

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

December 4, 2008

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, December 4, 2008, commencing at 9:00 a.m. All meetings will be held 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 and Standing Committees regarding any matter on these agendas. 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” and “consent calendar addenda” 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/Committee meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Patricia K. Williams
Assistant 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 November 20, 2008.* Board requested to authorize.

- B. Reject Bid for Invitation for Bid No. 8838, Tie Insertter/Remover Machine.* Board requested to reject.
- C. Independent Auditor's Report on Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2008.* For information.

RECESS TO STANDING COMMITTEES

Immediately following the Standing Committee Meetings, the Board Meeting will reconvene, at which time the Board may take action on any of the following committee agenda items.

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess
Director Franklin, Chairperson

- A-1. Equitable Pay Adjustment for Scheduling Analyst and Creation of a New Classification.* Board requested to authorize.
- A-2. Fiscal Year 2009 Revenue Update.* For information.
- A-3. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting
Director Fang, Chairperson

- B-1. Award of Contract No. 15IB-110, 480 Volt Switchgear Replacement Project.* Board requested to authorize.
- B-2. Award of Contract No. 15PH-110, BART Earthquake Safety Program - Daly City Station.* Board requested to authorize.
- B-3. Modification to Agreement No. 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation, for Time Extension and Increase in Agreement Amount.* Board requested to authorize.
- B-4. (CONTINUED from November 20, 2008, Engineering and Operations Committee Meeting)
Quarterly Performance Report, First Quarter Fiscal Year 2009 - Service Performance Review.* For information.
- B-5. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Director Ward Allen, Chairperson

NO REPORT.

RECONVENE BOARD MEETING

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

A-1. Equitable Pay Adjustment for Scheduling Analyst and Creation of a New Classification.* Board requested to authorize.

A-2. Fiscal Year 2009 Revenue Update.* For information.

B. ENGINEERING AND OPERATIONS COMMITTEE

B-1. Award of Contract No. 15IB-110, 480 Volt Switchgear Replacement Project.* Board requested to authorize.

B-2. Award of Contract No. 15PH-110, BART Earthquake Safety Program - Daly City Station.* Board requested to authorize.

B-3. Modification to Agreement No. 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation, for Time Extension and Increase in Agreement Amount.* Board requested to authorize.

B-4. (CONTINUED from November 20, 2008, Engineering and Operations Committee Meeting)
Quarterly Performance Report, First Quarter Fiscal Year 2009 - Service Performance Review.* For information.

C. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

A. Report of the District Organizational Review Ad Hoc Committee. For information.

B. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LABOR NEGOTIATORS - PUBLIC
EMPLOYEE PERFORMANCE EVALUATION:

Agency Negotiators: Directors Blalock, Franklin, and Murray
Titles: General Counsel, Controller-Treasurer, and
District Secretary
Gov't Code Sections: 54957 and 54957.6

B. CONFERENCE WITH LABOR NEGOTIATORS:

Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy,
Assistant General Manager – Administration; and Steve J.
Weglarz, Department Manager, Labor Relations

Employee Organizations: (1) Amalgamated Transit Union, Local 1555;
(2) American Federation of State, County and Municipal
Employees, Local 3993;
(3) BART Police Officers Association;
(4) BART Police Managers Association;
(5) Service Employees International Union, Local 1021; and
(6) Service Employees International Union, Local 1021,
BART Professional Chapter

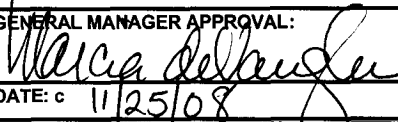
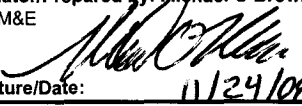
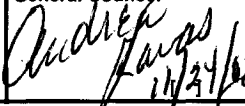
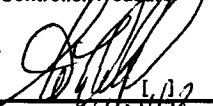
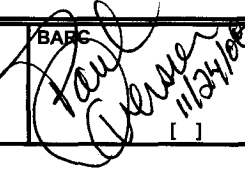
Government Code Section: 54957.6

