

**MARYLAND TRANSPORTATION AUTHORITY
MONTHLY CAPITAL COMMITTEE MEETING
THURSDAY, APRIL 3, 2014
PT. BREEZE HEADQUARTERS BUILDING
BALTIMORE, MD**

OPEN SESSION

MEMBERS ATTENDING: Rev. Dr. William C. Calhoun, Sr.
William K. Hellmann, P.E.
Bradley Mims – via telephone
Michael J. Whitson – via telephone

STAFF ATTENDING: Deb Sharpless
Doug Hutcheson
Dan Williams
Robert Michael
Doug Novocin
James Wesselhoff
Will Pines
Fathy Elgendi
David Chapin
Dennis Simpson
Jeanne Marriott
Suhair Alkhatib
Glen Smith
Jaclyn Hartman
Donna DiCerbo
Meshelle Howard
Cheryl Sparks
Kimberly Millender, Esquire
Chris Thompson
Elizabeth Sogard

OTHERS ATTENDING: Sam Sidh, MDOT
Bob Healy, Consultant, RK&K
K.R. Marshall, Consultant, Jacobs
Mark Coblentz, ICC Project Director
Dennis McMahon, Consultant, RK&K
Brandi Rea, Journalism UMUC
Ed King, Journalism UMUC

At 9:10 a.m. the meeting of the Maryland Transportation Authority (MDTA) Capital Committee was called to order by Chairman Calhoun.

Ms. Deb Sharpless amended the Agenda with moving Item 6 – Approval – SHA Contract No. AT3765D60 – MD 200, Intercounty Connector Contract D/E Modified Design Build Project MD 200 Mainline from I-95 to US 1 and I-95 Collector/Distributor Roads from MD 200 to MD 198 (NB & SB) before Item 5 – Approval – Project Approach for Replacement of the Governor Harry W. Nice Memorial Bridge.

Mr. Doug Hutcheson added an introduction of a new employee after Item 5.

Upon motion by Mr. Hellmann and seconded by Mr. Mims, the agenda was revised by concurrence of the Members.

APPROVAL- OPEN SESSION MINUTES OF MARCH 6, 2014

Upon motion by Mr. Mims and seconded by Mr. Hellmann, the Open Session meeting minutes of the Capital Committee's Meeting held on March 6, 2014 were unanimously approved.

VIDEO TOLL AND CITATIONS PROJECT

Ms. Sharpless presented this update to the Capital Committee on the issues and activities underway to support the implementation of the video toll and citation process approved in HB420.

- Continue to issue Notice of Toll Due and Citations
- Response to legislators, upon request
- Train MDTA court liaison staff
- Test and deploy updated court process module
- Begin hearings for citations contested to court

The Members inquired as to the MBE participation on the current contract. Ms. Meshelle Howard reported that her staff reviews payments on a monthly basis and the contract is currently achieving 21% participation, which will be updated after a MBE modification request gets submitted.

I-95/KEY HIGHWAY/MCCOMAS STREET GATEWAY INITIATIVE

Mr. Dennis Simpson presented this update to the Capital Committee on MDTA's efforts working with local stakeholders and the Governor's office to develop a gateway type treatment for the approaches to the I-95/Key Highway/ McComas Street entrance to the City of Baltimore.

The following improvements are being implemented by the MDTA as part of this overall Gateway Initiative:

- State of Maryland flag motif design at the portals of the Fort McHenry Tunnel (FMT), both northbound and southbound. The motif at the portals of the FMT will have the State of Maryland flag design.
- “Welcome to Baltimore” lettering on the FMT Vent Building (southbound only). The FMT East Vent Building will have 4’ tall by 6” deep letters reading “Welcome to Baltimore.”
- Painted piers with the colors of the State of Maryland flag underneath elevated portions of I-95 adjacent to East McComas Street and Key Highway. The piers will be painted in the state of Maryland flag colors with alternating red/white and black/yellow designs.
- Landscaping areas at McComas Street next to the southbound I-95 ramp to Key Highway and the approaches and above the Fort McHenry Tunnel portals. The landscaping will include shrubs, perennials, evergreens and flowering trees.

