



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

ERNEST Y. MARTIN
COUNCIL CHAIR
COUNCIL DISTRICT 2
TELEPHONE: (808)768-5002
FAX: (808) 768-1222
EMAIL: emartin@honolulu.gov

March 24, 2015

MEMORANDUM

TO: ALL COUNCILMEMBERS
FROM: ERNEST MARTIN, COUNCIL CHAIR
SUBJECT: **PERMITTED INTERACTION GROUP REPORT**
Resolution 15-19, CD1 Meeting with Federal Transit Administration
in Washington, D.C. on February 24, 2015

Pursuant to the provisions of Resolution 15-19, CD1, a Permitted Interaction Group (PIG) was established for the purpose of meeting with the Federal Transit Administration in Washington D.C. to discuss issues relating to the recent cost overrun concerns and other questions pertaining to the Honolulu Rail Transit Project.

Members of the group as established by the resolution:

- Council Chair Ernest Martin
- Councilmember Brandon Elefante
- Councilmember Joey Manahan
- Councilmember Trevor Ozawa

The group hereby submits this joint report on the February 24, 2015 meeting with the FTA.

c: Glen Takahashi, Acting City Clerk
Charmaine Doran, Office of Council Services

RECEIVED
CITY CLERK
& C OF HONOLULU
2015 MAR 25 AM 10:14

Permitted Interaction Group (“PIG”) Report

Established by Resolution 15-19, CD1

Meeting With the Federal Transit Administration in Washington, D.C.

February 24, 2015

Council Chair Ernest Martin, Councilmember Brandon Elefante, Councilmember Joey Manahan, and Councilmember Trevor Ozawa

The PIG was created by Resolution 15-19, CD1 to meet with the Federal Transit Administration (“FTA”) in Washington, D.C. to discuss issues relating to the recent cost overrun concerns and other questions pertaining to the Honolulu Rail Transit Project (“Project”). The meeting was held on February 24, 2015 at the FTA office at 1200 New Jersey Avenue, SE, Washington, D.C., 20590.

In addition to the PIG members, the following individuals were also present at the meeting, Mr. Denis Dwyer of Williams & Jensen, PLLC, Mr. Andrew Malahoff, senior advisor to Vice Chair Ikaika Anderson, and members of the FTA were present for the meeting. The FTA had the following individuals present at the meeting:

FTA Acting Administrator Therese McMillan
Senior Advisor to FTA Administrator Mr. Richard Steinmann
Ms. Henrika Buchanan-Smith
Ms. Carolyn Flowers
Mr. Jeremy Ferreir
Mr. Bruce Robinson
Ms. Beth Day
Ms. Lucy Garliauskas
Region 9 Representative (via conference call)

The meeting began with opening statements from the Honolulu City Council Chair Ernie Martin and FTA Acting Administrator Therese McMillan. After opening remarks from both parties, each PIG member and Mr. Malahoff, were given the opportunity to ask questions relating to the Project. Below is a summary of responses from the FTA:

- There is an enormous amount of scrutiny over the project
- Need to ask ourselves these questions:
 1. What is the gap?
 2. How do we fill it?
- The Project participated in the most competitive of FTA programs
 - The Project was thoroughly evaluated based on the current technology listed in the Full Funding Grant Agreement (“FFGA”)
 - A significant change to the scope or technology which would include but not be limited to: route alterations, removal/addition of project elements or

- selection of a different type of rail vehicle, would require recompilation of all environmental and associative planning documents
 - Given the project's current build-out, approval for such changes would be extremely unlikely and would increase Honolulu's likelihood of a contractual default
- The FFGA is a contract between the City and County of Honolulu ("City") and the FTA that has specific details (e.g., length, number of stations, schedule, funding amount, route, etc.)
 - The City will always get the full amount of federal dollars for the Project
 - FFGA is only for construction and not for operations
- The City cannot obtain any more New Starts money for the Minimal Operable Segment (MOS)
 - The City is locked into our contract with the FTA
 - The City can look at other alternative sources to help finance the project
 - FTA will consider cost adjustments
 - The City needs to address the gap in its shortfall by bringing in additional revenue to cover the gap
- Alternative Funding Sources
 - The City can seek TIGER funds (very competitive)
 - Approximately \$500 million
 - Rare for a Project like this one to go after these type of funds
 - Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program
 - The TIFIA "provides Federal credit assistance to eligible surface transportation projects, including highway, transit, intercity passenger rail, some types of freight rail, and intermodal freight transfer facilities."
 - Loan from the U.S. Department of Transportation
 - FTA will be lien holder
 - Need to submit letter of intent
 - Nine months to one year process
 - <http://www.fhwa.dot.gov/map21/factsheets/tifia.cfm>
 - Congestion Mitigation and Air Quality Improvement Program ("CMAQ")
 - "A funding source to state and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter (nonattainment areas) and for former nonattainment areas that are now in compliance (maintenance areas)."
 - <http://www.fhwa.dot.gov/map21/factsheets/cmaq.cfm>

- Surface Transportation Program (“STP”)
 - “STP provides flexible funding that may be used by States and localities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals.”
 - <http://www.fhwa.dot.gov/map21/factsheets/stp.cfm>
- Unencumbered Federal Highway Funds (an amount was not given at the meeting)
 - Hawaii has a significant amount of unexpended funds
 - The City needs to advocate for funds to be used for the Project
- If the City should default on the contract, the City shall be responsible to repay all federal funds expended and pay back on any of its contractual obligations and penalties including those with its contractors
 - The FTA will not accept a discounted pay-back for New Starts monies; 100% of funds received must be repaid in the event of a default
 - A default would greatly stigmatize Honolulu and have long-lasting implications for future efforts in securing competitive grants from the FTA and Federal agencies as a whole
- Breach of FFGA contract would be not completing everything in the contract
 - Anything shorter in length, scope, or change in technology would be a breach of FFGA contract
 - FTA can be flexible with the a delayed start date, however, they would need to see details to justify delays for the start date
- TheBus system in Honolulu should not be under funded
 - The City can bring in any source of capital formula funds as long as it is not detrimental to our existing bus system
 - The City needs to fill gap for the 5307 funds in the financial plan
- Standard practice is that the FTA does not review the financial plan after the FFGA is signed
- It is common for large projects like this one to have millions to billions of dollars in short-term borrowing to maintain cash-flow during peak construction
- FTA needs to evaluate cost increases
- FTA is committed to working with the City to ensure completion of the Project
 - FTA wants to see the project succeed; its investment in our transportation system for the City
 - **City needs to take lead and ownership of oversight of the project**