9. OPEN SESSION

A. Compensation and Benefits for General Counsel, Controller-Treasurer,
and District Secretary.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 11/25/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michael O Brown Dept: M&E  Signature/Date: 11/24/08	General Counsel  Signature/Date: 11/24/08	Controller/Treasurer  Signature/Date: 11/24/08	District Secretary []	BARC  Signature/Date: 11/24/08

TITLE:

Rejection of Sole Bid for IFB No. 8838 for the Purchase of a Tie Inserter/Remover Machine

NARRATIVE:

PURPOSE: To reject the sole bid for Invitation for Bid (IFB) No. 8838 for the purchase of a Tie Inserter/Remover Machine.

DISCUSSION: IFB No. 8838 was advertised to purchase a Tie Inserter/Remover Machine to support the District's expanding capital tie replacement program.

A notice requesting bids was published on May 7, 2008. Bids were mailed to three (3) prospective bidders on May 6, 2008. A single bid was opened on May 27, 2008.

Bidder	Price	Total including 8.75% Sales Tax
Modern Track Machinery, Inc.	\$123,789	\$134,620.54

The Engineer's estimate was \$83,000, which was based upon previous purchases of this same type of machine and vendor's estimate.

The sole bidder requested an exemption from the Federal Buy America requirements.

Upon contacting the two prospective bidders that did not bid, one indicated they were not interested in submitting a bid since they no longer offer a machine of this size. In contacting the other prospective bidder, Staff determined that the notice to prospective bidders had been sent to an address that was no longer valid. That prospective bidder did indicate an interest in bidding.

Staff recommends that the bid from Modern Track Machinery, Inc. be rejected due to the significant difference in the amount between it and the Engineer's estimate. Staff intends to readvertise this IFB and expect to have two bidders, both European manufacturers. Since the dollar has regained its value against the Euro and steel prices are trending down, Staff expects to receive more competitive pricing.

FISCAL IMPACT: There is no fiscal impact as a result of rejecting the sole bid.


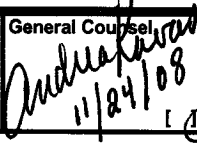
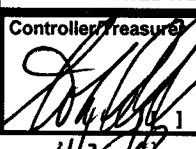
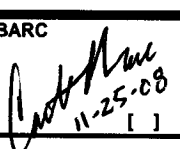
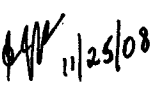
ALTERNATIVE: Apply to the FTA for a Buy America waiver. If the waiver is granted, then award the IFB to Modern Track Machinery, Inc.

RECOMMENDATION: Staff recommends that the Board adopt the following motion.

MOTION: The sole bid received for IFB No. 8838, Purchase of Tie Inserter/Remover Machine is rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board on December 4, 2008.		
DATE: 11/26/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ed Pangilinan Dept: Finance x6929	General Counsel  11/24/08	Controller/Treasurer  11/25/08	District Secretary []	BARC  11-25-08 []
Signature/Date:  11/25/08				
Status: Routed		Date Created: 11/11/2008		

TITLE:

INDEPENDENT AUDITOR'S REPORT ON BASIC FINANCIAL STATEMENTS AND INTERNAL CONTROL FOR THE FISCAL YEAR ENDED JUNE 30, 2008

NARRATIVE:

PURPOSE

To present the Independent Auditor's Reports on Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2008.

DICUSSION

The San Francisco Bay Area Rapid Transit District Act provides that an annual audit be made of all books and accounts of the District by an independent certified public accountant (Public Utilities Code Section 28769). The independent certified public accounting firm of Macias, Gini and O'Connell conducted the audit of the District's books and accounts for fiscal year 2008. The District's basic financial statements provide information about the District's Enterprise Fund and Fiduciary Fund. The Enterprise Fund includes all revenues, expenses, assets, liabilities and net assets related to the District's operations. The Fiduciary Fund shows all financial transactions of the Retiree Health Benefit Trust, which was created by the District to administer and account for assets which are restricted for the payment of retiree health premiums, as well as payments by the District in fiscal years 2008 and 2007 for current medical premiums for retirees and surviving spouses (pay-as-you-go). Their audit concluded that the District's basic financial statements for the year ended June 30, 2008 present fairly, in all material respects, the financial position of the Enterprise Fund and the Fiduciary Fund, and are in conformity with accounting principles generally accepted in the United States of America. As part of the examination, the auditors performed a review and evaluation of the District's internal accounting controls. The results of the evaluation are discussed in the Independent Auditor's Report on Internal Control.

