

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

BOARD MEETING AGENDA

October 8, 2015

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, October 8, 2015, 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 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 (https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904) or via regular mail upon request submitted to the District Secretary. 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.

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 September 24, 2015.* Board requested to authorize.
- B. Audit of Directors' Use of District Property for Fiscal Year 2015.* Board requested to accept.
- C. Designation of Co-Chairs to Asset Management Ad Hoc Committee.* Board requested to ratify. (President Blalock's request.)

3. ADMINISTRATION ITEMS

Director Keller, Chairperson
NO ITEMS.

4. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Change Order to Contract No. 15EK-110, Traction Power Substation Replacement ACO/KOW Installation, with Shimmick Construction Company, Inc., for Extension of Time (C.O. No. 15).* Board requested to authorize.
- B. Change Order to Contract No. 79HM-120, SFTS MB, with Manson Construction Company, Inc., for Fiber Reinforced Plastic Wrap of Existing Deck Piles (C.O. No. 5).* Board requested to authorize.

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

Director Raburn, Chairperson

- A. 2015 State and Federal Legislative Update.* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

7. BOARD MATTERS

A. Board Member Reports.

(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since last Board Meeting.)

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.)

C. In Memoriam.

(An opportunity for Board members to introduce individuals to be commemorated.)

8. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)

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

Board of Directors
Minutes of the 1,741st Meeting
September 24, 2015

A regular meeting of the Board of Directors was held September 24, 2015, convening at 9:03 a.m. in the Board Room, 344 20th Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None.

President Blalock welcomed and introduced Jim Wunderman, Chief Executive Officer, Bay Area Council. Mr. Wunderman presented a reported entitled Tri-Valley Rising: Its Vital Role in the Bay Area Economy. The presentation was discussed.

The following individuals addressed the Board.

Gerald Cauther
Kent Levandowski
Joel Ramos

President Blalock introduced and welcomed Esperanza Diaz-Alvarez, a proposed new member to the BART Accessibility Task Force. Ms. Diaz-Alvarez addressed the Board.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of August 13, 2015, and September 10, 2015.
2. Appointment of New Member to the BART Accessibility Task Force.
3. Award of Contract No. 15TF-111, Installation of Safety Barriers in Right-of-Way System Wide Phase 1.
4. Reject All Bids for Contract No. 17AG-150, Civic Center Station Room 108 Renovation.

Director Murray requested that Reject All Bids for Contract No. 17AG-150, Civic Center Station Room 108 Renovation, be removed from Consent Calendar.

Director McPartland made the following motions as a unit. Director Murray seconded the motions, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

1. That the Minutes of the Meetings of August 13, 2015, and September 10, 2015, be approved.

2. That the Board accept the recommendation of the BART Accessibility Task Force (BATF) and appoint the nominated candidate, Esperanza Diaz-Alvarez, for membership to the BATF for a term beginning September 24, 2015, for one year, or until the Board makes new appointments and/or reappointments for a new term, whichever occurs later.
3. That the General Manager be authorized to award Contract No. 15TF-111, Installation of Safety Barriers in Right-of-Way System Wide Phase 1, to Bay Construction Co. of Oakland, California, for the Bid price of \$534,710.88, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protests.

President Blalock brought the matter of Reject All Bids for Contract No. 17AG-150, Civic Center Station Room 108 Renovation, before the Board. Mr. Paul Oversier, Assistant General Manager, Operations, gave a brief presentation on the item. Director Murray moved that the single Bid received by the District for Contract No. 17AG-150, Civic Center Station Room 108 Renovation be rejected. Director Saltzman seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

Director Keller, Chairperson of the Administration Committee, brought the matter of Amended and Restated Clipper® Memorandum of Understanding with the Metropolitan Transportation Commission and Bay Area Transit Operators that Participate in Regional Clipper® Card Fare Payment System before the Board. Mr. Carter Mau, Assistant General Manager, Administration and Budgets, and Ms. Patricia Nelson, Project Manager, Clipper® Program, presented the item. The item was discussed.

Jerry Grace addressed the Board.

Director Mallett moved that the General Manager be authorized to execute the Amended and Restated Clipper® Memorandum of Understanding with Metropolitan Transportation Commission and Bay Area transit operators that use Clipper®. Director Saltzman seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

Director Raburn exited the Meeting.