These improvements will help highlight and enhance the entrances into Baltimore, providing a colorful and pleasant visual aesthetic for visitors driving into Baltimore and those who live in and around the greater metropolitan area. These improvements will also support the commemoration of the War of 1812 bicentennial, which will have significant events at Fort McHenry, which is accessed from I-95 via the Key Highway/McComas Street interchange.

All of the improvements except the landscaping are being accomplished using on-call contracts. Task Orders have been issued for all of the MDTA improvements. The timeline is to have all the improvements completed by the end of August 2014, in time for the War of 1812 commemoration activities related to the Battle of North Point (September 12, 1814) and the Bombardment of Fort McHenry (September 13, 1814).

APPROVAL CONTRACT

Contract No. KH-2724-000-006 – Northbound and Southbound I-95 Hot Mix Asphalt Resurfacing from MD 24 to Millard E. Tydings Bridge

Mr. James Wesselhoff presented this request to seek a recommended approval from the Capital Committee to present Contract No. KH-2724-000-006, NB and SB I-95 Hot Mix Asphalt Resurfacing from MD 24 to Millard E. Tydings Bridge, to the full MDTA Board for approval at its next scheduled meeting.

This project was advertised on January 6, 2014. The Division of Procurement received three (3) responses to the solicitation. Bids were received on February 18, 2014, and the bid results were as follows:

Contractor	Bid Amount	% Variance To Eng. Est.
American Infrastructure		

- MD, Inc (AI)	\$16,314,777.00	(13.03%)
Daisy Concrete Inc. of Maryland	\$17,689,942.00	(5.7%)
Gray and Sons, Inc.	\$19,810,000.00	5.6%

An allowance of \$250,000.00 was included in the IFB for Contingent Miscellaneous Items which will only be used if necessary and will not be used without prior approval of the Project Engineer.

The Engineer's Estimate is \$18,759,680.00. It was noted that the low bid was 13.03 % lower than the Engineer's Estimate. An analysis of the bid compared to the Engineer's Estimate was performed by the Division of Engineering and the low bid submitted by American Infrastructure-MD, Inc. (AI) was determined to be acceptable. This project was advertised with a Minority Business Enterprise (MBE) participation goal of twenty nine percent (29%) with subgoals of seven percent (7%) for African-American owned companies and four percent (4%) for Asian-American owned companies. This contract was also advertised with a minimum VSBE participation goal of one half percent (0.5%). American Infrastructure-MD, Inc. submitted an MBE plan and a VSBE plan that meet the goals. The Notice-to-Proceed (NTP) for this Contract is anticipated on May 1, 2014. The contract term is for Seven Hundred Thirty (730) calendar days from Notice-to-Proceed.

After reviewing and discussing the differences between the Engineer's Estimate and the bid submitted by the recommended Contractor, upon a motion by Mr. Mims and seconded by Mr. Hellmann, the Members unanimously recommended approval of this contract by the MDTA Board at its next scheduled meeting contingent upon expiration of the appeal period for the protest.

SHA Contract No. AT3765D60 – MD 200, Intercounty Connector Contract D/E Modified Design Build Project MD 200 Mainline from I-95 to US 1 and I-95 Collector/Distributor Roads from MD 200 to MD 198 (NB & SB)

Mr. Robert Michael and Mr. Mark Coblenz presented this item to seek recommended approval from the Capital Committee for two separate items for ICC Contract D/E Modified. The first request is to increase the delegated authority for this contract from 7% to 19.33% allowing SHA the means to continue resolution and processing of contract changes. The second request is for a contract modification to process Request for Change Proposal No. 035 representing monetary compensation for schedule impacts and associated delay costs.