FISCAL IMPACT


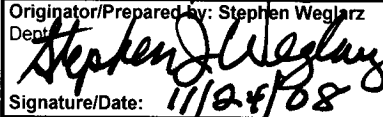
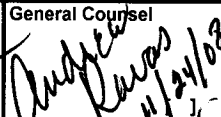

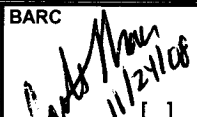
None.

ALTERNATIVE

None. The District is required by law to have its books and accounts audited every year by an independent certified public accountant.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Forward to Board of Directors		
DATE: c 11/25/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Stephen Weglarz Dept: 	General Counsel 	Controller/Treasurer 	District Secretary []	BARC 
Signature/Date: 11/24/08		11/24/08		
TITLE:				

EQUITABLE PAY ADJUSTMENT FOR SCHEDULING ANALYSTS AND CREATION OF A NEW CLASSIFICATION

NARRATIVE:

PURPOSE:

To authorize the General Manager or her designee to enter into an agreement with ATU Local 1555(Side Letter attached hereto) to modify the 2005-2009 ATU Collective Bargaining Agreement for the purpose of amending pay grade steps that would grant a pay adjustment to the current Scheduling Analyst classification from forty dollars and forty-one cents (\$40.41) per hour to forty-two dollars and forty-three cents (\$42.43) per hour and establish a new position of Senior Scheduling Analyst which would be paid the Lead Person's rate as set forth in the Collective Bargaining Agreement.

DISCUSSION:

On October 7, 2008, the District and ATU Local 1555 signed an agreement, subject to Board approval as well as the approval of the membership of ATU Local 1555, that resolved multiple grievances regarding Station Agent staffing and bidding. This agreement represented a collaborative effort by the District and the ATU to amicably resolve multiple grievances and upgrade and improve the staffing and efficient operations of the District's Operations Planning Department to ensure the accuracy of train schedules and the staffing of BART Stations system wide. Although it is a small group (3 employees), it has a significant impact on employee bidding procedure and customer service by determining when trains are scheduled and how Bart Stations are staffed. The Side Letter has been ratified by the ATU Local 1555 membership on November 12, 2008.

The proposed equitable pay adjustment for Scheduling Analyst and the creation of the Senior Scheduling Analyst position are necessary to ensure that the District is able to recruit and retain its best employees for positions in this department by keeping their pay competitive with other ATU classifications in BART's Operations Department. The position of Scheduling Analyst is a highly technical job that requires special skills to analyze and evaluate different scheduling options that meet the needs of the District as well as ensuring compliance with the provisions of the Collective Bargaining Agreement.

FISCAL IMPACT:

The cost for these adjustments to the Scheduling Analyst's pay rate is a group total of twelve thousand six hundred four dollars (\$12,604.00) per annum and for the newly created position of

(Untitled)

Senior Scheduling Analyst, the pay is ninety-eight thousand three hundred forty five dollars (\$98,345.00) per annum.

ALTERNATIVE:

If the Board does not approve the Side Letter and maintains the current pay rate, serious recruitment and retention issues will not be addressed and the maximization of operating efficiencies and timely fulfillment of District needs will not be realized. Further, multiple grievances will remain unresolved that, if the grievants were successful in arbitration, could result in monetary damages to the District.

RECOMMENDATION:

Adoption of the following motion,

MOTION:

The General Manager or her designee is authorized to execute the attached Side Letter of Agreement with ATU Local 1555 regarding the pay adjustment for Scheduling Analyst and creation of the new position of Senior Scheduling Analyst with the specified rate of pay.

