vacancy left by Ralph Mason
- Derek Schaible was moved to the Seismic Retrofitting Seat, previously being the alternate

V. Report

Six COC meetings have been held under this Committee and are covered by this report. Over the course of these meetings, the Committee has asked staff for a wide range of information on the seismic upgrade program, from the Transbay Tube retrofit construction progress, 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 2017 COC meeting, staff reported that 31 contracts within the Earthquake Safety Program were complete, with five currently in construction. The project has expended \$604,123,367 as of December 2016, which amounts to 62% of the total Bond funds.

A summary of the meetings follows:

May 6, 2015 -- Orientation Meeting

An orientation meeting was held on May 6, 2016 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
- 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 could perform a free online Ethics and Public Service Training or choose to undergo training by BART staff.

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.

BART Director Robert Raburn later addressed the Committee members, remarked on the critical role of the COC, and thanked members for their services.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for August 6, 2015 but was postponed until September 3, 2015.

September 3, 2015 – Second Meeting

The second COC meeting was held on September 3, 2015. 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. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule

Staff discussed the selection of a Chairperson/Vice Chair and reviewed the roles and responsibilities of each position. The Committee nominated Derek Schaible for Chairperson and Karen Varnado for Vice Chair and the Committee approved unanimously.

Other administrative items were conducted including submission of Ethics Training forms, Form 700, and W9 documents, as well as review of the BART Code of Conduct.

Ramiro Salazar, Legal Counsel for BART, provided a brief explanation of the BART Code of Conduct for citizens' advisory committees, noting that the Code of Conduct was enacted by the BART Board of Directors in 2013 but had not previously been distributed to the ESP COC. Ramiro Salazar requested that committee members peruse the Code of Conduct and inform BART staff if they have any questions or comments

BART staff briefly described the retrofit concepts for the Transbay Tube, noting the projected cost is \$350 million dollars, substantial retrofit work will involve methods to prevent leakage in the event of a major earthquake, and that a new rail spur will need to be built to support the Transbay Tube retrofits.

The Committee inquired about the status of the Berkeley Hills Tunnel (BHT)—which is not part of the Earthquake Safety Program—including repair work, associated repair concepts, costs and impacts to BART customers.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for January 21, 2016.

January 21, 2016 – Third Meeting

The third COC meeting was held on January 21, 2016. 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. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule

BART Board Director John McPartland attended the meeting and inquired about the Program scope and retrofit concepts. Director McPartland thanked the Committee for their participation and service.

The Committee had a discussion with staff about the progress of the Transbay Tube construction and contracting, including work on a related project to build a spur track at the Oakland Shops site in support of the Transbay Tube retrofit, as well as the requirements for the contractor to provide a work train.

The Committee had a brief discussion regarding BART’s operations under various earthquake scenarios.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for April 28, 2016.

April 28, 2016 – Fourth Meeting

The fourth COC meeting was held on April 28, 2016. 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. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule

Maisha Everhart, BART Manager of Local Government and Community Relations, gave a presentation on “Better BART” and the draft expenditure plan that outlines how BART would spend a proposed safety and reliability bond measure for the November 2016 ballot.

As part of the discussion on “Better BART”, staff explained to the Committee that \$65 million of the bond has been identified for creep repairs to the Berkeley Hills Tunnel which is not part of the Earthquake Safety Program scope, but that the bond did not include money to construct a new tunnel. Staff also confirmed that the bond will be paid through property taxes.

The Committee was provided a copy of the “Better BART” presentation.

BART staff commented on some of the challenges of the current ESP projects including redesign of micropile installation due to unforeseen underground obstructions, working with an elementary school to coordinate work activities and plan for impacts, and redesigning foundation retrofits to avoid major traffic impacts.

The Committee had a brief discussion on the status of Transbay Tube construction and expected impacts to BART’s operations during construction.

BART staff commented that most of the work under the Earthquake Safety Program had been performed with little impact to passenger service, and that the Program works to limit disruptions as much as possible.

BART Board Director Raburn was in attendance and thanked the Committee for their participation and service.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for September 15, 2016 but was postponed until November 9, 2016.

November 9, 2016 – Fifth Meeting

The fifth COC meeting was held on November 9, 2016. 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. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule

The Committee had a discussion regarding the status of Transbay Tube construction and expected impacts to BART's operations during construction, including a new element that will require weekday delays to the start of system service as well as single tracking.

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 2017. The Committee Chair will present 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 February 8, 2017.

February 8, 2017 – Sixth Meeting

The fifth COC meeting was held on February 8, 2017. 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. The Committee was provided with the following reports:

- Project Progress Report
- Bond Financial Report/Project Schedule

The Committee had a brief discussion with staff regarding the Report to the Board.

The Committee was pleased with the presentation of materials and the response to questions. The next meeting was scheduled for May 17, 2017.

VI. Public Access to the COC

The Earthquake Safety Program has established several 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. To date, the COC has received one inquiry from the public.

VII. Summary Committee Report

The consensus of the members of the Citizens' Oversight Committee is 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 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 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.