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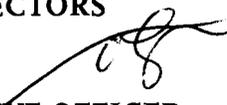
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

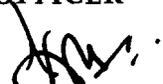
AUGUST 3, 2007

TO: BOARD OF DIRECTORS

THROUGH: ROGER SNOBLE 
CHIEF EXECUTIVE OFFICER

FROM: RUTHE HOLDEN 
CHIEF AUDITOR

CAROL INGE 
CHIEF PLANNING OFFICER

K. N. MURTHY 
DEPUTY CHIEF CAPITAL MANAGEMENT OFFICER

SUBJECT: METRO GOLD LINE EASTSIDE EXTENSION LOS ANGELES COUNTY
CREMATORIUM SITE

ISSUE

At the March 23, 2006 Board Meeting, the Board approved Supervisor Antonovich's motion requiring the Chief Executive Officer (CEO) to complete four actions related to the uncovering of remains during tunneling and excavation near Evergreen Cemetery. These four actions were to 1) conduct a forensic audit regarding environmental and pre-construction processes prior to submission of the Final Environmental Impact Report/Statement (FEIR/S) to the Federal Transit Administration (FTA) during the New Starts process; 2) Develop a plan for Metro to provide, in conjunction with appropriate agencies and communities, a dignified and fitting burial for the remains; 3) present to the Board a full review of environmental and pre-construction policies, with recommendations for revising said policies to ensure that future archaeological and human remains can be detected and handled appropriately prior to submission of final environmental documents; and 4) develop a plan to work with appropriate cultural and historical agencies to devise a memorial or historical exhibition that will highlight the role of Chinese immigrant laborers in developing Los Angeles County's transportation network in the 19th and 20th centuries.

The information presented in this memo in conjunction with prior updates to the Board close out the final open issues in Supervisor Antonovich's motion adopted by the Board.

BACKGROUND

Forensic Audit

Staff informed the Board that Management Audit Services would be outsourcing the forensic audit to a CPA firm that had archaeological and construction expertise and an understanding of FTA new Starts process and requirements. Thompson, Cobb, Bazilio and Associates, PC (TCBA) was retained to complete this audit.

The scope of the audit included a review of three areas: 1) examination of Metro's process prior to the submission of the FEIR/S to the FTA and report on why the process did not discover the mass grave; 2) identification of recommendations to improve the process to ensure this type of situation did not reoccur; and 3) assessment of the environmental and pre-construction policies in context with any audit findings and recommendations from the first two requirements.

The auditors found that the situation leading up to the exposure of the human remains at First Street and Lorena occurred under very unique circumstances. The possibility of using part of the Los Angeles County Crematorium (Crematorium) site for the Metro Gold Line Eastside Extension Project did not arise until after the completion of the FEIR/S, so it had to be addressed under a later Addendum. The records were dated making it difficult to determine what had actually occurred on the site. For example the last interment occurred in 1923 and the last reference to burials was found on 1955 engineering drawings. Although records that revealed the site was once a cemetery were stored at the Crematorium, County personnel appeared to be unfamiliar with the extent of the use as a cemetery. As a result, Metro representatives were informed that it was "highly unlikely" that any human remains would be uncovered in the area being purchased.

Despite the series of complex circumstances revealed in the course of this audit, some concerns were identified regarding Metro's environmental review process, which will be corrected and will most likely ensure that similar events will not be repeated in the future. The audit identified the following "lessons learned" based upon extensive interviews and review of records:

- 1) Additional historical research could have been undertaken during the preparation of the Modified Initial Study/Addendum to determine the historical use of the property that was being acquired;
- 2) Once the potential presence of human remains was recognized as a result of the historical research, remote sensing could have been used to determine if any anomalies were present, then the nature of the anomalies could be reconciled with the historical documents, and subsurface archeological investigation could have been undertaken to confirm the presence/absence and extent of human remains;
- 3) Upon confirmation of human remains, special interest groups could have been notified and relocation options fully explored; a data recovery plan and cemetery relocation plan could have been developed in consultation with the Federal and State agencies, State Historical Preservation Office (SHPO), and special interest groups; and,

- 4) Once this process confirmed the presence of human remains, recovery and relocation could have proceeded with the full knowledge and support of the Federal and State agencies, SHPO, and the concerned public.

Based upon these lessons learned, the audit made the following recommendations that once implemented will most likely ensure that similar events will not occur in the future. The management response and action plan are listed below each recommendation.

- 1) Emphasize the importance of continuity in the environmental review process involving Metro staff and consultants.

Management will provide guidance to staff regarding compliance requirements for NEPA and CEQA, document retention, mandatory language to be included in environmental Request For Proposals, additional areas that must be addressed in the “handover meeting” between phase 1 and 2 addressing mitigation measures as well as identifying specific staff that must attend.

- 2) Provide specialized training for staff responsible for the review of cultural resource documents.