Director Keller brought the matter of Resolution of Support for BART Project Submittals for the Metropolitan Transportation Commission's Plan Bay Area 2040 Project Update before the Board. Ms. Alix Bockelman, Metropolitan Transportation Commission (MTC); Mr. Gregg Marrama, Department Manager of Capital Development; and Mr. Val Menotti, Department Manager, Planning, presented the item. The item was discussed.

President Blalock moved adoption of Resolution No. 5301, In the Matter of Authorizing Actions Necessary to Submit Projects/Programs for Plan Bay Area 2040 to the Metropolitan Transportation Commission, with Attachment A to include Item number 6, BART Metro Program, in the amount of \$1,900,000 ,with the description to include \$200,000 for the study of

the transbay corridor; Item number 9, BART to Livermore Project Development, description to reference an intermodal connection to the Altamont Corridor Express service; and Item number 12 to be expressed as eBART Phase 2 – Station \$50,000,000 and Phase 3 – Extension \$250,000,000.

Joel Ramos addressed the Board.

Director McPartland seconded the motion.

Discussion continued. The motion failed. Ayes - 4: Directors Keller, McPartland, Murray, and Blalock. Noes – 3: Directors Josefowitz, Radulovich, and Saltzman. Abstain – 1: Director Mallett. Absent – 1: Director Raburn.

Director Mallett moved adoption of Resolution No. 5301, In the Matter of Authorizing Actions Necessary to Submit Projects/Programs for Plan Bay Area 2040 to the Metropolitan Transportation Commission, with Attachment A to include Item number 6, BART Metro Program, in the amount of \$1,900,000, with the description to include \$200,000 for the study of the transbay corridor; Item number 9, BART to Livermore Project Development, description to reference an intermodal connection to the Altamont Corridor Express service; and Item number 12, eBART Phase 2, to be deleted; with a letter of support for eBART Phase 2 to be submitted in the event the Contra Costa Transportation Authority submits the project to the MTC for Plan Bay Area 2040 as the lead/sponsoring agency.

The motion died for lack of a second.

President Blalock moved adoption of Resolution No. 5301, In the Matter of Authorizing Actions Necessary to Submit Projects/Programs for Plan Bay Area 2040 to the Metropolitan Transportation Commission, with Attachment A to include Item number 6, BART Metro Program, in the amount of \$1,900,000, with the description to include \$200,000 for the study of the transbay corridor; Item number 9, BART to Livermore Project Development, description to reference an intermodal connection to the Altamont Corridor Express service; and Item number 12 to be expressed as eBART Phase 2 – Station \$50,000,000 and Phase 3 – Extension \$250,000,000, to be included in the event the Contra Costa Transportation Authority submits the project to the MTC for Plan Bay Area 2040. Director Murray seconded the motion, which failed. Ayes - 4: Directors Keller, McPartland, Murray, and Blalock. Noes – 3: Directors Josefowitz, Radulovich, and Saltzman. Abstain – 1: Director Mallett. Absent – 1: Director Raburn.

Director Josefowitz moved adoption of Resolution No. 5301, In the Matter of Authorizing Actions Necessary to Submit Projects/Programs for Plan Bay Area 2040 to the Metropolitan Transportation Commission, with Attachment A to include Item number 6, BART Metro Program, in the amount of \$1,900,000, with the description to include \$200,000 for the study of the transbay corridor; Item number 9, BART to Livermore Project Development, description to reference an intermodal connection to the Altamont Corridor Express service; and Item number 12 deleted from the submittal.. Director Saltzman seconded the motion, which carried by electronic vote. Ayes - 6: Directors Josefowitz, Mallett, McPartland, Radulovich, Saltzman, and Blalock. Noes – 2: Directors Keller and Murray. Absent – 1: Director Raburn.

Director McPartland exited the Meeting.

Director Keller brought the matter of Alameda County Measure BB Update before the Board. Ms. Donna Lee, Principal Planner, presented the item. The item was discussed.

Director Murray, Vice Chairperson of the Engineering and Operations Committee, brought the matter of Warm Springs Extension Project: Semi-Annual Project Update before the Board. Mr. Paul Medved, Project Manager, Warm Springs Extension Program, presented the item. The item was discussed.

Jerry Grace addressed the Board.

Director Mallett, Vice Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, had no report.

President Blalock called for the General Manager's report.

