

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

BOARD MEETING AGENDA

May 12, 2011

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, May 12, 2011, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th 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; in person or U.S. mail at 300 Lakeside Drive, 23rd 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 April 14, 2011 (Special).* Board requested to authorize.
- B. Suspension of Board Rule 5-1.2 – Submission of Fiscal Year 2012 Preliminary Budget from Administration Committee to Full Board.* Board requested to authorize.
- C. Fiscal Year 2011 Third Quarter Financial Report.* For information.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Amendment to Agreement No. 6M7066, Poster Advertising Franchise Services, with Titan Outdoor LLC, for Digital Real-time Train Arrival and Advertising Network.* Board requested to authorize.
- B. Fiscal Year 2012 Preliminary Budget Operating Sources, Uses and Service Plan.* For information.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Sole Source Procurement with Dailey and Wells Communications for Trunked Radio System for the Warm Springs Extension (WSX) Radio Site.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B. Change Order to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109, with R&L Brosamer, Inc., for Cast in Drilled Hole (CIDH) Installation Revisions (C.O. No. 49).* Board requested to authorize.
- C. Quarterly Performance Report, Third Quarter Fiscal Year 2011 - Service Performance Review.* For information.

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

Director Murray, Chairperson

NO REPORT.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

A. i. General Manager Recruitment Process Update. For information.
(President Franklin's request.)

ii. Public Comment: General Manager Position – Desirable
Characteristics.

B. Report of the BART Police Department Review Committee. For
information.

C. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. PUBLIC EMPLOYEE EMPLOYMENT

Title: General Manager
Gov't. Code Section: 54957(b)(1)

B. CONFERENCE WITH NEGOTIATORS

Designated Representatives: Directors Blalock, Franklin, Keller, and McPartland
Title: General Manager
Government Code Section: 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DelBene</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>5/4/11</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Kimberly White Dept: Operating Budgets <i>Kimberly White</i> Signature/Date: <i>April 29, 2011</i>	General Counsel <i>Walter DelBene</i> <i>5/2/11</i>	Controller/Treasurer <i>[Signature]</i> <i>5/2/11</i>	District Secretary <i>[Signature]</i> <i>05/02/11</i>	BARC <i>[Signature]</i> <i>4-29-11</i>
Status: Routed		Date Created: 04/18/2011		
TITLE:				

Suspension of Board Rule 5-1.2, in part

NARRATIVE:

Purpose:

To obtain BART Board approval to suspend the requirement in Board Rule 5-1.2 that the tentative budget be submitted to the Administration Committee prior to its submission to the Board of Directors.

Discussion:

BART Board Rule 5-1.2 provides, in part: "[a]fter study and consideration of the tentative budget by the Administration Committee, the budget shall be submitted to the Board of Directors not later than the first regular meeting in May of each calendar year." Currently, the Board meetings format does not include regular meetings of the Administration Committee, making compliance with the requirement that the tentative budget first be considered by the Administration Committee problematic. However, the agendas of the Regular Meetings of the Board include a portion devoted to Administration matters, as necessary, and thus provide an opportunity for full Board study and consideration of the budget.

Board Rule 6-1.2 allows for suspension of a rule by majority vote of all members of the Board upon a showing satisfactory to them of a special situation justifying the suspension of the rule. It is recommended that the Board approve suspension of the requirement in Rule 5-1.2 that the FY 2012 budget be submitted to the Board only after study and consideration by the Administration Committee. This action does not preclude further consideration and discussion of the Preliminary Budget at future Administration Committee meetings.

Fiscal Impact:

No fiscal impact.

Alternatives:

Do not approve the suspension of the requirement that the tentative budget be studied and considered by the Administration Committee before submission to the Board of Directors. However, failure to do so will require that the Board suspend the requirement of Rule 5-1.2 that the budget be submitted to the Board of Directors by the first meeting in May.

Motion:

The Board of Directors approves the suspension of the requirement in Rule 5-1.2 that the FY 2012 tentative budget first be studied and considered by the Administration Committee prior to submission to the Board of Directors.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: May 6, 2011

FROM: General Manager

SUBJECT: FY11 Third Quarter Financial Report

The FY11 third quarter financial report (January – March 2011) is attached. The net operating result was favorable to budget by \$7.7M for the quarter, largely due to fare revenue and sales tax assistance exceeding budget expectations that were based on a more moderate post-recession recovery.

