

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

BOARD MEETING AGENDA

March 8, 2012

9:00 a.m.

**Please note: The first non-routine item on the agenda is Closed Session. The Board will reconvene in open session at 10:00 a.m. or immediately following the Closed Session, whichever is later.**

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, March 8, 2012, in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

Members of the public may address the Board of Directors regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under General Discussion and Public Comment.

Any action requiring more than a majority vote for passage will be so noted.

Items placed under “consent calendar” are considered routine and will be received, enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from a Director or from a member of the audience.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at 510-464-6083 for information.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>), in the BART Board Room, and upon request, in person or via mail.

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email or via regular mail upon request. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting. Those interested in being on the mailing list for meeting notices (email or regular mail) can do so by providing the District Secretary with the appropriate address.

Please submit your requests to the District Secretary via email to [BoardofDirectors@bart.gov](mailto:BoardofDirectors@bart.gov); in person or U.S. mail at 300 Lakeside Drive, 23<sup>rd</sup> Floor, Oakland, CA 94612; fax 510-464-6011; or telephone 510-464-6083.

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

The purpose of the Board Meeting is to consider and take such action as the Board may desire in connection with:

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of February 23, 2012.\* Board requested to authorize.
- B. Fiscal Year 2012 Second Quarter Financial Report.\* Board requested to accept.

3. CLOSED SESSION (Room 303, Board Conference Room)

- A. CONFERENCE WITH LABOR NEGOTIATORS; PUBLIC EMPLOYEE PERFORMANCE  
Agency Negotiators: Directors McPartland, Radulovich, and Sweet  
Titles: General Manager, General Counsel, Controller-Treasurer,  
District Secretary, and Independent Police Auditor  
Gov't. Code Sections: 54957 and 54957.6

**10:00 a.m.**

**or immediately following the Closed Session, whichever is later**

4. ADMINISTRATION ITEMS

Director Sweet, Chairperson

- A. Fiscal Year 2013 Budget: Financial Priorities.\* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Award of Contract No. 15PB-110A, Earthquake Safety Program Aerial Structures – A Line North.\* Board requested to authorize.

6. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Blalock, Chairperson

NO ITEMS.

7. GENERAL MANAGER'S REPORT

NO REPORT.

8. BOARD MATTERS

- A. Board Member Reports. For information.
- B. Roll Call for Introductions.  
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

9. GENERAL DISCUSSION AND PUBLIC COMMENT

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors  
Minutes of the 1,649th Meeting  
February 23, 2012

A regular meeting of the Board of Directors was held February 23, 2012, convening at 9:05 a.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President McPartland presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Franklin, Keller, Murray, Raburn, and McPartland.

Absent: None. Directors Fang, Radulovich, and Sweet entered the Meeting later.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of February 9, 2012.
2. Procurement of Replacement Non-Revenue Service Vehicles.
3. Award of Invitation for Bid No. 8897, Train Operator Uniforms.
4. Award of Contract No. 79HW-110, Oakland Portal Hardening.

President McPartland announced that at the request of a member of the public Award of Contract No. 79HW-110, Oakland Portal Hardening, would be removed from Consent Calendar.

Director Blalock made the following motions as a unit. Director Keller seconded the motions, which carried by unanimous electronic vote. Ayes – 6: Directors Blalock, Franklin, Keller, Murray, Raburn, and McPartland. Noes – 0. Absent – 3: Directors Fang, Radulovich, and Sweet.

1. That the Minutes of the Meeting of February 9, 2012, be approved.
2. That the General Manager be authorized, pursuant to Government Code Section 54205 and Public Contract Code Section 10298, to purchase replacement non-revenue service vehicles through State of California Department of General Services contracts for an amount not to exceed \$990,000.00, including applicable taxes and State fees.
3. That the General Manager be authorized to award Invitation for Bid No. 8897, an estimated quantity contract for the Procurement of Train Operator Uniforms, to Banner Uniform Center, for the bid price of \$429,241.69, including all applicable sales tax, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.

President McPartland brought the matter of Award of Contract No. 79HW-110, Oakland Portal Hardening, before the Board.

Mr. Floyd Chavez addressed the Board.

Director Radulovich entered the Meeting.