SIDE LETTER OF AGREEMENT
ATU/SL 1-08

RE: SCHEDULING ANALYST and SENIOR SCHEDULING ANALYST

Upon signing by the parties, this letter shall constitute a Side Letter of Agreement which has been reached by the San Francisco Bay Area Rapid Transit District ("District") and Amalgamated Transit Union Local 1555 ("Union") (hereinafter jointly referred to as "Parties") regarding the compensation for the Scheduling Analyst classification and the creation of and compensation for a Senior Scheduling Analyst classification.

1. The Parties agree that the top wage rate for Scheduling Analyst shall be increased to 42.4383. The Base Wage Schedule in Section 47.0 of the Contract shall be amended to reflect this top rate and associated progression.
2. The Parties agree that an additional classification, designated Senior Scheduling Analyst, shall be created. This classification shall be an ATU classification.
3. The Senior Scheduling Analyst top wage rate shall be 46.6821. The Base Wage Schedule in Section 47.0 of the Contract shall be amended to reflect this top rate and associated progression.
4. As a result of this Agreement, the Labor Agreement shall be amended as follows:
 - (a) Section 12.B:
Add: "18. Senior Scheduling Analyst"
 - (b) Section 17:
Add: "Senior Scheduling Analyst/" before Scheduling Analyst to the following provisions: 17.0, 17.1, 17.2, 17.3, and 17.4
 - (c) Section 17.5:
Add the following: "Scheduling Analysts will receive the Senior Scheduling Analyst hourly rate for any and all hours worked in the performance of Senior Scheduling Analyst duties if so assigned." The title of this provision shall also be modified to include reference to Scheduling Analyst performing Senior Scheduling Analyst work.
 - (d) Add Section 17.6 as follows:
§17.6 SENIOR SCHEDULING ANALYST AND SCHEDULING ANALYST STAFFING

Senior Scheduling Analyst and Scheduling Analyst bargaining unit work

and staffing are described in Stipulated Decision/ MOU RE: Scheduling Analyst and Senior Scheduling Analyst Staffing.

This Side Letter of Agreement shall be deemed part of the Collective Bargaining Agreement between the parties.

CONCUR FOR THE
DISTRICT

CONCUR FOR THE
UNION

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

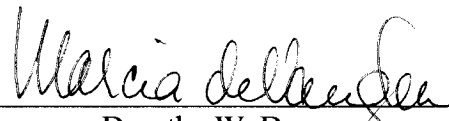
DATE: November 26, 2008

FROM: General Manager

SUBJECT: Fiscal Year 2009 Revenue Update

At the December 4th Board of Directors Meeting, staff will present an update on several key BART revenue sources: sales tax, passenger fares, and State Transit Assistance (STA) funding. As you know, the downturn in the national and global economies is having an adverse effect on the District's FY09 budget. More specifically, proposed STA reductions and lower than projected ridership and sales tax revenue, primarily due to the larger economic crisis, will undoubtedly necessitate a budget revision early next year.

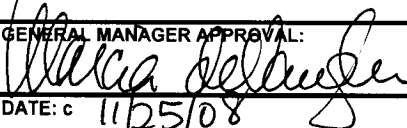
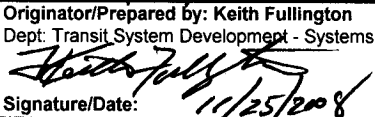
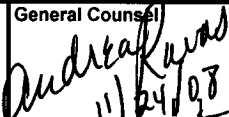


The staff presentation on December 4th will provide the Board with the latest outlook on these important sources of operating revenue, and begin to set the stage for our discussion of recommendations to address the District's budget-related challenges early next year. Additional information received next month will help us refine our forecast as we prepare for a more detailed discussion of the FY09 budget with the Board in January,


Dorothy W. Dugger

cc: Board-Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the E & O Committee	
DATE: c 11/25/08		BOARD INITIATED ITEM: No	
Originator/Prepared by: Keith Fullington Dept: Transit System Development - Systems  Signature/Date: 11/25/2008	General Counsel  11/24/08	Controller/Treasurer  11/25/08	District Secretary []  11/24/08

TITLE:
AWARD CONTRACT NO. 15IB-110 THE 480 VOLT SWITCHGEAR REPLACEMENT PROJECT.