Operating Sources

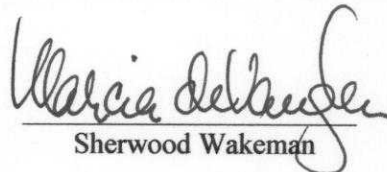
Ridership on the core system exhibited three successive months of growth (up 4.2%) compared to the same quarter last year. This is in contrast to the 0.2% year-over-year decline in the second quarter of FY11 and likely was influenced by the recent increases in gas prices. Combined with good results on the SFO Extension, systemwide average weekday trips for the third quarter grew 4.4%, a noticeable improvement from the 1.0% and 0.6% growth in the first two quarters.

Sales Tax revenue showed improvement for the fourth consecutive quarter, with cash receipts for the quarter (October through December sales) growing 7.0% compared to last year. Factors in the continued growth include increases in gas prices, retail sales including the holiday period, and business-to-business sales. Housing and construction industries, particularly in the eastern part of the District, continue to lag both in employment and sales tax generating activities.

Operating Uses

Expenses were favorable to budget by \$1.2M (1%) for the third successive quarter. Although non labor was favorable, labor and benefits were slightly over budget, although improved over the first quarter budget performance. Year to date expenses are essentially on budget, finishing the third quarter less than \$1M or 0.2% unfavorable. As with the current quarter, year to date non labor favorable variances have offset the labor cost overrun of \$7.4M. However, although to date non-labor is \$6.5M favorable, the fourth quarter is expected to run over budget because current favorable timing variances in other areas are likely to be absorbed by year-end.

Through the first three quarters of FY11, the net operating result is favorable to budget by \$17.1M, with \$12.4M due to sales tax performance and another \$7.0M due to passenger fare revenue. However, the expense budget has been tight all year, and the current slightly negative expense variance is projected to increase by year-end. As always, we will seek to control expenses as much as is possible without impacting safety and reliability, and continue to project a net favorable operating result for the end of the fiscal year.


Sherwood Wakeman

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

**Quarterly Financial Report
Third Quarter
Fiscal Year 2011**

M=million

REVENUE

●Average weekday ridership for the quarter was 341,739, 4.2% over budget. Core trips grew 4.2% and SFO trips grew 6.5% compared to 3Q10. Net Passenger Revenue was \$3.1M above budget for the quarter and \$7.0M YTD.

●Other Operating Revenue was \$0.4M unfavorable for the quarter, with telecommunications, fines and forfeitures, and interest revenue running under budget.

EXPENSE

●Net Labor was slightly unfavorable to budget for the third quarter and is unfavorable YTD by 3.1%. Over-budget overtime combined with fewer than budgeted vacancies in the large operating departments was the main cause.

●OPEB unfunded portion is shown as an expense and offset, with no bottom line impact.

●Electric Power was \$0.6M unfavorable for the quarter, mainly due to an increase in Public Purpose Program surcharges, but slightly favorable YTD due to market power costs being below budget.

●Purchased transportation is 4% favorable YTD, with about half the variance due to timing variances.

●Other Non Labor was \$5.0M or 8.5% favorable YTD. However, a good portion of the favorable current variance is estimated to be timing variances of actual expenses vs. the budget and the year-end variance is projected to be lower.

OPERATING DEFICIT

● Operating deficit is favorable to budget by 6.4% YTD due to the favorable operating revenues.

TAX & FINANCIAL ASSISTANCE

● Sales Tax was 7.0% above 3QFY10 (\$4.0M over budget). YTD, FY11 sales tax is up 7.4% over FY10, however, the first half of FY10 was BART's lowest over the past ten years.

●Property Tax was 5.0% (\$0.8M) over budget and 0.9% below FY10 YTD.

●Other Assistance is under budget YTD by \$1.2M, because less funds than budgeted were needed from SFO Reserve due to higher SFO Extension passenger revenue.

●STA \$0.9M over budget YTD due to revised State Controller factors resulting in more funds to BART.

NET OPERATING RESULT




● The net operating result YTD is \$17.1M favorable to budget due mainly to favorable operating revenues (\$6.2M over budget) and sales tax (\$12.4M over budget). The year-end result is currently projected to be slightly less because expenses are expected to end the year higher over budget than YTD.

SYSTEM OPERATING RATIO/RAIL COST PER PASSENGER MILE

●Operating ratio (revenue divided by expense) and rail cost per passenger mile are both slightly favorable for the year due to better than budget operating revenue.