The following individuals addressed the Board.

Ms. Diana LaCome

Mr. Bret Taber

The item was discussed. Director Blalock moved that the General Manager be authorized to award Contract No. 79HW-110, Portal Hardening, to Taber Construction, Inc., for the Base Bid Price of \$1,282,000.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and the Department of Homeland Security's procedures related to protests; and that the General Manager also be authorized to exercise the Option Bid Items: A for \$41,000.00, B for \$205,000.00, and C for \$144,000.00. Director Keller seconded the motion, which carried by electronic vote. Ayes – 6: Directors Blalock, Franklin, Keller, Murray, Raburn, and McPartland. Noes – 1: Director Radulovich. Absent – 2: Directors Fang and Sweet.

President McPartland announced that the order of items on the agenda would be changed.

President McPartland brought the matter of Resolution Expressing Support for Prosecution of Attacks on District Front Line Staff to the Fullest Extent of the Law before the Board.

Ms. Antonette Bryant addressed the Board.

Director Fang entered the Meeting.

Mr. James Stanek addressed the Board.

Director Sweet entered the Meeting.

The following individuals addressed the Board.

Ms. Marilyn Fong

Mr. John Buitrago

Mr. Chris Finn

Ms. Antonette Bryant

Mr. Leano Rice

The item was discussed. President Franklin amended the resolution to add the phrase "Be it further resolved that the District will also engage in a more comprehensive approach in addressing the safety of our front-line employees," and moved adoption of Resolution No. 5187, In the Matter of Adopting a Resolution Expressing the Board of Directors' Support for the Prosecution of Attacks on District Front-Line Staff to the Fullest Extent of the Law. President McPartland seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

President McPartland brought the matter of Citizen Review Board Appointment before the Board. Mr. Duron presented the item.

Reverend Daniel Buford addressed the Board.

The Board members completed weighted voting nomination forms to determine the At-Large appointee.

While the votes were being tallied, Director Sweet requested the reconsideration of the matter of Award of Contract No. 79HW-110, Oakland Portal Hardening. Director Franklin moved that the item be reconsidered. Director McPartland seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. The item was moved to the Engineering and Operations portion of the agenda.

President McPartland brought the matter of Proposed Amendments to Citizen Review Board Model before the Board. Ms. Marcia deVaughn, Deputy General Manager, presented the item.

Director Keller requested changing the word “shall” to “may” in Chapter 2-05, Sections B, C, and D. Director Radulovich moved that the Board amend the BART Citizen Oversight Model previously adopted on August 13, 2009, and amended on January 13, 2010, to reflect changes as detailed in Attachment A, and including Director Keller’s changes. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. (Attachment A is attached and hereby made a part of these Minutes.)

President McPartland returned to the matter of Citizen Review Board Appointment. Reverend Daniel Buford, receiving the highest number of votes in the weighted voting exercise, was recommended as the At-Large Citizen Review Board representative. Director Raburn moved the ratification of Rev. Buford’s appointment. President McPartland seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

Director Sweet, Chairperson of the Administration Committee, brought the matter of District Bond Rating Update before the Board. Mr. Scott Schroeder, Controller/Treasurer presented the item. The item was discussed.

Director Fang, Chairperson of the Engineering and Operations Committee, brought the matter of Increase Amount of Purchase Order No. CM5205-12, with All American Elevator Co., for Emergency Elevator and Escalator Repair Services, before the Board. Mr. Paul Oversier, Assistant General Manager, Operations, presented the item. Director Raburn moved that the General Manager be authorized to increase the amount of the Purchase Order with All American Elevator Co. for emergency elevator and escalator repairs service by \$80,000.00 as requested, to bring the total dollar amount of this Purchase Order to \$170,000.00. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

Director Fang returned to the matter of Award of Contract No. 79HW-110, Oakland Portal Hardening. Mr. Oversier and Mr. Anthony Seung, Principal Engineer, presented the item. The item was discussed. Director Keller requested that it be put on the record that there was no legal basis for the Board not awarding the Contract as recommended by staff.

Mr. Leano Rice addressed the Board.

