



## **SAN FRANCISCO PENINSULA RAIL PROGRAM EXECUTIVE STEERING COMMITTEE MEETING**

### MINUTES

Friday, November 19, 2021

11:00 a.m. to 12:00 p.m.

### WATCH LIVE:

<https://transbaycenter.webex.com/transbaycenter/onstage/g.php?MTID=e9c6bd85ad5624c58eb68b17e43d2fac5>

PUBLIC COMMENT CALL-IN: 1-855-282-6330 -- Access Code: 2553 964 2177

Due to the COVID-19 health emergency, the Executive Steering Committee (ESC) will meet via teleconference. Members of the public are encouraged to participate remotely. Please see additional information on the next page for remote meeting access.

In compliance with the Assembly Bill (“AB”) 361 (Rivas, Chapter 165, Statutes of 2021) and its amendments to California Public Resources Code Section 54953(e), this meeting will be held exclusively via teleconference participation of a quorum of ESC members in locations not open to the public. This meeting is being held during a proclaimed state of emergency, and state and local officials have imposed or recommended measures to promote social distancing, while allowing the public to observe and address the ESC.

### EXECUTIVE STEERING COMMITTEE

Peninsula Corridor Joint Powers Board/Caltrain, Michelle Bouchard (Chair)  
San Francisco County Transportation Authority, Tilly Chang (Vice Chair)  
California High Speed Rail Authority, Boris Lipkin  
City and County of San Francisco, Alex Sweet  
Metropolitan Transportation Commission, Andrew Fremier  
Transbay Joint Powers Authority, Nila Gonzales

**REMOTE MEETING ACCESS**  
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**PUBLIC COMMENT CALL-IN:** 1-855-282-6330 -- Access Code: 2553 964 2177

**Providing Public Comment**

Ensure you are in a quiet location – Speak Clearly – Turn off any TVs or radios around you

1. When prompted, “raise hand” to speak by pressing \*3 (star, 3) to be added to the queue.
2. Callers will hear silence when waiting for their turn to speak.
3. When prompted, callers will have two minutes to provide comment.

**AGENDA**

1. Call to Order

Chair Bouchard called the meeting to order at 11:01 a.m.

2. Roll Call

Members Present: Andrew Fremier, Nila Gonzales, Boris Lipkin, Alex Sweet, Tilly Chang and Michelle Bouchard

Members Absent: None

3. Communications

Secretary Pollitt provided instructions on the Public Call-in/Comment process.

- Chair’s Report

Chair Bouchard stated that it had been a big week for transportation and noted President Biden’s signing of the \$1.2 trillion Infrastructure Investment and Jobs Act known as the Infrastructure package, which will provide a historic level of funding for infrastructure including transportation. She explained that the funding provided in the Infrastructure Package will help to advance the Downtown Rail Extension (DTX) project and noted that TJPA is evaluating their funding requests against the numerous upcoming competitive funding opportunities, with many of them available on an annual basis for the next five years; and includes the CIG (Capital Investment Grants), RAISE (Rebuilding American Infrastructure with Sustainability and Equity), and CRISI (Consolidated Rail Infrastructure and Safety Improvements) programs. She noted that the TJPA’s federal advocates plan to present on federal funding opportunities for the DTX in December. Chair Bouchard highlighted that the infrastructure package will provide \$23 billion for the CIG New Starts program, which is double the amount typically provided by the program. She also reported that the TJPA recently submitted its request to enter the Federal Transit Administration’s (FTA) New Starts pipeline, noting that FTA confirmed receipt of the letter. She further

reported that TJPA is completing its application for CRISI funding, due just after Thanksgiving, which would provide \$10 million to advance certain programmatic documents and right-of-way tasks. Chair Bouchard noted that the team was encouraged by the letters of support from elected officials, stakeholders, and labor and stated that speaking with one voice resonates with decision makers in Washington D.C. and emphasized that the team was doing everything it could to be successful in a highly competitive environment. In preparation for the state legislative session in January, Chair Bouchard stated the team continues to collaborate with regional partners, including the Metropolitan Transportation Commission, to advocate for funding for the DTX. She concluded her report by stating the City closed on the sale of \$30 million in Community Facilities District special tax bonds in November, noting the proceeds will be used to advance the New Starts Project Development tasks.

