

BOARD OF DIRECTORS MEETING

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# MINUTES

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## REGULAR MEETING

Thursday, January 20, 2022

2:00 p.m.

(Paragraph numbers coincide with agenda item numbers)

### 1. CALL TO ORDER

The regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Board of Directors was called to order remotely - Conference Access Information: Phone Number: (916)262-7278, code: 1475397607#, <https://meetings.ringcentral.com/j/1475397607> at 2:00 pm.

### 2. ROLL CALL

Board members in attendance were Richard Atwater, Martin Milobar, Tony Estremera, Sarah Palmer, Gary Martin, Robert Cheng, and Adnan Anabtawi, constituting a quorum of the Board.

DCA staff members in attendance were Graham Bradner, Joshua Nelson, Nazli Parvizi, and Katano Kasaine.

Department of Water Resources (DWR) staff member in attendance was Carrie Buckman.

### 3. PLEDGE OF ALLEGIANCE

President Richard Atwater convened the open session at approximately 2:00 p.m. and led all present in reciting the Pledge of Allegiance.

### 4. PUBLIC COMMENT

President Atwater provided an overview of the public comment process.

President Atwater opened Public Comment, there were no public comment requests received and he proceeded to close the comment period.

### 5. APPROVAL OF MINUTES: November 18, 2021 Regular Board Meeting, December 16, 2021 Special Board Meeting, and January 14, 2022 Special Board Meeting

Recommendation: Approve the November 18, 2021 Regular Board Meeting, December 16, 2021 Special Board Meeting, and January 14, 2022 Special Board Meeting

Motion to Approve Minutes from November 18, 2021, December 16, 2021, and January 14, 2022, as

Noted: Palmer

Second: Martin

Yeas: Atwater, Milobar, Estremera, Palmer, Martin, Cheng, Anabtawi

Nays: None

Abstains: None  
Recusals: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as MO 22-01-01).

**6. CONSENT CALENDAR**

Recommendation: Approve Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361

Motion to Approve Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361, as

Noted: Palmer  
Second: Estremera  
Yeas: Atwater, Milobar, Estremera, Palmer, Martin, Cheng, Anabtawi  
Nays: None  
Abstains: None  
Recusals: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 21-08-03).

**7. DISCUSSION ITEMS:**

a) **January DCA Monthly Report**

*Informational Item*

Executive Director Graham Bradner provided an overview of the monthly board report, starting with Section 1: Worked Performed. He stated that the engineering team prepared the updated engineering project report for all three (3) proposed alternatives. This included updates to the main narrative report supporting technical memoranda and the GIS data that represents all of the features and updated engineering drawings. This is a significant milestone as it represents a fully conformed fresh set of information that is updated as needed or per DWR’s request.

Mr. Bradner continued to Section 2: Stakeholder Engagement, highlighting the social media metrics. He mentioned that DCA continues to focus on community outreach and engagement and providing updated information through various social media platforms.

Lastly, moving on to Section 3: Budget, Mr. Bradner explained that we have a current budget of \$23.5 million, of which \$17.5 million has been committed. Currently all activities are on schedule.

No questions or comments were presented from the Board.

b) **Second DCA FY 21/22 Budget Adjustment**

*Adopt by Minute Order*

Mr. Bradner provided a budget summary for Fiscal Year (FY) 21/22. The proposed revised budget of \$24.48 million is based on the final closeout from FY 20/21, which includes a continued underrun of \$978,396. He reminded the Board of the \$2 million initial underrun that was rolled over in July to the FY 21/22 budget, revising the budget from \$21.5 million to \$23.5 million. This current budget change request will increase the adopted FY 21/22 budget from \$23.5 million to \$24.48 million.

Recommendation: Approval of Second DCA FY 21/22 Budget Adjustment

Motion to Approve Second DCA FY 21/22 Budget Adjustment by minute order, as

Noted: Palmer  
 Second: Anabtawi  
 Yeas: Atwater, Milobar, Estremera, Palmer, Martin, Cheng, Anabtawi  
 Nays: None  
 Abstains: None  
 Recusals: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Minute Order 22-01-02).

**c) Adopt Resolution to Sunset the Stakeholder Engagement Committee**

*Adopt Resolution*

DCA Communications Manager, Nazli Parvizi, provided a brief overview of the reasoning behind sunseting the Stakeholder Engagement Committee (SEC). Ms. Parvizi reminded the Board that they approved the start of the SEC and now it is time for them to make the decision of sunseting the committee. She also mentioned that the DCA has drafted a White Paper to encapsulate the process of creating the SEC, as well as lessons learned. In the event that the proposed project is approved, the DCA may want to form other committees and will have the White Paper as a reference. The draft White Paper is attached in the Board Packet and the DCA will later invite SEC members to provide their input. The final White Paper will be posted to the DCA website once the review process is completed.

Director Martin expressed his appreciation of staff keeping the Board informed of the direction the SEC was headed. He also thanked Vice President/Chair Palmer, Ms. Parvizi, and staff of their work for this effort. He stated that this effort speaks very well for the Board and the project, and the effort we are making to keep communication open with the public.