Director Keller moved that the General Manager be authorized to award Contract No. 79HW-110, Portal Hardening, to Taber Construction, Inc., for the Base Bid Price of \$1,282,000.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and the Department of Homeland Security's procedures related to protests; and that the General Manager also be authorized to exercise the Option Bid Items: A for \$41,000.00, B for \$205,000.00, and C for \$144,000.00. Director Blalock seconded the motion, which carried by electronic vote. Ayes – 7: Directors Blalock, Franklin, Keller, Murray, Raburn, Radulovich, and McPartland. Noes – 2: Directors Fang and Sweet.

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Change Order to Agreement No. 6G4544, with Cordoba Corporation, for Central Processing Services for the Regional Transit Discount Card Program (C.O. No. 4), before the Board. Ms. Julie Yim, Department Manager, Customer Service, and Ms. Carol Walb, Customer Service, presented the item. The item was discussed.

Director Sweet moved that the General Manager be authorized to execute Change Order No. 4 to Agreement No. 6G4544, with Cordoba Corporation, in an amount not to exceed \$310,909.00, and to extend the term of the Agreement to December 15, 2012. Director Franklin seconded the motion.

Mr. Jerry Grace addressed the Board.

The motion carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Franklin, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

Director Fang exited the Meeting.

President McPartland called for the General Manager's report. General Manager Grace Crunican reported on steps she had taken and meetings she had participated in. Mr. Oversier reported on the success of the District's 24-hour service over the past weekend during the closure of the Bay Bridge.

President McPartland called for Board Member Reports.

Director Keller reported that he had attended the Capitol Corridor Joint Powers Authority Board Meeting and that he had met with President McPartland to tour the eBART project.

Director Blalock reported that he had attended the Capitol Corridor Joint Powers Authority Board Meeting and a Fremont City Council meeting.

Director Sweet reported that she had attended many meetings.

President McPartland reported that he had attended many meetings, and he invited Board members to a TransBay Tube exercise on February 26.

Director Murray reported she had promoted Dust, Rust and Rail tour to Walnut Creek City Council, had attended a community meeting on transit-oriented development at Walnut Creek Station, and attended the Capitol Corridor Joint Powers Authority Board Meeting.

Director Raburn reported he had attended the Oakland mayor's America's Cup meeting, an economic forecast meeting with the mayors of Oakland and San Francisco, the Oakland Airport Connector Joint Administrative Committee, a meeting with the Telegraph-Temescal Business Improvement District, the Oakland Merchants Leadership forum, and a Metropolitan Transportation Commission meeting.

President McPartland brought Roll Call for Introductions before the Board.

Director Radulovich requested a report on restoring 15 minute service, including load factors on the shoulders for the peak period and options.

Director Sweet requested agendizing the potential joining of the Richmond Main Street Business Improvement District.

Director Keller requested a review of the recent Bay Bridge closure ridership performance for inclusion in analysis and potential development of robust bus service during hours BART does not operate.

President McPartland called for General Discussion and Public Comment. Mr. Jerry Grace and Mr. Leano Rice addressed the Board.

President McPartland announced that the Board would enter into closed session under Item 10-A (Conference with Labor Negotiators; Public Employee Performance Evaluation) of the regular meeting agenda, and that the Board would reconvene in open session at the conclusion of the closed session.

The Board Meeting recessed at 12:36 p.m.

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The Board Meeting reconvened in closed session at 12:46 p.m.

Directors present: Directors Franklin, Keller, Murray, Raburn, Radulovich, and McPartland.

Absent: Directors Blalock, Fang, and Sweet.

The Board Meeting recessed at 1:58 p.m.

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The Board Meeting reconvened in open session at 1:59 p.m.



Directors present: Directors Franklin, Keller, Murray, Raburn, Radulovich, and McPartland.

Absent: Directors Blalock, Fang, and Sweet.

President McPartland brought the matter of Compensation and Benefits for General Manager, General Counsel, Controller-Treasurer, District Secretary, and Independent Police Auditor before the Board.