Contract D/E Modified is the final MD 200 (ICC) mainline contract located in Prince George's County. This Contract extends MD 200, a controlled access six/four lane tolled roadway, for 0.9 miles from east of I-95 to a new interchange at Virginia Manor Road (VMR) and continues to a new intersection at US 1 (eastern terminus). The Contract includes improvements to US1 (0.7 miles); extends northward the collector/distributor roadways adjacent to I-95 from the MD 200 interchange to the

existing MD 198 interchange (approximately 2.3 miles); new grade separated interchange at Virginia Manor Road and resurfacing of 2.4 miles of existing I-95 roadway pavement.

A Project Implementation Agreement signed between MDTA and SHA designates SHA to provide project management and administrative responsibilities for delivery of the ICC Program. SHA awarded Contract D/E Modified in November 2011 with MDTA's concurrence for a low bid in the amount of \$89.26 million plus a 7% construction contingency of \$6,247,921 for an overall authorized budget of \$95.50 million. Notice to Proceed ("NTP") for Contract D/E Modified was issued on February 17, 2012 with a completion date of November 16, 2013.

The FHWA approved Annual Financial Plan accounted for up to a 15% construction contingency for this contract. With final closeout of the remaining project items in ICC Contracts A, B, & C, sufficient funds are available for transfer to the Contract D/E budget for estimated extra work items.

A) Delegated Authority:

To date, thirty four (34) change orders have been approved for payment for a total of \$5,028,172 or 5.63%, which cumulative amount is below the current 7% delegated authority. However, SHA has received additional change order requests from the Contractor which are being negotiated. Before proceeding with payments for other recently negotiated and settled change orders, an increase in the delegated authority is necessary.

The contract award approval from the MDTA Board included a 7% contingency. SHA has delegated authority to issue change orders up to this amount through the provisions of the Project Implementation Agreement signed between SHA and MDTA including concurrence from the Executive Director for any contract modifications exceeding a \$1 million value. For any modifications that exceed the 7% contingency, approval by the MDTA Board is required including delegation to the Executive Director to sign all necessary documents.

B) Schedule Impacts (Time) and Compensation:

Change Order No. 010 requesting a compensable time extension was previously submitted in 2012. In 2013, SHA agreed to the time extension component only and deferred action on any monetary compensation until the Contractor could provide proper documentation supporting its delay damages. Thus, Change Order No. 010 was approved providing for only the time extension of 226 calendar days extending the project completion date from November 16, 2013 to June 30, 2014.

The Contractor identified several design related reasons occurring in 2012 to support the request for extension of the Contract completion date and the potential for future compensation for delay damages.

First, bike lane rule revisions were adopted by the State, therefore SHA issued direction to widen the bike lanes on Virginia Manor Road from 4 feet to 6 feet as well as widening of the bike lanes on US 1. The Contractor asserted that the additional design effort approval impacted its construction schedule, consequently paving on US 1 was delayed to spring of 2014.

Second, SHA issued modifications to the Definitive Design of the Continuous Flow Intersection (“CFI”) at MD 200 and US 1 to improve safety and operations of the intersection. The Contractor asserted that during the period between design package assessment and formal issuance of the modifications, the design effort was impeded thus further impacting critical path work and delaying the completion until summer 2014. In addition, E&S and SWM design for these areas had progressed substantially, so these roadway design modifications required significant design rework resulting in additional construction schedule impacts and delays.

Finally, the Contractor asserted that various other issues including design changes related to the Eastern Operations Center berm and I-95 NB-Collector/Distributor road delayed design reviews by utility companies (WSSC, PEPCO, Verizon) and the permitting agency, MDE. This delay in providing comments and approvals would potentially affect resolution of design issues and cause further additional construction schedule delays.