Vice President Palmer thanked Director Martin for his comment. She also acknowledged former Executive Director, Kathryn Mallon, for her role in forming the SEC.

Public comment by Osha Meserve, representing the Local Agencies of the North Delta, stated that it is fine to summarize what occurred in the meetings and there was quite a bit of effort made to present important information. She also expressed her concerns about the existence of the SEC meetings and input being used as evidence that the tunnel would be consistent with existing land uses at a future proceeding such as Delta Stewardship Counsel. She stated that the SEC meetings

were useful to have, however, none of the people who participated would want it to be used against them later as evidence that their concerns were addressed. Another concern she expressed was that although the stakeholder group was stylized as something that would be used outside of the environmental review and California Environmental Quality Act (CEQA) mitigation process, she believes that some of the things that occurred probably would be required under CEQA as feasible mitigation to lessen significant impacts on the environment. She mentioned that as long as the Delta Conveyance Authority is careful about how it discusses the stakeholder work, then those concerns should not be an issue. She reminded the Board that many SEC members stated multiple times during the meetings that the tunnel was not the right project for the Delta and that there weren't really any ways to mitigate the extremely huge impacts on the Delta community and the environment. She acknowledged that certain positive things did come from the process and reiterated her concern of the way in which the process is described in the future.

Director Estremera thanked Chair Palmer and Vice Chair Keegan for their leadership and all of the members of the committee that participated in the process. He assured the Delta community that the Board will make sure that they can continue to participate, and the Board will participate in communities impact review following the CEQA process.

President Atwater stated his appreciation for the public input and also the effort of the Directors in providing leadership in the meetings.

Vice President Palmer brought attention to the importance of the attendance of the members of the public at the SEC meetings.

Director Cheng also thanked all of the Staff, members, and tireless volunteers who committed an abundant amount of their time into the effort. He stated that he realizes that the process may have not been perfect but there is respect for trying to listen to the needs of the community. He agreed that the input provided is valuable and reemphasized comments made by the fellow Directors, which is that the comments will be taken to heart as we proceed with this process.

Vice President Palmer thanked Nazli Parvizi for her diplomacy with everyone, Valerie Martinez, SEC Facilitator, for facilitating the meetings, and Carrie Buckman, DWR Environmental Manager, for her participation in presentations.

No further questions or comments were presented from the public or the Board.

Recommendation: Adopt Resolution to Sunset the Stakeholder Engagement Committee

Motion to Approve Adopt Resolution to Sunset the Stakeholder Engagement Committee, as

Noted: Palmer  
Second: Milobar  
Yeas: Atwater, Milobar, Estremera, Palmer, Martin, Cheng, Anabtawi  
Nays: None  
Abstains: None  
Recusals: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 22-01).

d) **Adopt Resolution to Award Geotechnical Exploration and Reporting Services Contract, Making Responsible Agency Findings Under CEQA, Considering a Mitigated Negative Declaration and Addendum and Adopting a Mitigation Monitoring and Reporting Program**

*Adopt Resolution to Award and Adopt*

Executive Graham Bradner introduced Michael Wuflestad, DCA's Procurement Manager. Mr. Wuflestad informed the Board that as a part of the project, the DCA determines and requires the services of a professional consultant for geotechnical exploration, testing and reporting services during the permitting and planning phase. The geotechnical consultant will assist the DCA with subsurface exploration, laboratory testing of rock, soil, and water samples, and prepare Geotechnical Data Reports (GDRs). The term for the proposed contract is three (3) years with a proposed contract value, not to exceed \$30 million. The agreement will be task order based with the possibility of multiple task orders being issued each year, based on need.

Mr. Wuflestad then provided a summary of the procurement process that the DCA's followed, stating that the request for qualifications (RFQs) was issued on October 1st, 2021, via the DCA website and the E-Builder system. The statement of qualifications (SOQs) were due November 5th, 2021, and evaluated from November 8th, 2021, to November 19th, 2021. After the completion of evaluations, interviews and presentation were held with the short-listed firms on December 8th, 2021, and December 14th, 2021. The selection criteria in the RFQ included firm qualifications and experience, personnel performance and experience, technical understanding, Small Business Enterprise and Disabled Veteran Business Enterprise (SBE/DVBE) participation, and cost evaluation. The DCA received SOQs from three (3) firms: AECOM Technical Services, Inc., Blackburn Consulting Inc., and Fugro Land USA. During the review process of the SOQs, DCA staff checked for compliance related to the RFQ and references provided by each respondent. All SOQs and references received from each firm were deemed responsive and favorable. An evaluation committee was formed to compile the SOQ scores and select a short-list of the top two firms based on the highest ranked firms. Once interviews of the short-list firms were complete, the evaluation committee compiled the combined SOQ and interview score to recommend the highest ranked firm to the Board, AECOM Technical Services Inc.

President Atwater inquired about the expected first task order date.

Executive Graham Bradner informed that the next step would be the negotiating of the task order, followed by the planning for potential investigations this Spring.