Current Quarter			(\$ Millions)			Year to Date		
Budget	Actuals	Var				Budget	Actuals	Var
Revenue								
79.9	83.0	3.9%		Net Passenger Revenue		249.3	256.4	2.8%
3.4	3.5	2.7%		Parking Revenue		9.8	10.0	1.4%
4.8	4.4	-9.4%		Other Operating Revenue		14.2	13.3	-6.6%
88.1	90.9	3.2%		Total Net Operating Revenue		273.4	279.6	2.3%
Expense								
86.3	86.9	-0.6%		Net Labor		255.2	263.0	-3.1%
1.7	1.2	28.6%		OPEB Unfunded Liability		5.0	4.5	9.8%
8.2	8.8	-7.0%		Electric Power		26.4	26.2	0.5%
3.7	3.6	3.2%		Purchased Transportation		11.2	10.8	4.0%
0.0	(0.3)	-		Lakeside Lease Accrual		0.0	(0.9)	-
20.3	18.9	6.8%		Other Non Labor		58.9	53.9	8.5%
120.2	119.1	1.0%		Total Operating Expense		356.7	357.5	-0.2%
(32.2)	(28.2)	12.3%		Operating Surplus (Deficit)		(83.3)	(77.9)	6.4%
Taxes and Financial Assistance								
41.8	45.8	9.6%		Sales Tax		123.3	135.7	10.0%
2.8	3.2	14.6%		Property Tax, Other Assistance		21.3	21.0	-1.4%
-	0.1	-		State Transit Assistance		18.8	19.7	4.9%
(19.2)	(19.2)	0.0%		Debt Service		(59.4)	(59.9)	0.8%
(5.9)	(6.1)	4.4%		Capital and Other Allocations		(22.7)	(23.0)	1.1%
1.7	1.2	-28.6%		OPEB Unfunded Liability Offset		5.0	4.5	-9.8%
21.1	24.8	17.7%		Net Financial Assistance		86.2	98.0	13.7%
(11.1)	(3.4)			Net Operating Result		3.0	20.1	
73.3%	76.3%			System Operating Ratio		76.7%	78.2%	
34.6 ¢	32.8 ¢			Rail Cost / Passenger Mile		32.9 ¢	32.2 ¢	

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

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



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Delkungen</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Administration Committee		
DATE: c <i>5/6/11</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Lewis Martin Dept: Marketing & Research <i>Lewis Martin 5/6/11</i>	General Counsel <i>Dudley R. ... 5/6/11</i>	Controller/Treasurer <i>[Signature] 5/6/11</i>	District Secretary <i>[Signature]</i>	BARC <i>[Signature] 5-6-11</i>
Signature/Date: <i>[Signature] 5/6/11</i>				

TITLE:

Authorize Amendment to Agreement 6M7066 with Titan Outdoor LLC for Digital Real-time Train Arrival and Advertising Network

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute an amendment to an agreement with Titan Outdoor LLC to provide a Digital Real-time Train Arrival and Advertising Network. The amendment would become part of Agreement No. 6M7066 – Poster Advertising Franchise Services which ends September 30, 2018.

DISCUSSION:

For the past 35 years, the District has sold advertising space on BART property as an additional source of revenue. The District has always used an outside firm to obtain these services. Under the current agreement, effective October 1, 2008, Titan Outdoor LLC ("Titan"), sells and posts advertising on behalf of the District. The agreement between BART and Titan allows for the introduction of new advertising programs not specifically covered under the base agreement. The poster contract contains a provision which affords Titan the "right of first offer" to furnish, install, and maintain new types of media. As such, the District may collaborate with Titan to develop new advertising initiatives programs without utilizing the competitive selection process.

At the September 23, 2010 Board Meeting, staff presented a range of advertising options designed to increase revenue. Board feedback at that time was mixed, with the Station Video Network and Train Exterior Opportunities receiving the most support. Shortly thereafter, BART received a proposal from Titan in response to a solicitation by staff for Digital Real-time Train Arrival and Advertising Network capabilities. This is the program currently under consideration. Staff is prepared to return to the Board with additional information regarding other options if so desired by the Board.

In response to the right of first offer request, Titan proposes to build the proposed Digital Real-time Train Arrival and Advertising Network ("Network"). One of the Network's primary purposes is to provide useful information to BART customers. This information includes real-time schedules, passenger advisories, news, weather, and entertainment. In addition, the Network's increased advertising revenue would help underwrite District service improvements.

Titan will be responsible for building, installing, and maintaining the entire Network. Moreover, the District will not be required to incur any costs for equipment, purchasing, installation, operations, maintenance, or any support costs associated with the Network after Titan recoups its total Capital Expenditures.