Based on these events SHA reviewed the time impact analyses to validate the Contractor’s assertions and determined that schedule delays occurred as a result of the design revisions and that part of the delays could be mitigated by expediting design efforts. However, CFI design modifications pushed paving operations into spring/summer 2014 as the original completion date was extremely close to the winter period when paving activities are restricted by temperature. As a result of the impacts due to these various issues cited above, SHA authorized the time extension in Change Order No. 010 for those schedule impacts through November 1, 2012 extending the project completion date to June 30, 2014. Thus Change Order No. 010 for time extension resolved delays due to all the various known issues at that time.

As stated in the language of Change Order No. 010, SHA agreed to further evaluate the Contractor’s documentation for monetary compensation related to extended fixed costs between the original completion date and the new date at a mutually agreed to bi-weekly rate. Additionally, SHA agreed to be responsible for increased direct costs beyond November 16, 2013 attributable to the portion of this project east of VMR, including all work on US 1, inclusive of:

- 1) Material escalation,
- 2) Labor escalation,
- 3) Subcontractor escalation, and

- 4) Increased costs necessary to protect/maintain work in place for an additional winter period.

These costs were compiled, submitted, and processed as Change Order No. 032 for an amount of \$1,208,874.78. This value is included in the change order amounts processed to date.

Change Order No. 010 further contained provisions for the Contractor to submit documentation for compensation related to the following items beyond the original project completion date of November 2013:

- 1) Extended Project Staffing and Allowances,
- 2) Escalation,
- 3) Portions of extended fixed costs,
- 4) Extended owned equipment,
- 5) Increased subcontractor costs, and
- 6) Extended Professional Services.

These costs were compiled and submitted as Change Order No. 035 for an amount of \$4,421,125.00. This Change Order payment is pending action by the MDTA Board to approve the increase in delegated authority above the current 7% contingency.

A) Delegated Authority:

Change orders CO-001 through CO-034 have been processed to date which account for 5.63% of the authorized 7% delegated authority. An increase in this percentage to 19.33% is necessary to resolve and process pending changes anticipated on this contract.

The table summarizes the current change order status:

ICC Change Order No.	Amount	Cumulative Amount	Contingency Percentage	Status
CO 001 to 031	\$3,000,093.00	\$3,000,093.00	3.36%	Processed
CO 032	\$1,208,874.78	\$4,208,967.78	4.72%	Processed
CO 035	\$4,421,125.22	\$8,630,093.00	9.67%	Pending
Third Party Utilities	\$941,328.00	\$9,571,421.00	10.72%	Pending
MDE Delays	\$3,000,000.00	\$12,571,421.00	14.08%	Pending
Miscellaneous	\$522,500.00	\$13,093,921.00	14.67%	Pending
*CO 033 (WSSC)	\$706,218.74	\$13,800,139.74	15.46%	Processed
*CO 034 (WSSC)	\$112,984.76	\$13,913,124.50	15.59%	Processed
* CO 036 (WSSC)	\$3,343,934.00	\$17,257,058.50	19.33%	Pending

*Note:

SHA reasonably expects WSSC to reimburse MDTA (\$4,163,137.50) for these costs associated with water main relocations as a betterment based on the pipe sampling, testing and analysis program performed and the pending results.

B) Schedule Impacts (Time) and Compensation:

Three separate Change Orders were developed for resolution of the delay issues based on an agreement between SHA and the Contractor.

- 1) Change Order No. 010 – Time Extension of 226 Calendar Days resulting in a revised project completion date of June 30, 2014 – approved.
- 2) Change Order No. 032 – Partial payment of the negotiated \$5,630,000.00 settlement for additional Contractor expenses incurred in the amount \$1,208,874.78 – approved.
- 3) Change Order No. 035 – Payment for the balance of the negotiated \$5,630,000.00 settlement in the amount of \$4,421,125.22 – pending.

Because Change Order No. 035 exceeds the previously approved 7% delegated authority contingency, a recommended approval by the Capital Committee for increasing the delegated authority limit for submitting to the full MDTA Board for approval is needed including delegation of signature authority to the Executive Director to execute all necessary documents.