Director Anabtawi asked if the DCA staff would be presenting subsequent task orders to the Board.

Executive Graham Bradner informed the Board that there is an authorized budget established in the current FY 21/22 budget for Geotechnical Exploration and Reporting Services. The recommended resolution would allow DCA Staff to issue the task order without further approval.

General Counsel Josh Nelson confirmed the information provided by Mr. Bradner and added that there would be budget control through the Board approval of the annual budget for the Geotechnical line item.

Treasurer Katano Kasaine clarified that there are not firm funding commitments for subsequent years, and it will be included as a line item in each proposed annual budget.

Vice President Palmer asked if the budget may be under the 30 million allocation if the task orders are delayed.

Executive Director Graham Bradner confirmed Vice President Palmer's question.

Director Martin suggested that the DCA include an update of the task orders with a description and narrative in the monthly board report.

Public comment by Osha Meserve, representing the Local Agencies of the North Delta, pointed out that the Staff Report or Board Memo does not disclose that the environmental review, that staff is saying that the DCA would rely on in approving this contract, is in litigation. The mitigated negative declaration was challenged in August of 2020 in Sacramento Superior Court and later an amended complaint was filed in March 2021, that pulls in the addendum. Under CEQA, because it is a short form review, plaintiffs including the Central Delta Water Agency, South Delta Water Agency and local water agencies of the North Delta are arguing that there are potentially significant impacts of these geotechnical exploration activities, at the project level and the cumulative level. Ms. Meserve recalled that the draft Environmental Impact Report (EIR) for the failed two tunnel project also included review of the geotechnical exploration and she expects that the new single tunnel EIR will probably do the same. She is unaware of when this matter will go before the court, however she believes it is important for the DCA Board to know that the environmental documents upon which the DCA are relying, are being challenged. She mentioned that as far as the plaintiffs are concerned, these environmental documents are inadequate to adequately review this matter. She stated that they believe the review of exploration activities of the tunnel, and the construction and operation of the tunnel should be combined together in the review under the Environmental Quality Act. She also pointed out that the access on to the properties that would be required for much of the exploration is in a different court in a coordinated proceeding in the San Joaquin County as many of the property owners have not agreed to allow entry. She wanted to ensure that the Board is aware of this matter and that this is a very contentious item.

Josh responded to Ms. Meserve's comment, stating that she is correct in her statement. He mentioned that the DCA is aware of the litigation that is ongoing and will return to the Board if the litigation prevents or affects the DCA from moving forward. He reminded the Board that all geotechnical work is done under the direction of the DWR.

No further questions or comments were presented from the public or the Board.

Recommendation: Adopt Resolution to Award Geotechnical Exploration and Reporting Services Contract, Making Responsible Agency Findings Under CEQA, Considering a Mitigated Negative Declaration and Addendum and Adopting a Mitigation Monitoring and Reporting Program

Motion to Adopt Resolution to Award Geotechnical Exploration and Reporting Services Contract, Making Responsible Agency Findings Under CEQA, Considering a Mitigated Negative Declaration and Addendum and Adopting a Mitigation Monitoring and Reporting Program Services, as

Noted: Palmer  
 Second: Estremera  
 Yeas: Atwater, Milobar, Estremera, Palmer, Martin, Cheng, Anabtawi  
 Nays: None  
 Abstains: None  
 Recusals: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 22-02).

**8. STAFF REPORTS AND ANNOUNCEMENTS:**

**a. General Counsel’s Report**

A written report was provided in the Board package. Mr. Nelson highlighted the AB361 30-day findings, stating that with February being a short month, the Board will not have to conduct both special and regular meetings for the months of February and March as they had to do in the previous months. He also mentioned that staff is still evaluating hybrid meetings, to have both in-person and remote participation, however, the Sacramento County Health Officer issued an order suspending all in-person meetings by Brown Act bodies in the county until further notice. If and when this order is lifted, staff can provide options for hybrid or in-person meetings.

**b. Treasurer’s Report**

Two written reports were provided in the Board package. Ms. Katano provided an overview of the total disbursements for November and December 2021 of \$2,511,555. She noted the nonoperating expense for the return of the DCA stand-up costs was \$800,000, leaving the ending cash balance at \$396,010. She also mentioned that the budget is at \$23.5 million, and the approved revised budget will be reflected in the next report.

**c. DWR Environmental Manager’s Report**

A written report was provided in the Board package. Ms. Buckman highlighted that DWR is continuing the development of the draft Environmental Impact Report (EIR), with plans to release it in the middle of this year. She also mentioned that a case meeting workshop was held for interested members of the public, about previous community benefits programs and lessons learned, which is a part of DWR’s continuing efforts to develop a framework for the community benefits program to include in the draft EIR.

**d. Verbal Reports**

None.

**9. FUTURE AGENDA ITEMS:**

None.

**10. ADJOURNMENT:**

President Atwater adjourned the meeting at 2:52 p.m., remotely - Conference Access Information:

Phone Number: (916)262-7278, code: 1475397607#, <https://meetings.ringcentral.com/j/1475397607>