The Network will consist of seventy-five (75) digital displays mounted atop Station Agents' booths covering the entire system. These displays will primarily show BART Next Train Arrival information and BART service advisories. Although Titan would retain an exclusive advertising role, they would not have the exclusive right to install displays providing BART trains activity and service advisories. In addition, in the initial phase, displays devoted to advertising will be installed in the four (4) downtown San Francisco stations. Initially, the Network will be comprised of six (6) digital displays per station, for a total of twenty-four (24) advertising only screens. These large format screens will be mounted Cross-Track on walls at the platform level – with three (3) displays per side. Advertising will be formatted as “limited motion” graphics, with full motion video capability as a future consideration. The Network will have override capability to provide system interruption and messaging in case of a BART emergency or other high level event.

Full Network implementation will be preceded by a Demonstration Phase. During this demonstration period, Titan will install one (1) Station Agent Booth Display and one (1) Cross-Track Display. Titan would work with BART technical and operations staff to obtain the necessary clearances and permits prior to installation. The Demonstration Phase is designed to evaluate customer acceptance and demonstrate Titan's technical ability to deliver the project.

FISCAL IMPACT:

In order to assess the financial merits of the proposed Network and negotiate the best possible terms for the District, staff surveyed transit properties across the United States that have digital advertising programs, including Chicago Transit Authority (CTA), SEPTA in Philadelphia, New Jersey Transit (NJT) and MARTA in Atlanta. With this information, staff was able to negotiate financial terms that are on par or superior to terms obtained at other transit agencies. The following represents Titan's best negotiated offer to the District. This is for a seven (7) year program which would expire September 30, 2018 - concurrent with the Poster Advertising Franchise:

Projected Minimum Guaranteed Income

\$3,625,000

Revenue Share

55% to 62.5%

Minimum Guarantee payments and/or Revenue Share income shall become payable upon Titan's full recovery of its Capital Expenditure to fund the program. The estimated cost of building the Network is approximately \$2.9 Million, including approximately \$1 Million for the 75 real-time information displays.

As mentioned previously, Titan's total Capital Expenditure to build and install the Network is

roughly \$2.9 Million. Upon recovering this initial investment, Titan will begin paying the District based on: 1) scheduled Minimum Annual Guarantee (MAG) payment, or 2) a percentage share of gross revenue – whichever is greater. Monthly MAG (or, in the alternative, applicable Revenue Share) payments to the District become effective in the third agreement year, provided Titan has recouped its total Capital Expenditures. These payments are projected to begin in the third or fourth agreement year depending upon the revenues realized. Under the terms of the existing franchise agreement, the District must pay for the value of equipment that has not been recouped prior to the end of the contract term. Hence, the District will have potential costs if this contract is terminated by BART prior to Titan recouping its total capital expenditures. MAG payments are scheduled as follows: \$325,000 in the first year of eligibility; \$650,000 in the second year of eligibility; \$750,000 in the third year; \$900,000 in the fourth year; and \$1,000,000 beginning in the fifth year of eligibility. The Revenue Share percentage starts at fifty-five percent (55%) in the first year of eligibility, and then rises incrementally to sixty-two and one half percent (62.5%) beginning in the fifth year of eligibility. The commencement date of the first revenue period (Revenue Year) will be established by the parties after identification of implementation issues. The amendment will be approved as to form by the Office of the General Counsel.

ALTERNATIVES:

1. Reject the Titan proposal and advertise a Request for Proposal (RFP). Staff do not recommend this alternative because of the following reasons: a) this proposal is comparable or better than other transit deals in the US, b) implementing this Network is the quickest way to introduce a new passenger amenity and revenue stream, and c) it would be problematic to issue an RFP and award to another sales agent; multiple sales agents for BART advertising products cause confusion in the marketplace and may reduce the value of the franchise.
2. Discontinue consideration of Digital Real-time Train Arrival and Advertising Network

RECOMMENDATION:

It is recommended that the Board adopt the following motion.