**Public Comment:**

Roland Lebrun suggested that the Chair's report be posted to the website and included in the ESC meeting package. He also suggested that closed captioning be provided for future ESC meetings, which he believes is consistent with current federal requirements. He emphasized the importance of ESC meetings to the entire Bay Area and recommended that the ESC coordinate with an agency that can archive the video transcripts for future reference.

4. Action Item:  
Approval of Meeting Minutes: October 22, 2021

There was no member of the public wishing to comment.

A motion to approve the minutes was made by Member Gonzales and seconded by Vice Chair Chang. A unanimous voice vote approved the motion.

5. Action Item:  
Motion to Approve the Continued Use of Teleconferencing Technologies for Meetings of the ESC pursuant to Assembly Bill 361

There was no member of the public wishing to comment.

A motion to approve the item was made by Member Lipkin and seconded by Vice Chair Chang. A unanimous voice vote approved the motion.

6. Informational Item:  
Downtown Rail Extension Project Delivery Alternatives Study

Prior to the presentation of the item, Chair Bouchard commented on the importance of the project delivery study and the ongoing coordination with the Integrated Program Management Team (IPMT). She emphasized that this informational item was for discussion only and that the ESC would take action on it in December.

Alfonso Rodriguez, DTX Project Director and Jesse Koehler, San Francisco County Transportation Authority Rail Program Manager, jointly presented the item. Mr. Rodriguez stated that the approved work plan for DTX includes development of a project delivery and contracting strategy, consistent with the requirements of the FTA New Starts program. The study, which is underway, is examining various delivery options in the context of financial risk, the recent industry soundings, and the TJPA's legal authority to implement the delivery strategy. The IPMT is incorporating information derived from the ongoing risk management process and developing contract packages that are tailored to particular delivery methods, noting the study will culminate in a recommended contract delivery strategy in mid-2022.

Mr. Koehler noted that the ongoing work reflects strong coordination with TJPA staff and the IPMT as well as the advisory services of the TJPA's Program Management/Program Controls consultant. He explained that the study is grounded in the particular scope and risk profile of the DTX as well as in the market context for the delivery of major rail projects in North America, noting the study focuses on two concepts: contract packaging and procurement approach.

Mr. Koehler explained that the term "contract packaging" refers to the balance between the aggregation and disaggregation of work packages. A disaggregated approach would align contract packages to specific specialized scopes of work with the delivery agency being responsible for the management of the interfaces between the various specialized packages and contractors. By contrast, under a highly aggregated approach, the main contractor would be responsible for the entire project including the interfaces between packages. Mr. Koehler noted that at the current stage of the study, a single aggregated civil package, combining the tunnel scope with other civil works, is favored, primarily because a single contractor would be needed to coordinate construction access and staging, given the constrained construction environment that includes the Fourth and Townsend Street Station box, tunnel, and throat structure. He noted that advance packages for enabling works, such as utility relocation, demolition, and site preparation, would be pursued under any of the approaches being considered.

Regarding procurement approach, Mr. Koehler emphasized that no one option is a "golden ticket" to project success, and he noted that the relationship between the contractor and owner is critical to all approaches. The study is looking at three broad categories: traditional design-bid-build (DBB), integrated approaches, and collaborative approaches. DBB, whereby the delivery agency completes and tenders the construction documents and selects a contractor on the basis of price, would be used for the enabling works, where a high level of design and cost certainty is desired. Under an integrated approach, such as design-build (DB), the delivery agency would develop the preliminary design and select a contractor on the basis of both qualifications and price to complete the design and construct the project, thus transferring design responsibility to the contractor. Integrated approaches may or may not incorporate financing from the private sector. Collaborative approaches include progressive design-build (PDB) and construction manager/general contractor (CM/GC). Under a collaborative approach, the contractor is retained well before the design is completed to provide services during a preconstruction services phase, which would include finishing the design, preparing a cost estimate, and finalizing the contract terms. Selection would be

generally based on qualifications and experience. Both PDB and CM/GC involve a preconstruction services phase. Under CM/GC, however, the delivery agency would retain design responsibility, whereas under PDB, design responsibility would be transferred to the progressive design-builder. Mr. Koehler noted that under the CM/GC approach used for Phase 1 of the Transbay Program, the CM/GC did not self-perform much of the work. If CM/GC were selected for the DTX, the CM/GC contractor would self-perform a substantial portion of the work.