President McPartland made the following motion: That effective during the next regular BART pay period the General Counsel, Controller-Treasurer and the District Secretary shall each receive a one-time \$3,000.00 lump sum payment in lieu of a salary increase; that the current Management Incentive Pay of each of the five Board-appointed officers shall be transferred into their annual base salary with no resulting increase in total annual compensation as a result of the transfer; that any cost of living increases previously attached to Management Incentive Pay will no longer be applicable; that the resulting base salary for each of the officers will be General Manager - \$320,000.00, General Counsel - \$243,500.00, Controller-Treasurer - \$214,455.00, District Secretary - \$168,839.00, and Independent Police Auditor - \$161,500.00; and that the Board President be authorized to execute such conforming and clarifying amendments to the employment agreements of the Board appointees as may be recommended by the Associate General Counsel. Director Murray seconded the motion, which carried by unanimous electronic vote. Ayes – 6: Directors Franklin, Keller, Murray, Raburn, Radulovich, and McPartland. Noes – 0. Absent – 3: Directors Blalock, Fang, and Sweet.

Board Meeting was adjourned at 2:01 p.m.

Kenneth A. Duron  
District Secretary

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors

**DATE:** March 2, 2012

**FROM:** General Manager

**SUBJECT:** FY12 Second Quarter Financial Report

The FY12 Second Quarter Financial Report (October - December 2011) is attached. The net operating result was favorable to budget (\$3.3M) for the quarter due to better than budget operating sources offsetting over budget operating expenses. This brings the year-to-date favorable result to \$11.6M.

### Operating Sources

**Ridership**, although still growing, slowed slightly from the pace of growth seen in the first quarter of FY12. Core system average weekday trips grew 5% and SFO Extension trips grew 8%, compared to one year earlier. Through December, trips are 4% above budget and 6% above the first half of FY11. Continued gains in regional employment, as well as higher gas prices, contributed to the growth.

**Sales Tax** revenue grew for the seventh quarter, increasing 10% from one year earlier (\$3.8M over budget). Most regional economic forecasts attribute a large part of this growth to increased consumer demand after limited spending during the recession. Generally, this demand is expected to return to lower, more sustainable levels in the future.

### Operating Uses

**Expenses** were unfavorable to budget by \$1.3M (1%) this quarter. Labor was unfavorable (\$1.7M) primarily due to overtime and was partially offset by the non labor favorable variance. The expense budget is projected to remain tight the rest of the year. Year-to-date, the District is slightly over budget (\$0.7M, or 0.3%), however, we may not be able to sustain the current small variance. Last year through mid-year operating expense was also less than 1% over budget, but we ended the year over budget by 2.1% or \$10M. Therefore, it is essential we continue to control expenses for the remainder of the year.

In closing, the financial results are better than projected when we developed the FY12 budget nearly a year ago. Continued, careful management of operating expenses should enable us to end the fiscal year with a positive budget variance for the Operating Program. However, any positive financial result should be evaluated in the context of BART's funding deficits for the Capital Program.

  
Grace Crunican

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**Quarterly Financial Report  
Second Quarter  
Fiscal Year- 2012**

**Revenue**

●Avg weekday trips for the quarter were 5% over 2QFY11 (core trips up 5% and SFO trips up 8%). Ridership growth slowed slightly compared to the 6% growth seen in 1Q12. Through Dec, total trips were 4% over budget and net passenger revenue was 6% over budget.

**Expense**

●For the quarter, labor and benefits were over budget by \$1.7M (1.9%) primarily due to overtime. Year to date, labor is essentially on budget  
 ●Electric Power is unfavorable YTD, by \$0.4M, due to greater than budgeted power usage.  
 ●OPEB unfunded liability is shown as an expense and offset; there is no bottom line impact.  
 ●Other Non Labor was favorable by \$1.4M for the quarter and \$1.3M YTD likely due to timing of budget vs. actual expenses.

**Operating Deficit**

●The operating deficit (revenue minus expense) was \$4.3M favorable for the quarter, due to over budget operating revenues.

**Tax, Assistance and Allocations**

●Sales Tax grew 10% over 2QFY11, bringing the quarter \$3.8M over budget and YTD \$5.7M over budget.  
 ●Property Tax \$0.5M under budget due to timing.  
 ●STA \$4.5M under budget due to timing, however, it is expected to be under budget at yr end due to allocation factors and reduced demand for diesel.  
 ●Capital Allocations \$3.9M under budget: reduction in allocations due to processing receipt of \$1.8M SamTrans funding, \$2.2M due to pass-through grant timing, with corresponding reduction in Financial assistance. Both variances have no impact to the bottom line nor to the capital program.