General Manager Grace Crunican reported on steps she had taken and activities and meetings she had participated in, and reminded the Board of upcoming events. She noted that BART had won first place for Excellence in Electronic Media in the 2015 AdWheel competition, and had been successful in obtaining Federal Transit Administration funds to improve TransBay core capacity. There were no updates to outstanding Roll Call for Introductions items.

President Blalock called for the Independent Police Auditor's Report. Mr. Mark Smith, Independent Police Auditor, reported on the activities of the Office over the past quarter. The report was discussed.

President Blalock called for Board Member Reports.

Director Mallett reported he had attended the East Bay Youth Media awards.

President Blalock reported he had attended a groundbreaking for the South Hayward BART Family and Seniors Communities.

President Blalock called for Roll Call for Introductions. No items were introduced.

President Blalock called for In Memoriam. There were no requests.

Director Mallett requested information on the West Oakland development project.

President Blalock called for Public Comment. Jerry Grace addressed the Board.

The Board Meeting was adjourned at 1:13 p.m.

Kenneth A. Duron
District Secretary

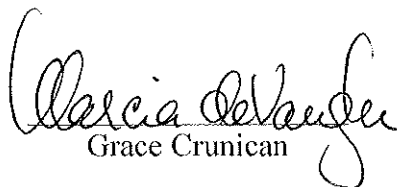
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Inter-Office Communication

To: Board of Directors **Date:** October 2, 2015
From: General Manager
Subject: Audit of Directors' Use of District Property

Attached is the Internal Audit Department's final audit report – *Audit of Directors' Use of District Property*. The audit will appear on the October 8, 2015, Board Consent Calendar.

If you have any questions regarding the audit, please contact Terry Green at (510) 464-7563.


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager

*Audit of Directors' Use of District Property
for Fiscal Year 2015*

BACKGROUND

The Internal Audit Department has audited the District's compliance with the requirements of the San Francisco Bay Area Rapid Transit District's *Rules of the Board of Directors* Board Rule 5-3.5, Use of District Property Other than Automobiles. The Rules require that the Internal Audit Department shall complete an annual audit for the previous fiscal year for compliance with the requirements of Board Rule 5-3.5, and shall submit the audit report, including a list of property issued to each Director, to the next Administration Committee following September 15 for review and forwarding to the full Board.

Board Rule 5-3.5 requires that:

- Directors may have use and possession of specifically identified District property that is comparable in cost and function to equipment available to District employees;
- The property shall be returned when a Director leaves office;
- Directors request the property through the District Secretary's Office;
- The District Secretary shall request quarterly that the Directors review their cellular phone and calling card charges;
- Directors reimburse the District within 30 days of the quarterly request for reimbursement of costs that are not for District business; and
- The District Secretary shall report to the Board President or Vice President if the quarterly requests are not responded to or reimbursements not made within 30 days.

The purpose of our audit was to determine whether the District complied with the requirements of Board Rule 5-3.5 for the fiscal year ended June 30, 2015. To accomplish our purpose, we reviewed the requirements of the Board Rule, reviewed the report for the audit of compliance with the Board Rule done for the previous year, examined records maintained by the District Secretary, notified Directors of the property recorded in the District's records as issued to each Director, and conducted discussions with the staff of the District Secretary's Office.

We performed the audit in accordance with generally accepted government auditing standards and included such tests as we considered necessary in the



*Audit of Directors' Use of District Property
for Fiscal Year 2015*

**BACKGROUND
(Con'd)**

circumstances. We used the *Rules of the Board of Directors* Board Rule 5-3.5 as criteria for the audit.

We provided Kenneth A. Duron, District Secretary, with a draft copy of our audit report on September 4, 2015. We discussed the draft audit report with him on September 4, 2015, and incorporated his comments into this report.

**SUMMARY OF
AUDIT RESULTS**

We found that in fiscal year 2015, the District complied in all material respects with the requirements of Board Rule 5-3.5. A list of property issued to each Director as recorded in the District's records is shown in Exhibit A.

We also found that a former Director who left office in December 2014, and has District purchased equipment in his possession, has not returned the equipment as required by Board Rule 5-3.5(a), or reimbursed the District for the equipment. The equipment was valued at \$2,888 when the Director left office. The District Secretary sent correspondence in December 2014, April 2015, and August 2015 to the former Director requesting payment for the unreturned equipment.