Mr. Koehler summarized the ten delivery options being considered for DTX. The options being considered in the study range from disaggregated to highly aggregated, with several mid-range options using a combination of PDB and CM/GC for the general civil, tunnel, station fit-out and support systems, and core systems and trackwork scopes. The most highly aggregated approach would use PDA-DBFM (design-build-finance-maintain under a project development agreement); an analogous approach is being used by the San Francisco Municipal Transportation Agency for the Potrero Yard Modernization Project, and a modified version of it is being used on the Sepulveda Corridor in Southern California. Under PDA-DBFM, a private sector partner would have long-term responsibility for certain operations and maintenance functions related to the fixed facility. Train operations for the DTX under all procurement options would remain with the operators.

Mr. Koehler stated that the industry has generally shifted away from consolidated DB procurements to more collaborative approaches involving early contractor engagement, noting that this in part reflects experience in recent years, where numerous large rail projects awarded on the basis of price have experienced claims, lawsuits, and adversarial relationships. He also stated that the emergence of the collaborative procurement approaches reflects the private sector's preference for a more balanced approach to risk and noted that this preference was reinforced by the contractors who participated in the recent DTX industry soundings. He noted that managing and allocating risk is another key consideration and stated that a significant portion of the technical risk is associated with the tunnel, and therefore, the preference is to transfer that tunnel design risk to the contractor. By contrast, design risk associated with systems, trackwork, and fit-out would be retained by the owner, where feasible.

Mr. Rodriguez concluded the presentation by stating that the next steps would be to bring a narrow list of options to the ESC in December for recommendation to the TJPA Board in January. The IPMT would then advance the study, including conducting another industry sounding, and bring a recommended approach to the ESC and TJPA Board in mid-2022.

Regarding the criteria that will be used to measure each option, Chair Bouchard asked the presenters to explain how each option is being ranked in terms of delivery of a viable facility for operations and how the operator would be involved in the delivery phase of the program under any of the scenarios.

Mr. Rodriguez responded that the delivery approaches are based on the type of risk and the amount of design risk transfer. The recommendation to complete and deliver station fit-out

and trackwork would involve options that allow for more control to the delivery agency and operators.

Mr. Koehler added that should the highly aggregated DBFM approach be advanced, the team would need to work with the operators to determine their respective responsibilities for train operations in relationship to any other operations and maintenance activities.

Vice Chair Chang stated that each method has its own implications for procurement and decision-making as well as the role of the public agencies involved. She noted that the specific roles and responsibilities of the operators and partnering agencies under a concession model, in particular, are not addressed by the San Francisco Peninsula Rail Program Memorandum of Understanding but would need to be, which makes the parallel governance task more relevant. She also stated that additional work is needed to specify the conditions under which the facility would be returned from the concessionaire and accepted by the delivery agency. This implies a role for the operators to specify the conditions for acceptance of the facility, including at substantial completion, which has not yet been defined. She noted that operator and agency roles under the PDB and CM/GC options would need to be clarified during the governance task.

Member Gonzales noted that with the DBFM option, the owner typically has something to trade and asked, in the case of DTX, what TJPA would have to trade. Mr. Rodriguez responded that as part of the funding task, a parallel work stream is to understand how a commercial model like DBFM would play into the funding plan. This work is ongoing. Mr. Koehler added that there are a few rationales that agencies consider for a public-private partnership; these include revenue generation opportunities and the party best positioned to optimize them, lifecycle optimization of the physical asset and ensuring that it is designed and constructed in a manner that is optimal for the period of the concession, and financial structure in terms of when funds may be needed for a substantial completion payment as well as availability payments over the life of the concession.