**Net Operating Result**

●The net operating result for the quarter was better than budget by \$5.1M, due to favorable revenues.  
 ●Operating ratio (revenue divided by expense) and rail cost per passenger mile were favorable for the quarter and YTD due to better than budget revenues and on budget expense.

	Current Quarter			(\$ Millions)		Year to Date		
	Budget	Actual	Var			Budget	Actual	Var
<b>Revenue</b>					<b>Revenue</b>			
	84.1	89.7	6.7%		Net Passenger Revenue	172.2	182.9	6.2%
	3.6	3.5	-3.6%		Parking Revenue	7.3	7.1	-2.1%
	4.7	4.8	3.2%		Other Operating Revenue	9.3	9.3	0.4%
	<b>92.4</b>	<b>98.0</b>	<b>6.1%</b>		<b>Total Net Operating Revenue</b>	<b>188.8</b>	<b>199.3</b>	<b>5.6%</b>
<b>Expense</b>					<b>Expense</b>			
	90.2	91.9	-1.9%		Net Labor	184.6	184.5	0.1%
	.4	1.3	-235.9%		OPEB Unfunded Liability	.8	2.8	-258.9%
	8.9	9.2	-3.1%		Electric Power	18.0	18.4	-2.3%
	3.9	3.8	3.7%		Purchased Transportation	7.9	7.6	2.9%
	23.2	21.8	6.2%		Other Non Labor	44.8	43.5	3.0%
	<b>126.6</b>	<b>127.9</b>	<b>-1.0%</b>		<b>Total Operating Expense</b>	<b>256.1</b>	<b>256.8</b>	<b>-0.3%</b>
	<b>(34.2)</b>	<b>(29.9)</b>	<b>12.7%</b>		<b>Operating Surplus (Deficit)</b>	<b>(67.3)</b>	<b>(57.5)</b>	<b>14.6%</b>
	46.7	50.5	8.2%		<b>Taxes and Financial Assistance</b>			
	18.2	15.2	-16.9%		Sales Tax	91.7	97.4	6.2%
	5.4	.9	-82.9%		Property Tax, Other Assistance	20.0	16.8	-16.0%
	(18.0)	(18.3)	-1.7%		State Transit Assistance (STA)	5.4	.9	-82.9%
	(10.7)	(6.7)	36.8%		Debt Service	(36.7)	(37.0)	-0.9%
	-	(1.8)	-		Capital and Other Allocations	(24.2)	(20.4)	15.9%
	.4	1.3	235.9%		Op Reserve Alloc - SFO Ops	-	(1.8)	-
	<b>42.1</b>	<b>41.0</b>	<b>-2.4%</b>		OPEB Unfunded Liability Offset	.8	2.8	258.9%
	<b>7.8</b>	<b>11.1</b>			<b>Net Financial Assistance</b>	<b>57.0</b>	<b>58.8</b>	<b>3.2%</b>
	<b>73.0%</b>	<b>76.6%</b>	<b>3.7%</b>		<b>Net Operating Result</b>	<b>(10.3)</b>	<b>1.3</b>	
	<b>0.34 ¢</b>	<b>0.33 ¢</b>	<b>3.9%</b>		<b>System Operating Ratio</b>	<b>73.7%</b>	<b>77.6%</b>	<b>3.9%</b>
					<b>Rail Cost / Passenger Mile</b>	<b>0.34 :</b>	<b>0.32 ¢</b>	<b>4.1%</b>

\* Totals may not add due to rounding to the nearest million.

- No Problem
- Caution: Potential Problem/Problem Being Addressed
- Significant Problem

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors


**Date:** March 2, 2012

**FROM:** General Manager

**SUBJECT:** Administration Agenda Item #4.A: FY13 Financial Priorities Presentation

The attached information will be presented at the March 8, 2012 Board of Directors meeting. The presentation is for informational purposes only, and provides a preview of the upcoming Fiscal Year 2013 budget, an overview of the District's Capital and Operating budget priorities and other important issues. This will be the first in a series of FY13 budget presentations; we look forward to receiving the Board's comments and feedback.