Terry Green, Acting Department Manager
Internal Audit Department



*Audit of Directors' Use of District Property
 for Fiscal Year 2015*

Exhibit A

Schedule of District Property in Directors' Custody
 As of June 30, 2015

DIRECTOR	PROPERTY DESCRIPTION
Gail Murray 1st District	Apple iPhone Dell Laptop
Joel Keller 2nd District	Samsung Galaxy Smartphone
Rebecca Saltzman 3rd District	(No Equipment Issued)
Robert Raburn 4th District	Verizon MiFi Device
John McPartland 5th District	Apple iPhone Dell Laptop External Computer Hard Drive Apple iPad Mini Verizon MiFi Device
Thomas M. Blalock 6th District	Brother Intellifax HP Fax Machine Apple iPad Mini
Zakhary Mallett 7th District	Verizon MiFi Device
Nicolas Josefowitz 8th District	(No Equipment Issued)
Tom Radulovich 9th District	Apple MacBook Computer External Computer CD/DVD Drive Apple iPhone

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: September 21, 2015

FROM: District Secretary

SUBJECT: Designation of Co-Chairs to Asset Management Ad Hoc Committee

The Board of Directors ratified President Blalock's establishment and appointments to the Asset Management Ad Hoc Committee on May 14, 2015. President Blalock proposes the designation of Directors Josefowitz and Keller as Co-Chairs for the Ad Hoc Committee.

Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board.

In accordance with Board Rule 3-3.2, President Blalock is bringing the matter of appointment of Co-Chairs for the Asset Management Ad Hoc Committee to the Board Meeting agenda of October 8, 2015.

President Blalock notes:

"As the District focuses on addressing its capital reinvestment needs, the District must ensure the short and long term funding strategies are aligned with the Asset Management Policy. Directors Josefowitz and Keller have proven track records as great advocates for the sustainability of public transit in general and BART in particular."

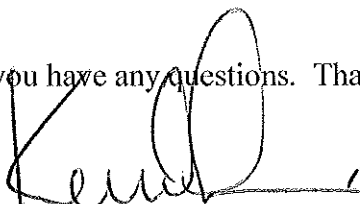
MOTION:

That the Board of Directors ratifies the appointment of the following Directors as the Co-Chairs of the Asset Management Ad Hoc Committee:

Nicholas Josefowitz

Joel Keller

Please contact President Blalock or me if you have any questions. Thank you.



Kenneth A. Duron

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeLaunay</i>		GENERAL MANAGER ACTION REQ'D: Approve and place on Oct. 8, 2015 Board Agenda	
DATE: 9/30/15		BOARD INITIATED ITEM: No	
Originator/Prepared by: Steve Sims Dept: M&E Traction Power	General Counsel	Controller/Treasurer	District Secretary
Signature/Date: <i>Steve Sims</i> 9/29/15	<i>MB</i> 9/30/15	<i>Paul</i> 9/30/15	<i>Paul</i> 10/1/15
Status: Routed		Date Created: 09/23/2015	
TITLE:			

Change Order No. 15, Time Extension for District Delays II, to Contract No. 15EK-110, Traction Power Substation Replacement, ACO/KOW Installation

NARRATIVE:

PURPOSE

To request Board Authorization for the General Manager to execute Change Order No. 15 to Contract No. 15EK-110, Traction Power Substation Replacement ACO/KOW Installation, with Shimmick Construction Company, Inc. (Shimmick) in the amount of \$283,104.36.

DISCUSSION

On November 4, 2013, the District issued Notice to Proceed on Contract No. 15EK-110, to Shimmick. This Contract provided for the installation of District supplied equipment at BART's Coliseum and West Oakland Stations and had an original Contract Price of \$2,761,000.00. Contract No. 15EK-110 was the first in a series of installation contracts planned as part of the District's Traction Power Substation Replacement Program. The equipment is procured by the District under a separate contract and is to be supplied to Shimmick for installation. Due to delays in the supply of acceptable equipment from BART's Supplier, Shimmick incurred costs associated with the delays in the installation of the equipment. Change Order No. 15 provides compensation to Shimmick for 98 days associated with those delays.

On February 6, 2015 (see attached memo), and pursuant to Board Rule 5-2.4 (Change Orders), the General Manager notified the Board of Directors that, the District intended to execute Change Orders for Contract No. 15EK-110 in excess of 10% of the original Contract Price. Estimated total Change Orders for Contract No. 15EK-110 were expected to be about 35% of the Contract Price, or \$965,300.07. Of this, \$363,991.32 was attributed to 126 days of delay due to late equipment deliveries and late field support by the District's Procurement Contractor. Change Order No. 15 represents 98 of those 126 delay days. The District will seek to recover a portion of these delay costs using provisions in the Procurement Contract.