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15IB-110, The 480 Volt Switchgear Replacement Project, to Steiny and Company, Inc.

DISCUSSION:

This Contract is for the procurement and installation of new 480V switchgear at 15 passenger stations using funds allocated from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B in November 2006. This action will authorize award of the District's first construction contract to be funded with Proposition 1B funds. In late 2007, following a comprehensive assessment of District needs, staff identified potential projects for rehabilitating the BART infrastructure that could be funded by Proposition 1B. Replacing the aging 480 volt electrical switchgear in passenger stations was given highest priority. This equipment distributes electrical power from PG&E to operations-critical systems such as station lighting, ventilation, elevators, escalators, fare collection equipment, and, through uninterruptible power supplies, feeds safety-critical loads such as train control and communication equipment.

On October 21, 2008 the Advance Notice to Bidders was mailed to 72 prospective Bidders. Contract Documents were sent to 19 plan rooms and Minority Assistance Organizations. The Contract was advertised on October 23, 2008. A total of 15 firms purchased copies of the Contract Documents. A pre-Bid meeting was held on October 31, 2008 with 17 prospective Bidders attending. Bids were publicly opened on November 18, 2008.

The following Bids were received:

Bidder	Location	Total
Steiny and Company, Inc.	Vallejo, Ca.	\$7,216,000
Blocka Construction, Inc.	Fremont, Ca.	\$12,080,000
Engineer's Estimate		\$7,255,000

The apparent low Bid price submitted by Steiny and Company, Inc. is \$7,216,000 which is less than 1% lower than the Engineer's Estimate of \$7,255,000.

After review by District staff, the low Bid has been deemed to be responsive to the solicitation. Furthermore, staff's review of the low Bidder's business experience and financial capabilities has resulted in a determination that the Bidder is responsible and that the Bid of \$7,216,000 submitted by Steiny and Company, Inc. is fair and reasonable.

Fiscal Impact:

Funding of \$7,216,000 for award of Contract No. 15IB-110 is included in the total project budget for the FMS #15IB, 480V Switchgear Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$7,216,000 will be funded as follows:

<u>F/G 55S - FY07-08 PTMISEA – Prop 1B State Bond Funds</u>	<u>\$7,216,000</u>
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As of the month ending October 26, 2008, \$16,000,000 is available for commitment from this fund source for this project and BART has committed \$1,111,286 to date. There are pending commitments of \$45,099 in BART's financial management system. This action will commit an additional \$7,216,000 leaving an uncommitted balance of \$7,627,615 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

Reject all Bids and not award the Contract. If the Contract is not awarded, Staff will have to issue a new Invitation to Bid and restart the bidding process. In that event, the schedule for replacing the 480 Volt Switchgear in 15 BART stations would be delayed.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager is authorized to award Contract No. 15IB-110, 480 Volt Switchgear Replacement Project, to Steiny and Company, Inc. for the Bid amount of \$7,216,000 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 11/25/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Horton Dep: TSD Signature/Date:	General Counsel 11/21/08	Controller/Treasurer 11/25/08	District Secretary 11/24/08	BART 11/24/08
Status: Routed		Date Created: 11/13/2008		

TITLE:

Award of Contract No. 15PH-110, Earthquake Safety Program, Daly City Station

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No. 15PH-110, Earthquake Safety Program, Daly City Station, to LC General Engineering and Construction, Inc.

DISCUSSION:

The BART Earthquake Safety Program determined that the Daly City Station requires seismic strengthening and produced contract documents for the work. The work consists of additional reinforced concrete for station pier foundations and pier caps; fiber wrap column encasements; bus shelter strengthening, and retrofit of stairs, escalators and elevators. Advance Notice to Bidders was mailed on October 2, 2008 to 66 firms. The Contract was advertised on October 1, 2008 and Contract Books were sent to 18 plan rooms. A total of 50 firms purchased copies of the Bid Documents. A Pre-Bid Meeting and Site Tour were held on October 16, 2008 with 28 potential Bidders attending. Ten Bids were received. Bids were opened publicly on November 12, 2008.