MOTION:

The General Manager or designee is authorized to execute an amendment to Agreement No. 6M7066 – Poster Advertising Franchise Services with Titan Outdoor LLC, which is set to expire on September 30, 2018, for Digital Real-time Train Arrival and Advertising Network with the following revenue shares or minimum annual guarantees, whichever is greater, to commence one month after Titan Outdoor LLC's recoupment of its initial capital expenditures to build and install the network:

<u>Revenue Year</u>	<u>Revenue Share</u>	<u>Minimum Annual Guarantee</u>
1(2011-2012)	55%	-
2(2012-2013)	55%	-

Authorize Amendment to Agreement 6M7066 with Titan Outdoor LLC for Digital Real-time Train Arrival and Advertisin

3(2013-2014)	55%	\$325,000
4(2014-2015)	57%	\$650,000
5(2015-2016)	57%	\$750,000
6(2016-2017)	57%	\$900,000
7(2017-2018)	62.5%	\$1,000,000



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Thomas Herold</i>		GENERAL MANAGER ACTION REQ'D: Forward to the Board	
DATE: 5/4/11		BOARD INITIATED ITEM: No	
Originator/Prepared by: Thomas Herold Dept: Maintenance & Engineering	General Counsel <i>Andrew Kowalski</i> 5/3/11	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>
Signature/Date: <i>Thomas Herold</i> 5/2/11	<i>[Signature]</i> 5/3/11	<i>[Signature]</i>	BART <i>Paul Cverse</i> 5/2/11
Status: Routed		Date Created: 03/07/2011	

TITLE:

Sole Source Procurement of Radio Communication Equipment for the Warm Springs Extension Radio Site (Two-Thirds Vote Required)

NARRATIVE:

PURPOSE: To obtain Board authorization, in accordance with Public Contract Code Section 20227, to enter into negotiations and execute a contract with Dailey and Wells Communications, to provide engineering, parts, software, equipment placement, and startup services necessary for modifying the existing and in-service trunked radio network pursuant to the requirements of Project 02EE, Warm Springs Extension (WSX) Radio Site.

DISCUSSION: BART owns and operates an 800 megahertz trunked radio system, which has been in service since April 2000. The trunked radio system provides two way voice communications between the trains and BART Operations Control Center, between BART Police and the Integrated Security Response Center, and between maintenance and administrative personnel while they keep the BART system in good repair and order.

As part of the Warm Springs Extension project, a new trunked radio site is required to extend radio coverage into the Extension area, along with modifications to existing radio equipment to integrate the new site into the existing radio network. The trunked radio system equipment uses an operating format known as EDACS (Enhanced Digital Access Communications System). It is proprietary, uses unique protocols, and was manufactured solely by Ericsson, Inc. In 2009, Harris Corporation acquired the EDACS radio design rights and manufacturing company. All EDACS equipment is now manufactured solely by Harris.

Staff has been advised by Harris that the order for the needed equipment must be placed directly with Dailey and Wells Communications. Staff proposes to contract with Dailey and Wells Communications to provide equipment and services for the WSX radio site, and for the modifications necessary to the existing proprietary EDACS equipment for the new radio site system integration. Dailey and Wells Communications was the assembler, field designer, installation and startup contractor during the original, SFO, and Oakland Shops radio system projects. They have subsequently provided parts and service for the BART trunked radio

network. Staff has determined they are capable of providing the engineering, services, and parts for any radio work required by the WSX Radio Site project.

Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement therefore and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use.

Staff is now seeking to enter into direct negotiations with Dailey and Wells Communications to execute a sole source contract with Dailey and Wells Communications to provide new equipment and modifications to existing equipment. The negotiated price will not exceed \$900,000 plus applicable taxes. Staff has determined that these prices are reasonable base upon prior purchase history and further cost analysis.

The Office of the General Counsel will approve the contract as to form.

FISCAL IMPACT: Funding of \$900,000 for Project 02EE is included in the total budget for the Warm Springs Extension - Line, Track, Station & Systems (Design-Build) Project. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 55Y – Prop 1B SLPP 04A0076-03 A11

\$900,000

As of month ending 02/27/11, \$20,631,914 is available for commitment from this fund source for this project and BART to date has committed \$8,164,928. There is \$581,297 pending commitment in BART's financial management system. This action will commit \$900,000 leaving an uncommitted balance of \$10,985,689 in this fund.

There is no fiscal impact on available un-programmed District Reserves.

ALTERNATIVES: If this equipment and service is not purchased, then BART will be without radio coverage necessary to support BART operations throughout the Warm Springs Extension area.

RECOMMENDATIONS: On the basis of analysis by staff and certification by the Controller-Treasurer that the funds are available for this purpose, it is recommended that the Board adopt the following motion.