To date, the District has issued 14 Change Orders for Contract No. 15EK-110 for a total value of \$507,012.28. With the inclusion of Change Order No. 15, the total value of Change Orders is \$790,116.64, or approximately 29% of the original Contract Price. The final total cost of Change Orders for Contract No. 15EK-110 is now expected to be \$985,116.64, or 35.7% of the original Contract Price, in line with the General Manager's Board Notification. These additional costs are due to other field problems and delays and will be addressed as part of a separate Change

Order.

The office of the General Counsel will approve the Change Order as to form.

The Procurement Department will review the Change Order for conformance with BART procurement standards.

FISCAL IMPACT:

Funding of \$283,104 for Change Order No. 15 for Contract No. 15EK-110 is included in the total project budget for FMS #15EK300 - Traction/Power Substation Renovation - Installation. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

As of September 24, 2015, \$9,161,047 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
226E	BART	1998 Sales Tax Revenue Debt Service	\$254,693
3004	Federal	CA-90-Y946 FY12- Capital Projects	\$1,124,833
347W	Federal	FTA Grant No CA-03-0729	\$436,595
347Z	Federal	CA-05-0216-00 FY07 FG MOD	\$1,473,694
353G	Federal	CA-05-0224 FY08 Capital Improvement	\$1,366,770
353K	Federal	CA-05-0236 FG MOD-FY09 Capital Improvement	\$1,985,186
354R	Federal	CA-90-Y833 FY10 Capital Projects	\$210,000
6014	Regional	Bridge Toll Alloc#09387205	\$495,759
6017	Regional	Bridge Toll Alloc#10395402	\$768,945
6018	Regional	FY11-12 Project Match MTC Reso#4044	\$480,000
6213	Regional	Regional Measure II Alloc#08382301	\$368,424
6214	Regional	RM2 - Match to 53G, 54G, 54J	\$87,000
801E	BART	Installment Receivable	\$109,149
			\$9,161,047

BART has expended \$8,046,250, committed \$530,204, and reserved \$0 to-date for other actions. This action will commit \$283,104 leaving an available fund balance of \$301,489 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE

The Board can elect not to authorize the General Manager to approve Change Order No. 15 to Contract 15EK-110. Failure to pay for the delays covered by Change Order No. 15 would lead to additional claims against the District and likely lead to costs exceeding the amount of the change order.

RECOMMENDATION

Recommend that the Board authorize the General Manager to execute Change Order No 15.

MOTION

The General Manager is authorized to execute Change Order No. 15, Time Extension for District Delays II, to Contract No. 15EK-110, Traction Power Substation Replacement, ACO/KOW Installation with Shimmick Construction Company, Inc. in the amount of \$283,104.36.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: February 6, 2015

FROM: General Manager

SUBJECT: **Change Orders to Contract No. 15EK-110**

This is to notify you, pursuant to Board Rule 5-2.4 (Change Orders), that the District intends to execute Change Orders to Contract No. 15EK-110, Traction Power Substation Replacement ACO/KOW Installation with Shimmick Construction Company, in excess of 10% of the original Contract Price of \$2,761,000.00.

To date, the District has issued eight (8) Change Orders in the amount of \$261,564.07, or 9.47% of the original Contract Price. Project staff is now in the process of issuing Change Notice No. 9, in the amount of \$23,345, which will result in changes totaling 10.31% of the original Contract Price. Change Notice No. 9 is for additional work associated with installation of a concrete ramp to accommodate nitrogen tank access and site paving modifications.

Subsection (a) of Board Rule 5-2.4 (Change Orders), provides that the General Manager shall notify the Board one week prior to the issuance of any Change Order that is anticipated to result in expenditures aggregating more than 10% of the Contract Price. The forecast for future anticipated Change Orders, including Change Order No. 9 and Change Orders associated with Notices of Potential Claims, is an additional \$703,736 or 25.8% of the original Contract Price. Below is a description of the additional Change Order costs expected to be undertaken. These Change Orders are necessary for completion of the Contract. This is the first traction power substation replacement of its kind to be done by the District; some unexpected costs were encountered. Future installation contracts will address several of the Change Order items encountered with Contract No. 15EK-110, as well as incorporate lessons learned. These items are not expected to recur to the same extent in the future contracts.