Chair Bouchard asked when a concrete funding plan is needed for the FTA. Mr. Rodriguez responded that the work plan calls for a completed funding plan by mid-2022. The TJPA plans to request entry into the New Starts Engineering phase in February 2023. Mr. Koehler added that the challenges of developing the DTX funding plan are three-fold: first, developing a credible financial plan for capital and operating costs; second, demonstrating a level of non-CIG funding commitment, such as board-level actions from the partnering agencies; and third, having cash in hand to pay for the project. Each of these needs to come together in the funding plan.

Member Sweet stated that it seemed like governance, the funding plan, and project delivery are interdependent and asked how these pieces would come together. She asked what parts of the governance and funding plan the ESC will need to understand to be able to make a recommendation on the project delivery strategy. Mr. Rodriguez responded that the question speaks to the approved work plan that calls for activities to occur in a staggered fashion. Activities that feed into the study include the governance study, which will begin in January. The funding plan is scheduled to be completed in mid-2022. The key drivers to completing the project delivery plan are the funding plan, governance study, and the risk analysis that

will begin early 2022. He said that the team would prepare an illustrated graphic to show how these activities interrelate. Member Sweet said that a graphic would be helpful.

Member Lipkin commented on the importance of separating the enabling works and that defining rail-related functions is important with regard to the highly aggregated delivery options. Regarding the process on the ESC's recommendation to the TJPA Board next month, he noted that he would like to keep the range narrow because the decision involves governance, staffing, and other considerations related to managing the particular delivery approach. Chair Bouchard agreed that the discussion needed to conclude with clear direction to staff on what the ESC needs to forward a recommendation. Additionally, she said it is critical to understand the necessary capacity of the delivery team under each of the options. Member Gonzales added that more staffing entails more cost and noted that it would be helpful to understand what the costs are for each of the options in terms of governance. She emphasized that cost needs to be a consideration when presenting options to the TJPA Board. Mr. Koehler responded that the team needs to narrow the field significantly. The governance structure, funding plan, and delivery strategy need to be in active conversation with one another over the coming six to eight months. He expects to bring two options for the ESC's consideration in December. In December, the team will also lay out the roadmap and steps along the path. He said that today's conversation has highlighted the key criteria of "fundability," "finance-ability," and "implementability." Member Lipkin added that he would like to hear not only the recommendations but also the analysis on why certain options were removed from further consideration.

Vice Chair Chang noted that funding and capacity will be major needs with any delivery option. The new infrastructure bill will bring new financing tools that could help.

Chair Bouchard asked Mr. Rodriguez and Mr. Koehler whether they have enough guidance to be able to work with the IPMT on the necessary information to allow the ESC to make a recommendation to the TJPA Board in December. She further stated that she would like the IPMT to consider the formal role of the operators during the project delivery process and asked for the team to come back with a recommendation. Mr. Rodriguez thanked the ESC for the direction and said that it was clear.

**Public Comment:**

Roland Lebrun thanked Jesse Koehler for the presentation and reminded the ESC that the design is 30 years old and based on tunneling technology from the last century. He stated that he was encouraged by the incorporation of the private sector into the study but that the project will not be able to fully exploit private sector expertise as long as they are constrained by the current project. He recommended extending outreach to the private sector to ask whether there are better approaches that will enable full length platforms, eliminate dedicated platforms, provide superior links to Link21 and the Pennsylvania Avenue Extension (PAX), and undertake value engineering to combine the PAX/DTX into a single tunnel drive lasting 18 months or less.

**7. Public Comment**

Members of the public may provide comment on matters within the ESC's purview that are not on the agenda.

Roland Lebrun echoed his previous comment and asked for a transcript and closed captioning for future ESC meetings. He recommended the ESC ask the California High Speed Rail Authority how it was able to provide a countdown timer at their recent meeting. Mr. Lebrun also asked that substantial minutes be provided to ensure the discussion is accurately captured.

8. Discussion Item:  
ESC Agenda items for upcoming meetings

None

9. Adjourn  
Chair Bouchard adjourned the meeting at 11:56 a.m.

DRAFT

#### ACCESSIBLE MEETING POLICY

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (Campaign and Gov't Conduct Code, Article II, Chapter 1, § 2.100, et seq.) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3124 and website: [www.sfethics.org](http://www.sfethics.org).