MOTION: The Board finds pursuant to Public Contract Code Section 20227 that Dailey and

Wells Communications is the single source for procurement of 800 MHz EDACS trunked radio system equipment pursuant to the requirements of Project 02EE Warm Springs Extension (WSX) Radio Site, and that the procurement is for the purpose of duplicating or replacing equipment in use at the District. The Board authorizes the General Manager to enter into direct negotiations with Dailey and Wells Communications and to execute a contract with Dailey and Wells Communications to provide engineering, parts, software, equipment placement, and startup services necessary for modifying the existing and in-service trunked radio network pursuant to the requirements of Project 02EE Warm Springs Extension (WSX) Radio Site, for a total price not to exceed \$900,000, plus applicable taxes.

(Two-thirds vote required.)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia del Valle</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 5/4/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Horton Dept: TSD <i>Thomas Horton</i> Signature/Date: 5/3/11	General Counsel <i>Michael P. ...</i> 5/3/11 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Paul ...</i> 5/3/11 []
Status: Approved		Date Created: 04/07/2011		

TITLE:

Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109, Change Order No. 49

NARRATIVE:

PURPOSE:

To authorize the General Manager to Execute Change Order No. 49, CIDH Installation Revisions, in an amount not to exceed \$452,643.02, to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109 with R&L Brosamer, Inc.

DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 15SU-110 to R&L Brosamer, Inc. on October 22, 2009. Included in the scope of the Contract was the installation of Cast in Drilled Hole (CIDH) piles at eight pier foundations. Upon commencing this installation, the Contractor encountered high water pressures in the drilled holes that had not been identified in the Contract Documents, requiring changes to the pile reinforcing steel, installation of temporary casing to control the water, additional instrumentation, and changes in planned work sequence.

Pursuant to Board Rule 5-2.4, Change Orders involving expenditures greater than \$200,000 require Board approval.

The costs claimed by the Contractor include the direct costs incurred as well as certain impact and delay costs. This change compensates the Contractor for direct costs agreed to by both parties, in order to allow work to proceed. Further negotiation of the other portions of the Contractor's request for change could require staff to return to the Board for further authorization.

The Office of the General Counsel will approve this Change Order as to form prior to execution. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT:

Funding not to exceed \$452,643 for award of Change Order No. 49 of Contract No. 15SU-110 is

included in the total project budget for the FMS #15SW, Aerial Structures – West Oakland. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost not to exceed \$452,643 will be funded as follows:

F/G 01F – General Obligation Bond

\$289,692

As of month ending 2/27/2011, \$13,766,433 is available for commitment from this fund source for this project and BART has committed \$13,191,433 to date. There are pending commitments of \$175,000 in BART's financial management system. This action will commit \$289,692 leaving an uncommitted balance of \$110,308 in this fund source.

F/G 49S – Seismic LSSRP

\$144,846

As of month ending 2/27/2011, \$13,841,932 is available for commitment from this fund source for this project and BART has committed \$6,105,274 to date. There are no pending commitments in BART's financial management system. This action will commit \$144,846 leaving an uncommitted balance of \$7,591,812 in this fund source.

F/G 55U – State Prop. 1B

\$18,105

As of month ending 2/27/2011, \$1,793,372 is available for commitment from this fund source for this project and BART has committed \$766,397 to date. There are no pending commitments in BART's financial management system. This action will commit \$18,105 leaving an uncommitted balance of \$1,008,870 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. The District will likely receive a claim from the Contractor for costs related to addressing the differing site condition.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 49, CIDH Installation Revisions, in an amount not to exceed \$452,643.02, to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109 with R&L Brosamer, Inc.

San Francisco Bay Area Rapid Transit District

EXECUTIVE DECISION DOCUMENT

Date: 04/14/2011

**ATTACHMENT #2
CONTRACT NO. 15SU-110**

CO No: 49

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Earthquake Safety Program
Name of Contractor:	R&L Brosamer, Inc.
Contract No./NTP:	15SU-110/January 25, 2010
Contract Description:	Aerial Structures West Oakland A-1 to P-109
Percent Complete as of 3/31/11 – Dollars	82.11%
Percent Complete as of 3/31/11 – Time	56.44%

COST

	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Amount			\$15,188,930.00
Change Orders:	9.40%	\$1,428,929.50	
Other than Board Authorized CO's	9.40%	\$1,428,929.50	
This Change Order No. 49	2.98%	\$ 452,643.02	
Subtotal of All Change Orders	12.39%	\$1,881,572.52	
<u>Revised Contract Amount</u>			\$17,070,502.52

SCHEDULE

Original Contract Duration:	760 days
Time Extension to Date:	0 days
Time Extension Due to Approved COs:	0 days
Revised Contract Duration:	760 days