Anticipated Change Orders - Estimated Cost: \$290,635

Change Notice No. 9 – Estimated Cost: \$23,345

Install concrete ramps for nitrogen tanks. Install step for emergency exit. Install curb to finish asphalt edges.

Change Notice No. 10 - Estimated Cost: \$77,290

Miscellaneous electrical work at ACO.

Change Notice No. 11 - Estimated Cost: \$190,000

Miscellaneous electrical and communications work at KOW.

Notice of Potential Claims - Estimated Cost: \$413,101

Notice of Potential Claim No. 1 - Estimated Cost: \$144,450

Compensation for additional overhead costs incurred by Contractor due to late delivery of DC and Rectifier houses at ACO traction power substation.

Notice of Potential Claim No. 2 - Estimated Cost: \$173,340

Compensation for additional overhead costs incurred by Contractor due to late delivery of DC and Rectifier houses at KOW traction power substation.

Notice of Potential Claim No. 3 - Estimated Cost: \$57,780

Compensation for additional overhead costs incurred by Contractor due to late delivery of bus duct collars at ACO traction power substation.

Notice of Potential Claim No. 4 - Estimated Cost: \$14,445

Compensation for additional overhead costs incurred by Contractor due to late delivery of batteries at KOW traction power substation.

Notice of Potential Claim No. 5 - Estimated Cost: \$23,086

Compensation for additional overhead costs incurred by Contractor due to late delivery of bus duct collars at KOW traction power substation.

The Contractor experienced time and cost impacts associated with ongoing delays from the electrical substation equipment manufacturer, Powell Electrical Systems which are the basis for Notices of Potential Claims. These items are classified as District-Furnished Equipment by the Contract and may result in additional compensation to the Contractor. The estimated cost is based on 143 Days of delay at \$2,888.82 per day. The District expects to recover most, if not all, of the Notice of Potential Claims' cost from the equipment manufacturer.

Negotiated Change Orders may be executed seven days after this notice has been forwarded to the Board.

Funding for the above-referenced changes are included in the total project budget for the Traction Power System Renovation Program.

Negotiations to resolve final cost and time issues related to these changes are proceeding. No individual Change Order forecasted above is expected to exceed the \$200,000.00 authority delegated to the General Manager by Board Rule 5-2.4(b).

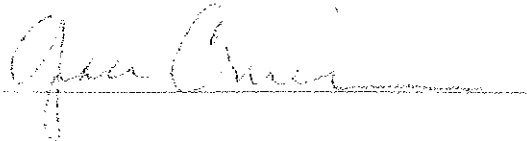
FISCAL REVIEW

The costs for these Change Orders are within the grant funds for this project.

LEGAL REVIEW

All Change Orders will be approved as to form by the Office of the General Counsel prior to execution.

Grace Crunican



Cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Alisa Delbecq</i>		GENERAL MANAGER ACTION REQ'D: Yes		
DATE: c <i>9/30/15</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Anthony Hitchings Dept. PD&C-ESP	General Counsel	Controller/Treasurer	District Secretary	BART
Signature/Date: <i>[Signature]</i> 9/28/2015	<i>[Signature]</i> 9/28/15	<i>[Signature]</i> 9/28/15	[]	<i>[Signature]</i> 9/28/15
TITLE:				

Contract No. 79HM-120 SFTS MB, Change Order No. 5, Port of San Francisco Permit Revisions - Fiber Reinforced Plastic at Piles

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 5, for the Port of San Francisco Permit Revisions - Fiber Reinforced Plastic at Piles, to Contract No. 79HM-120, SFTS MB, in the amount of \$335,490.

DISCUSSION:

Award of Contract No. 79HM-120, SFTS MB was authorized by the Board on February 12, 2015; in the amount of \$49,686,000.00. Notice to Proceed was granted on May 19, 2015. The District has executed three (3) no cost Change Orders to date, with Change Order No. 4 pending.

The work to be performed under Change Order No. 5 includes installation of protective Fiber Reinforced Plastic ("FRP") underwater on 27 of the piles supporting the San Francisco Ferry Plaza Platform. This additional work is required as a condition of the Permit which BART obtained from the Port of San Francisco. The FRP wrap is required by the Port of San Francisco in order to provide long term protection of pile regions that will be inaccessible to the Port after construction of the SFTS MB.