There is no DBE participation for this change as the change order is a negotiated settlement for supervision and equipment for the time extension by the Joint Venture (“JV”) firms.

At 9:55 a.m. upon motion by Mr. Hellmann and seconded by Mr. Mims the Members unanimously voted to move into Closed Session pursuant to Section 10-508(a)(8) of the State Government Article of the Annotated Code of Maryland to discuss potential litigation related to claims pending for SHA Contract No. AT3765D60, MD 200, Intercounty Connector Contract D/E Modified Design Build Project MD 200 Mainline from I-95 to US 1 and I-95 Collector/Distributor Roads from MD 200 to MD 198 (NB & SB). The following persons were present during the Closed Session: Rev. Dr. William C. Calhoun, Sr., Chair, William K. Hellmann, A. Bradley Mims, Deborah Sharpless, Kimberly Millender, Esq., Sam Sidh, Doug Hutcheson, Dan Williams, Robert Michael, Mark Coblenz, Dennis McMahan, David Chapin, Cheryl Sparks, Will Pines, Liz Sogard and Chris Thompson.

At 10:05 a.m. a motion was made by Member Mims and seconded by Member Hellmann, with the unanimous approval of the Members, to adjourn the Closed Session and return to Open Session.

No actions were taken during Closed Session.

At 10:10 a.m. Member Whitson joined the meeting via telephone.

Upon motion by Mr. Mims and seconded by Mr. Hellmann, the Members unanimously recommended approval to the full MDTA Board at its next regularly scheduled meeting modifications to SHA Contract No. AT3765D60 to increase the delegated authority from the current 7% contingency to 19.33% including delegating signature authority to the Executive Director to execute all necessary documents; and recommend approval to process Change Order No. 035 in the amount of \$4,421,125.22.

OTHER BUSINESS

Mr. Hutcheson introduced a new employee, Mr. Fathy Elgendi of the Office of Engineering and Construction. Mr. Elgendi was a General Manager for 7-Eleven and oversaw the operation of a \$1.5 million business while attending Morgan State University and interning at the Maryland Transportation Authority. Mr. Elgendi was hired as a Transportation Engineer for MDTA in February, 2014 while still pursuing his transportation studies at Morgan State University. Members welcomed and congratulated Mr. Elgendi.

CONCEPTUAL APPROACH FOR STUDY OF PROJECT DELIVERY OPTIONS TO REPLACE THE GOVERNOR HARRY W. NICE MEMORIAL BRIDGE

Mr. Will Pines presented this request to seek the Capital Committee's recommended approval to the MDTA Board for the conceptual approach for study of project delivery options to replace the Governor Harry W. Nice Memorial Bridge to the full MDTA Board at its next scheduled meeting.

With the completion of the Planning Study, Preliminary engineering for the replacement of the Nice bridge on US 301 over the Potomac River has started. Engineering has developed a process to evaluate traditional and alternative project delivery methods and to prepare the Financial and Project Management plans for the project. The presentation explained the questions that the evaluation process addressed. Engineering will seek concurrence on;

- guiding principles
- goals & objectives
- timeline
- basic assumptions
- delivery options

This will confirm the processes noted and provide clarification on Capital Committee's position on any project assumptions. The current budget for Preliminary Engineering in the MDTA's CTP is \$26.1 million.

Members commented staff on a job well done so far and recommended milestone briefings.

Upon motion by Mr. Whitson and seconded by Mr. Hellmann, the Members unanimously recommended approval to the full MDTA Board at its next regularly scheduled meeting the conceptual approach for study of project delivery options to replace the Governor Harry W. Nice Memorial Bridge.

There being no further business, the meeting of the MDTA Capital Committee was adjourned by general consensus at 11:05 a.m. following a motion by Mr. Hellmann and seconded by Mr. Whitson.

The next meeting of the MDTA Capital Committee is scheduled for Thursday, May 1, 2014 at 9:00 a.m., at Point Breeze Headquarters, 2310 Broening Highway, Baltimore, Maryland.