After review by the District staff, the apparent low Bid submitted by LC General Engineering and Construction, Inc., and Bids submitted by Bugler Construction, Robert A. Bothman Inc., West Bay Builders Inc., and Cal-Pacific Construction Inc., were determined to have arithmetical errors in Bid Item totals and/or in the Total Bid Price. Article 15.B, Evaluation, of the Instructions to Bidders in the Contract clearly states that item totals are provided by the Bidder for the convenience of the District, and that the District will independently calculate such prices based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations govern. Tabulation of the corrected Bids, including the Engineer's Estimate, is as follows:

1.LC General Engineering and Construction, Inc., San Francisco, CA	\$3,160,025.29
2.Gordon N. Ball, Alamo, CA	\$3,204,387.00
3.Bugler Construction, Pleasanton, CA	\$3,212,828.00
4.Robert A. Bothman, Inc., San Jose, CA	\$3,322,112.00
5.Valentine Corporation, San Rafael, CA	\$3,758,368.50

6.Power Engineering Contractors, Inc., Alameda, CA	\$3,843,448.40
7.William P. Young Construction, Inc., San Leandro, CA	\$3,941,817.00
8.West Bay Builders, Inc., Novato, CA	\$3,967,656.10
9.Cal-Pacific Construction, Inc., Pacifica, CA	\$4,066,844.60
10.Disney Construction, Pacifica, CA	\$4,150,019.20
Engineer's Estimate	\$4,520,000.00

The apparent low Bid submitted by LC General Engineering and Construction, Inc., has been determined to be fair and reasonable and deemed to be responsive to the solicitation. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

FISCAL IMPACT:

Funding for \$3,160,025 for award of Contract No. 15PH-110 is included in the total project budget for the FMS #15PH, Daly City Station. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this contract will come from the following sources:

F/G 49S – Seismic LSSRP – Fed only **\$279,757**

As of month ending 10/26/08, \$578,236 is available for commitment from this fund source for this project and BART has committed \$0 to date. There are no pending commitments in BART's financial management system. This action will commit \$279,757 leaving an uncommitted balance of \$298,479 in this fund source.

F/G 55U – LSSRP Local Match **\$36,245**

As of month ending 10/26/08, \$74,918 is available for commitment from this fund source for this project and BART has committed \$0 to date. There are no pending commitments in BART's financial management system. This action will commit \$36,245 leaving an uncommitted balance of \$38,673 in this fund source.

F/G 01F – 2004 Earthquake Safety General Obligation Bond **\$2,844,023**

As of month ending 10/26/08, \$6,278,704 is available for commitment from this fund source for this project and BART has committed \$269,237 to date. There are pending commitments of \$508,546 in BART's financial management system. This action will commit \$2,844,023 leaving an uncommitted balance of \$2,656,899 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The alternative is to decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic retrofit of the Daly City Station.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15PH-110, Earthquake Safety Program, Daly City Station, to LC General Engineering and Construction, Inc. for the Bid amount of \$3,160,025.29, 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. The award is also subject to the Federal Highway Administration's concurrence.

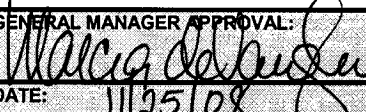
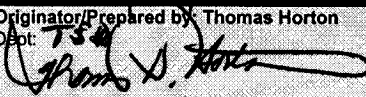
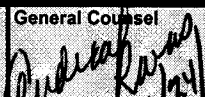


FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 7/29/08	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$186,000,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$186,000,000	
CM	\$61,498,000	\$63,409,882	
Environmental	\$1,042,796	\$2,061,892	
TOTAL E, E & CM	\$249,018,796	\$251,471,774	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,095,800	
Marine Vibro Demo	\$101,285,000	\$137,852,879	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$119,515,327	
Fremont	\$178,224,000	\$149,362,000	
Concord	\$36,500,000	\$22,452,000	
Richmond	\$80,155,000	\$66,441,000	
San Francisco/Daly City	\$36,590,000	\$42,740,000	
Stations (18)	\$126,961,000	\$104,427,000	
Other Structures			
LMA	\$5,529,000	\$5,110,448	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$8,985,158	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$11,587,118	
TOTAL CONSTRUCTION	\$909,469,000	\$707,739,259	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$228,071,988	
Contingency	\$32,104,000	\$163,202,979	
TOTAL PROGRAM COSTS	\$191,998,204	\$391,274,967	
TOTAL FUNDING	\$1,350,486,000	\$1,350,486,000	

(Funding includes \$43.3m of Prior Program Funding)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors	
DATE: 11/25/08		BOARD INITIATED ITEM: No	
Originator/Prepared by: Thomas Horton Dept: TSA  Signature/Date:	General Counsel  11/24/08	Controller/Treasurer  11/24/08	District Secretary [] BARC  11/24/08
Status: Routed		Date Created: 11/12/2008	

TITLE:

Time Extension and Increase of Contract Value - Agreement No. 6G3975 General Engineering Services for the Earthquake Safety Program (Bechtel Infrastructure Corporation)

NARRATIVE:

PURPOSE:

To obtain the Board's approval for the General Manager to execute a modification to Agreement No. 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation (Bechtel). The value of the Agreement would increase from \$186,000,000 to between \$197,700,000 and \$226,230,000, depending upon the Board's decision regarding operability retrofits. The term of the Agreement would be extended by up to 15 months, again depending upon the Board's decision.

DISCUSSION:

The Board authorized award of Agreement 6G3975 in 2000 to Bechtel in an amount not to exceed \$105 million. During the first two years of the Agreement, Bechtel conducted a Vulnerability Study that established the overall scope of the Earthquake Safety Program (Program) and described options for the amount of retrofit to be done. The BART Board chose an option that would upgrade the Core System (Berkeley Hills Tunnel to Daly City Yard) to operability, while upgrading the remainder of the system to safety standards only. The Board expressed its desire that staff seek additional funding to allow additional operability retrofits.

In November 2006, the Board authorized an increase in Agreement 6G3975 from \$105 million to \$186 million, with an extension in the term of the Agreement for an additional four years to September 2013, due to the increase in the size and scope of the Program.

Staff is requesting further modifications to the Agreement for two purposes: (1) additional analysis and design for the Transbay Tube to address vulnerabilities not previously recognized; and (2) design of additional operability retrofits in certain portions of the BART System currently designed for safety only.

Transbay Tube Additional Analysis and Design

While the extensive analysis done to date by Fugro West, Inc., the section designer chosen by Bechtel for the Transbay Tube, has greatly reduced the scope of the required Transbay Tube retrofits, it also has identified potential new vulnerabilities to the Transbay Tube in two areas. Analysis of both areas is required to determine if retrofit is required and, if so, how much. Design may be required for one or both of the identified areas. The estimated cost of analysis and design if retrofit is required in both areas is \$11,700,000. The design and construction cost of these new retrofits is significantly less than BART originally budgeted for the purpose, so there would be no increase in the overall Program cost. However, the design and analysis work is not currently within the scope of Agreement No. 6G3975. The design and construction of the retrofits will take place within the current term of the Agreement, so no time extension would be required solely for this activity.

Additional Operability Retrofits

Since 2005, staff and consultants have made extraordinary efforts to reduce Program costs, resulting in substantial savings. The Program now has over \$200 million in its management reserve account. This presents an opportunity to upgrade portions of the system currently designated for safety retrofits only to operability status.

Because of the need to set aside some of these funds to cover potential future shortfalls in other funding sources and to ensure an adequate construction contingency, not all of the management reserve is available for additional operability upgrades. Depending upon assumptions regarding future contract bid conditions, staff projects that up to \$193.1 million will be available for additional upgrades.