If you any questions, please contact Carter Mau, Executive Manager of Planning and Budget at (510) 464-6194.

  
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Grace Crunican

Attachment

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia deBarden</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: <i>2/29/12</i>		BOARD INITIATED ITEM: <input checked="" type="checkbox"/> No		
Originator/Prepared by: Shirley J Ng Dept: TSD	General Counsel <i>Andrew Kavas</i> <i>2/29/12</i>	Controller/Treasurer <i>[Signature]</i> [ ]	District Secretary <i>[Signature]</i> [ ]	BARC <i>[Signature]</i> <i>2/29/12</i> [ ]
Signature/Date: <i>[Signature]</i> <i>2/29/12</i>				
Status: Routed		Date Created: 02/14/2012		

TITLE:

### Award of Contract No. 15PB-110A, Earthquake Safety Program, Aerial Structures - A Line North

NARRATIVE:

#### **PURPOSE:**

To obtain Board authorization for the General Manager to award Contract No. 15PB-110A, BART Earthquake Safety Program, Aerial Structures - A Line North to Atkinson Contractors, LP.

#### **DISCUSSION:**

The BART Earthquake Safety Program determined that the aerial structures on the Fremont line require seismic strengthening. The work consists of additional reinforced concrete for pier foundation and pier caps; fiber or steel encasement of pier columns; coordination with the Union Pacific Railroad; and associated utilities and structural work. Contract No. 15PB-110A will provide life safety retrofits for the A Line between Hegenberger Road in Oakland to Thornally Drive in San Leandro. In addition, the Contract has three Options to exercise life safety retrofits to three locations (Lake Merritt to Fruitvale, Fruitvale to Coliseum, and in the vicinity of Bayfair Station) which are valid for 360 days from Notice to Proceed.

Advance Notice to Bidders was mailed on December 9, 2011 to 79 firms and Bid Documents were sent to 22 plan rooms. The Contract was advertised on December 14, 2011. A total of 31 firms purchased copies of the Bid Documents. A pre-Bid meeting and site tour were conducted on December 20, 2011 with 18 potential Bidders attending. Seven Bids were received and publicly opened on January 17, 2012.

The Bid submitted by Atkinson Contractors, LP was determined to be the low responsive Bid. Review of the remaining Bids by District staff revealed that the Bids submitted by California Engineering Contractors, Inc., Robert A. Bothman, Inc. and Roebbelen Contracting, Inc. had arithmetical errors in the Bid Item totals and/or in the total Bid Price. Paragraph 16.B, Evaluation, of the Instructions to Bidders in the Contract Book clearly states that item totals are provided by the Bidder for the convenience of the District and that the District will calculate the total Bid Price based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations shall govern. The District's calculations find that the determination that

Atkinson Contractors, LP is the low responsive Bid is unchanged. Tabulation of the corrected Bids (including the Option Bid Items), including the Engineer's Estimate, is as follows:

1. Atkinson Contractors, LP, Foothill Ranch, CA	\$ 28,278,897.50
2. California Engineering Contractors, Inc., Pleasanton, CA	\$ 28,505,951.16
3. Proven Management, Inc., San Francisco, CA	\$ 29,894,879.80
4. Robert A. Bothman, Inc., San Jose, CA	\$ 32,657,571.20
5. Diablo Contractors, Inc., San Ramon, CA	\$ 32,850,185.40
6. Disney Construction, Inc., Burlingame, CA	\$ 33,870,692.00
7. Roebbelen Contracting, Inc., El Dorado Hills, CA	\$ 41,641,429.85
Engineer's Estimate	\$ 31,600,000.00

After review by staff, the apparent low Bidder, Atkinson Contractors, LP was deemed responsive to the solicitation. The Bid Price has been determined to be fair and reasonable. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

This Contract was advertised pursuant to the California Department of Transportation (Caltrans) DBE Program requirements for Federal Highway Administration (FHWA) funded contracts. Under the Caltrans DBE Program requirements, only Underutilized DBEs (UDBE) can participate under the race and gender conscious DBE goal. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities; therefore, a UDBE participation goal of 9% was set for this Contract. Atkinson Contractors, LP committed to subcontracting 12% to UDBEs.