The Change Order will be approved as to form by the Office of General Counsel prior to execution.

FISCAL IMPACT:

Funding of \$335,490 for Change Order No. 5 will come from project budget 79HM000 TRANSITION BARRIERS. The following table depicts funding assigned to the referenced project since 05/26/2007, and is included in its totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. As of September, 2015, \$91,706,664.96 is available for this project from the following fund sources:

Fund	Description	Amount
226I	1999 S/T REV DEBT SERV2	\$99,671.80
352X	FY05 CAP ASST PGM CA-9	\$782,403.20
352Z	FY07 CAP ASST PGM CA90	\$17,354,280.00
3704	DHS FEMA ARRA TSGP-CP0	\$5,143,219.00
3751	FY2007 TSGP GR#2007-RL-T7-K001	\$4,574,190.81
3752	FY2007 TSGP GR#2007-RL-T7-K111	\$1,722,115.04
3754	FY2009 TSGP GRANT#2009	\$1,957,507.32
3755	FY11 TSGP Security CCTC and WI	\$20,768,000.00
3757	FY 13 TSGP - USDHS RA-00004	\$10,009,500.00
3758	DHS FY2014 EMW RA-00011-S01	\$17,400,250.00
3907	FY06 HOMELAND SECURITY	\$1,900,000.00
3908	FY06 UASI REGIONAL FUN	\$213,937.00
535F	FY08-09 CTSGP PROP 1B (SECTY G	\$1,748,628.09
535T	FY07-08 CTSGP PROP 1B(HOMELND)	\$1,275,576.65
5371	FY09-10 CTSGP PROP 1B(HOMELND)	\$267,170.35
5372	FY010-11 CTSGP PROP 1B(HOMELND)	\$1,811,637.97
5373	FY11-12 CTSGP PROP 1B(HOMELND)	\$0.00
5374	FY12-13 CTSGP Prop 1B (CalEMA)	\$32,966.64
5375	FY13-14 CTSGP Prop 1B (CalEMA)	\$211,112.09
6011	BRIDGE TOLL ALLOC 07376802	\$1,215,861.00
6015	BRIDGE TOLL ALLOC 09387201	\$95,929.00
6213	REGIONAL MEAS 2 08382301	\$3,122,709.00
	TOTAL	\$91,706,664.96

BART has expended \$33,701,820.54 and committed \$52,878,327.53 to date for other actions. This action will commit an additional \$335,490 leaving an uncommitted balance of \$4,791,026.89 in these fund sources.

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

ALTERNATIVE:

The Board can elect not to authorize the execution of this Change Order. If not resolved, failure to issue this Change Order may put the District in breach of its Permit with the Port of San Francisco, and may require a Suspension of Work while the problem is resolved. Such actions

Change Order No. 5, Port of SF Permit Revisions - FRP at Piles

will delay completion of the Marine Barrier Contract and increase the Contract cost.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 5, for the Port of San Francisco Permit Revisions - FRP at Piles, in the amount of \$335,490, to Contract No. 79HM-120, SFTS MB, with Manson Construction Company, Inc.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

EXECUTIVE DECISION DOCUMENT

Date: 9/28/15

**ATTACHMENT No 1
CONTRACT 79HM-120**

CO No. 5

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Transition Barriers
Name of Contractor:	Manson Construction Co.
Contract No. / NTP:	79HM-120 / May 20, 2015
Contract Description:	SFTS MB
Percent Complete as of 9/28/15:	2.15%

<u>COST</u>	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$ 49,686,000
Change Orders			
Board Authorized COs	0.00%	\$ -	
Other Than Board Authorized COs <i>see note *</i>	0.04%	\$ 20,000	
This Change Order No. 5	0.68%	\$ 335,490	
Subtotal of all Change Orders	0.72%	\$ 355,490	
<u>Revised Contract Amount</u>			\$ 50,041,490

SCHEDULE

Original Contract Duration	730	days
Time Extension to Date	0	days
Time Extension Due to Approved Cos	0	days
Time Extension Due to this CO 5	0	days
Revised Contract Duration	730	days

**Change Order for \$20,000.00 was issued after EDD was written*



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeLuca</i>		GENERAL MANAGER ACTION REQ'D:			
DATE: 9/30/15		BOARD INITIATED ITEM: No			
Originator/Prepared by: Paul Fadelli Dept: Office of External Affairs	General Counsel	Controller/Treasurer	District Secretary	BARC	
Signature/Date: <i>Paul Fadelli</i> 9/29/15		<i>[Signature]</i> 9/29/15	[]	Powers 29 Sept 2015 []	
Status: Routed		Date Created: 09/23/2015			

TITLE:

2015 State and Federal Update; Special Session Legislative Review

NARRATIVE:

PURPOSE: To provide an update on state and federal legislative activities in 2015 and to review Special Session legislation for the Board of Directors to discuss and possibly take a position on.

