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Website: www.marinhealthcare.org Email: info@marinhealthcare.org
Telephone: 415-464-2090 Fax: 415-464-2094

CITIZENS BOND OVERSIGHT COMMITTEE

Virtual Meeting via WebEx

August 19, 2020, 6:00 PM

Minutes

- I. **Call to Order** –Chair Lava called the meeting to order at 6:02 pm.
- A. **Roll Call**
- Committee Members Present: Leslie Lava, Jonathan Frieman, Steven Dely, Leslie Lava, Jeffrey Tsai, Charles Reite
 - Committee Members Absent: George Feiss
 - Staff Members Present: Eric Brettner (CFO), Liz Lasnier (Controller), Louis Weiner (EA).
 - Guests Present: Ron Peluso (MGH 2.0 Construction Manager), Glenn Mau (Mokri Vanis & Jones LLP)
- B. **Approve Agenda**: It was moved, seconded and carried to approve the agenda as presented.
- C. **Approve Previous Minutes of May 20, 2020**: It was moved, seconded and carried to approve the minutes as presented.
- D. **General Public Comment**: There was no public present and no comments submitted.

II. **MGH 2.0 Project Status**

A. **Schuff Steel Update**

Mr. Glenn Mau, attorney with Mokri Vanis & Jones, reported on the conflict between general contractor McCarthy and subcontractor Schuff Steel. Schuff performed work that was not compliant with OSHPD-approved plans. There is a tolling agreement between Schuff and McCarthy, and a tolling agreement between MGH (owner) and McCarthy; they both expire in August 2021. The Schuff/McCarthy dispute may possibly go to mediation. There has been no discussion yet of mediation between MGH, McCarthy, and Consolidated Engineering (consultant). MGH has not received any claim by McCarthy related to Schuff. McCarthy has made no demands of MGH for additional costs or change orders, and none is expected. Under the Design/Build agreement, MGH has indemnity protection from McCarthy and its subcontractors for such claims.

Mr. Dely inquired of Mr. Mau at length regarding potential financial impact and damages to MGH, responsibilities, liabilities, indemnification, and mediation. After the hospital has opened and all construction completed can the impact and potential damages be seen. The goal is to have a combination of Schuff's and the consultant's liabilities policies to satisfy potential claims by McCarthy and MGH. Schuff did not manufacture to specifications provided to, and approved by, OSHPD, McCarthy caught the error, and MGH is not complicit because of the Design/Build agreement. Mr. Tsai asked whether none of the information disclosed in this discussion is attorney-client privileged, and that MGH is not waiving rights; Mr. Mau affirmed, noting that the interested attorneys will fully discuss later. Mr. Mau then left the meeting.



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B. Project Status, July 2020

Mr. Peluso reported on July status (Tab #2). COVID impact has created scheduling uncertainty in construction, and in the OSHPD process. The Certificate of Occupancy should be in this week by August 21, with exceptions that must be completed prior to First Patient. Change documents are being turned around quickly. ACT 2020 Activation Schedule is in place and on schedule with First Patient target of September 15, but OSHPD has detected 3 conflicts that may delay that target.

The fire alarm completion critical path item was signed off this week, Monday 8/17, and medical gas certification was 8/7; both are major milestones. Site landscaping is ongoing and is 90% complete.

The project continues on budget with final forecast of \$439,736,000 to be right on budget. Ross Valley Sanitary District fees, \$1M greater than budgeted, will come out of contingency. Final remaining contingency will be about \$5-6M.

III. Status of General Obligation Bonds, Funding & Project Costs

A. Q2 2020

Mr. Brettner reported (Tab #3). Of the GO Bonds, all that remains to pay is retention with McCarthy which will be settled when the construction is complete. The project fund balance at Bank of New York Mellon is \$16M. The final requisitions were reported as of March 31, 2020, and the cash hit BNYM in April. The project cost has not changed since last report and remains on budget. After McCarthy's final retention payment, remaining costs will come out of the Revenue Bonds or hospital operations. Mr. Dely again expressed concern about possible contingencies of the Schuff issue; Mr. Brettner will research what the GO bond indentures allow us to do.

B. Requisition Detail

Mr. Brettner reported (Tab #4) that there are no new requisition details to report.

IV. Agenda Items for Next Meeting

Ms. Lava announced that the next meeting on November 18 will be the final update and report on the status of the GO Bonds. A tour of the new hospital was hoped for, but will have to wait until COVID-clearance.

V. Adjournment

Chair Lava adjourned the meeting at 6:46 pm.