Funding for this \$28,278,897.50 Contract is estimated to support 673 job years as estimated using the Capital Spending job impact assessment outlined in the April 2009 report by Economic Development Research Group, Inc. for the American Public Transportation Association. The estimate includes the total of all direct, indirect, and induced job years resulting from this award.

**FISCAL IMPACT:**

Funding of \$28,278,898 for award of Contract No. 15PB-110A is included in the total project budget for the FMS #15PB000, ESP-Aerial A Line North. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 2/17/12, \$115,270,848 is available for commitment for this project from the following sources:

F/G 801F - ESP GO Bond	\$ 251,875
F/G 801J - ESP GO Bond	\$ 102,990,973
F/G 3844/3836 - FHWA	\$ 10,648,388
F/G 535U/5351 - State Match (Prop 1B)	\$ 1,379,612
Total	\$ 115,270,848

BART has expended \$258,040 and encumbered \$6,358,934 and reserved \$0.00 to date for other actions. This action will commit \$28,278,898 leaving an available fund balance of \$80,374,976.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic retrofit of the A Line North aerial structures at this time and the federal funding may be de-obligated. The Board may elect to reject all Bids and authorize staff to readvertise. Under this alternative, staff would have to reissue the Contract and obtain new Bids. This would result in additional cost and time to execute the required retrofits, and there is no assurance that the Bids on a re-solicitation would be lower than those now available for award.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 15PB-110A, Earthquake Safety Program, Aerial Structures - A Line North to Atkinson Contractors, LP, for the Bid amount of \$19,169,881.00 and is authorized to exercise the three options for a total price of \$9,109,016.50 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and the Federal Highway Administration's requirements related to protest procedures.

**FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM**

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 2/23/12	REMARKS
<b>ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT</b>			
GEC (Bechtel Team)	\$105,000,000	\$248,200,000	
Other GEC	\$81,478,000	\$0	
<b>Subtotal GEC</b>	<b>\$186,478,000</b>	<b>\$248,200,000</b>	
CM	\$61,498,000	\$81,000,000	
Environmental	\$1,042,796	\$2,198,237	
<b>TOTAL E, E &amp; CM</b>	<b>\$249,018,796</b>	<b>\$331,398,237</b>	
<b>CONSTRUCTION</b>			
<b>Transbay Tube</b>			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
<b>San Francisco Ferry Plaza</b>			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$0	
Stitching	\$82,962,000	\$0	
Additional TBT Retrofits	\$0	\$55,892,057	
<b>Aerial Guideways</b>			
West Oakland/North Oakland	\$112,923,000	\$68,700,000	
Fremont	\$178,224,000	\$41,000,000	
Concord	\$36,500,000	\$11,700,000	
Richmond	\$80,155,000	\$34,200,000	
San Francisco/Daly City	\$36,590,000	\$9,600,000	
<b>Stations (18)</b>	<b>\$126,961,000</b>	<b>\$75,100,000</b>	
<b>Other Structures</b>			
LMA	\$5,529,000	\$12,100,000	
Yds & Shops	\$12,436,000	\$20,300,000	
Parking Structures	\$14,437,000	\$14,600,000	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$42,000,000	
<b>Systems</b>	<b>\$7,066,000</b>	<b>\$18,000,000</b>	
<b>TOTAL CONSTRUCTION</b>	<b>\$909,469,000</b>	<b>\$420,700,000</b>	
<b>PROGRAM COSTS</b>			
Program Costs ( Hazmat, ROW, Consult, Staff)	\$159,894,204	\$230,419,872	
Contingency	\$32,104,000	\$270,822,048	
<b>TOTAL PROGRAM COSTS</b>	<b>\$191,998,204</b>	<b>\$501,241,920</b>	
<b>BASELINE FUNDING</b>	<b>\$1,350,486,000</b>		
<b>REVISED FUNDING</b>		<b>\$1,253,340,157</b>	
		<b>\$1,221,275,376</b>	Adopted Funding
		<b>\$32,064,781</b>	Outside Adopted Funding

\$32,064,781