DISCUSSION: In February 2015, the BART Board of Directors approved goals for state and federal legislative advocacy. In June 2015, the Board reviewed and voted to support or watch specific bills impacting BART.

With the end of the first year of the two-year legislative session, staff will update Directors on the status of legislation sponsored and supported by BART. In addition, because the Legislature did not achieve the goals as set forth by the Governor, the calling of a Special Session on Transportation Infrastructure and a Special Session on Health Care Financing will allow bills to be reviewed and negotiated even as the regular legislative session has ended. This allows the BART Board to consider additional bills that may have an impact on the BART District.

Staff is recommending a **SUPPORT** position from the BART Board for the legislation listed below.

First & Second Special Session Bills

ABX1 7 (Nazarian) & SBX1 8 (Hill): Public Transit Funding; Cap and Trade Program.

The state's market-based program to combat Greenhouse Gas emissions (GHG) contributes to the Greenhouse Gas Reduction Fund with revenue collected by the State Air Resources Board from the sale/auction of GHG allowances. This revenue is part of the broader effort by the Governor and Legislature -- with a variety of programs -- to reduce GHGs. These include two important programs which support public transit projects with annual appropriations from the fund: 1) the Transit and Intercity Rail Capital Program (TIRCP) receiving 10% of the total Cap & Trade funding, and 2) the Low Carbon Transit Operations Program (LCTOP) which receives 5% of the total annual allotment. Both of these bills would double the percentage of the annual proceeds for public transit: TIRCP would grow from 10% to 20%, and the LCTOP would grow from the 5% level up to 10%. ABX1 7 and SBX1 8 would thus provide a larger total percentage of GHG fund appropriations to transit capital and operational projects in the state.

ABX1 8 (Chiu and Bloom) & SBX1 7 (Allen): Diesel Sales and Use Tax.

The state currently imposes additional sales tax on diesel fuel at the rate of 1.75% in order to provide funding to the Public Transportation Account. The funding, known as the State Transit Assistance program (STA), is continuously appropriated to the State Controller for allocation by formula to transportation agencies for public transit purposes. Since the “gas-tax swap,” BART has relied on this source of funding that can be used for operations. This is the only existing flexible fund designed for addressing transit funding needs, but the funding levels have not been keeping pace with transit rehabilitation demands. The authors and supporters argue that the special session should seek to shore up existing transit funding in ways that can better bring public transit into a state of good repair. These two bills would increase the additional sales tax rate on diesel fuel to 5.25% which would increase the revenues deposited in the continuously appropriated fund by nearly triple – and thus increase this formula based transit funding program. This effort has been a priority of the California Transit Association (CTA) with BART also being publicly supportive in letters to its Bay Area delegation.

ABX2 6 (Cooper) & SBX2 5 (Leno): Electronic Cigarettes.

The BART Board has approved an ordinance that prohibits vaporizing and the use of electronic cigarettes on BART property. The state “Stop Tobacco Access to Kids Enforcement” act (STAKE) prohibits a person from selling or otherwise furnishing tobacco products to minors. These bills would define the term “smoking” for purposes of the STAKE Act and change the definition of “tobacco products” to include electronic devices, such as electronic cigarettes, that deliver nicotine or other vaporized liquid. BART supported SB 140 (Leno) in this legislative session which was not brought forward for a vote in an Assembly committee – but re-introduced in the second Special Session as both ABX2 6 and SBX2 5. The two bills are identical and substantially similar to SB 140.

FISCAL IMPACT:

N/A

ALTERNATIVE:

The Board could decline to support the specific state legislative recommendations listed for review or take a different position (watch or oppose).

RECOMMENDATION:

That the Board approves the following motion.

MOTION:

The Board supports the state legislation as recommended by staff.