Management will provide staff with the following two publications: the CEQA Deskbook, and The NEPA Book, or approved equals. All Planning and Construction Environmental Compliance Staff working on environmental documents who have not taken a qualified CEQA and NEPA training course shall be enrolled in such training within two years because of budgetary constraints. Guidance will be provided to staff requiring compliance to Secretary of the Interior’s Standards and Guidelines for Cultural Resources Consultants.

- 3) Establish formal thresholds to identify what level of environmental compliance is required when there are significant changes to the Area of Potential Effect (APE).

Management will require staff to complete a thorough review of all pertinent environmental documents consistent with NEPA/CEQA guidelines and will require a consultant to certify compliance with the appropriate NEPA/CEQA guidelines, when the APE changes.

- 4) Clearly assign responsibility for a full investigation of prior land use when property must be acquired.

- 5) Establish a specific policy for staff to follow when a cemetery lies adjacent to the project alignment.

For recommendations 4 and 5, Metro Planning in conjunction with Metro Construction will write a policy regarding Property Acquisition and Communication that will include responsibilities to investigate prior land use. Metro Real Estate Department will provide support to staff for this effort. The policy will include specific directives for what has to

be done when sensitive land uses like cemeteries or related facilities are involved. The policy will include:

- Field investigations
- Cemetery or related facilities adjacent to the alignment
- Cemetery or related facilities on the alignment
- Cemetery or related facilities within a site development tract
- Thorough investigation, and
- Guidance regarding the fact that cemetery boundaries may have changed over time.

All open audit recommendations will be tracked until they are finally implemented and the status will be reported to the Board via periodic Board boxes.

Re-Interment Plan

Excavation activities for the East Portal on the Metro Gold Line Eastside Extension project, and the Los Angeles Department of Transportation's requirement to widen the North side of 1st Street near Lorena Street to mitigate traffic congestion, required the acquisition of a portion of the property occupied by the Crematorium. In late June 2005, construction crews began excavation for widening the street and unearthed the first evidence of a burial when human skeletal remains and artifacts were discovered.

Upon discovery of the human remains and artifacts, all construction activities ceased and the site was designated as an archaeological site so that investigation, recovery, detailed analysis and reports could be done under the supervision and care of the Project Archaeologist. Also, in response to concerns raised by the community, an Ad-Hoc Sub-Committee of the community's Metro Gold Line Eastside Extension Review Advisory Committee was formed to provide information to the community and receive public feedback on a sensitive and respectful re-interment plan, ceremony and fitting memorial.

Metro staff has been working with the community through the Ad-Hoc Sub-Committee, meeting monthly since February 2006 to develop the re-interment plan. At the last Review Advisory Committee Meeting held on June 21, 2007, the Committee voted to select a re-interment site at Evergreen Cemetery. The selected site is near the existing Chinese Historical Shrine and in close proximity to site of discovery. The Ad-Hoc Sub-Committee has requested that Metro begin negotiations with Evergreen Cemetery to purchase plots and burial caskets/vaults. In addition, the Ad-Hoc Sub Committee is exploring designs for a memorial and has begun planning for the site dedication ceremony at the re-interment location. Metro has performed extensive public outreach by holding monthly meetings, and releasing mass-media notifications and advertisements.

Environmental and Pre-Construction Policy Review

As part of the audit process, Metro's environmental and pre-construction processes were reviewed by the outside audit consultant with review by both planning and construction staff. Metro management has recommended several actions to insure that all appropriate staff is fully trained in the NEPA and CEQA laws and guidelines including the Section 106 process focused on cultural, historical and archeological resources. Additional

recommended modifications to our internal processes include improvements in communication and information exchanges during the transfer of environmental monitoring of Metro projects between departments.

Plan to Devise Memorial

Metro staff has been working with the community through the Ad-Hoc Sub-Committee. This committee has been meeting monthly since February 2006 to develop a set of recommendations which will include the site for re-interment, the creation of a memorial to be placed at the re-interment location to honor and pay tribute to the discoveries. The committee is also taking the lead in developing the plan for a site dedication ceremony to commence the re-interment.

The Ad-Hoc Sub Committee was formed through the Review Advisory Committee and the committee meetings presented the public an opportunity to participate. The committee members were self selected and include members of the Eastside and Chinatown communities. For optimum public feedback and participation at the monthly meetings, Metro has performed extensive public outreach and has also released mass-media notifications and advertisements.

During the Review Advisory Committee Meeting held on June 21, 2007, the Committee voted to select a re-interment site at Evergreen Cemetery. The selected site is near the existing Chinese Historical Shrine and is in close proximity to the site of discovery. The Ad-Hoc Sub Committee has requested that Metro begin negotiations with Evergreen Cemetery to purchase plots and burial caskets/vaults that will accommodate re-interring all of the discoveries.

The Ad-Hoc Sub Committee is currently working on developing a conceptual design for a memorial that would pay honor and respect to all of the discoveries at the area of re-interment. Likewise, the Committee has started planning for the site dedication ceremony.

NEXT STEPS

A copy of this memo will also be forwarded to the Review Advisory Committee and Ad-Hoc Subcommittee.