In addition to cost, other considerations for additional upgrade include: additional ridership gained by the additional operability upgrade; access to a maintenance yard; amount of schedule extension; ability to meet BART's seismic criteria; and the required environmental clearance. Staff has developed four alternatives for the Board's consideration.

Alternative 1 consists of retrofitting 68 piers between the R Line/C Line split and the point where the R Line enters the tunnel at Berkeley, along with upgrading the Oakland Main Shop building. Because the tunnels in Berkeley are considered seismically sound, this would give BART the ability to operate trains to North Berkeley. The seismic retrofits are statutorily exempt from the requirements of the California Environmental Quality Act (CEQA). Pursuant to the provisions of the National Environmental Policy Act (NEPA), the work will require assessment of additional environmental impacts (included in the anticipated schedule), but staff anticipates that little environmental documentation will be required. The total cost of this alternative is estimated at \$51 million, of which engineering costs to be added to Agreement No. 6G3975 are estimated at \$8,392,000. Program construction completion is anticipated by June 2013.

Alternative 2 includes retrofitting 52 piers along the C Line between the eastern portal of the Berkeley Hills Tunnel and a point east of the Pleasant Hill Station, and upgrade of the Oakland Main Shop Building. This would ensure that the C Line, including the Concord Yard, would

remain operational after a Hayward Fault earthquake as long as the Berkeley Hills Tunnel remains open. With other earthquake scenarios, such as an event on the Concord Fault, part of the C Line would not be operational. Since ridership on the C Line is very high, this provides a greater increase in ridership than Alternative 1, along with access to a maintenance yard. The work will require assessment of additional environmental impacts, and because of its size and complexity the required environmental documentation may be more extensive than in Alternative 1. The total cost of this alternative is estimated at \$134 million, of which engineering costs to be added to Agreement No. 6G3975 are estimated at \$20,670,000. Program construction completion is anticipated by June 2014.

Alternative 3 combines Alternatives 1 and 2. This would provide operability of the R Line to North Berkeley; the Oakland Main Shop; and the C Line after a Hayward Fault earthquake if the Berkeley Hills Tunnel remains open. The increased capability provided by this Alternative would be higher than with any of the other alternatives. However, the required environmental documentation is also likely to be more extensive than in Alternative 1.. The total cost of this alternative is estimated at \$182.4 million, of which engineering costs to be added to Agreement No. 6G3975 are estimated at \$28,530,000. Program construction completion is anticipated by June 2014.

Alternative 4 is to take no action for additional operability upgrades. This alternative adds no construction cost for upgraded operability, and the cost increase relates only to the additional design costs for the Transbay Tube.

Effect on Agreement

The overall effect on Agreement No. 6G3975 would include an increase in the not-to-exceed value and, in most cases, an extension of time. The new not-to-exceed value would be the sum of the increase due to additional operability and the increase due to Transbay Tube analysis and design. The effect on the Agreement of the various alternatives is as follows:

Alternative 1: Increase Agreement value from \$186,000,000 to \$206,092,000, with an extension of the Agreement term from September 2013 to December 2013.

Alternative 2: Increase Agreement value from \$186,000,000 to \$218,370,000, with an extension of the Agreement term from September 2013 to December 2014.

Alternative 3: Increase Agreement value from \$186,000,000 to \$226,230,000, with an extension of the Agreement term from September 2013 to December 2014.

Alternative 4: Increase Agreement value from \$186,000,000 to \$197,700,000. No increase in the Agreement term would be required.

Staff recommends that the Board adopt Alternative 3, with the increases in Agreement value and term specified above. This will allow Bechtel to continue Program support throughout the estimated Program duration.

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

FISCAL IMPACT:

Agreement No. 6G3975 has a recommended not-to-exceed cost limit of up to \$226,230,000. District financial obligations under the Agreement will be subject to Annual Work Plans (AWPs). Each AWP will have a defined scope of services and separate schedule and budget. Any AWP assigned for funding under a State or federal grant will include State or federal requirements. AWP's will be approved only if BART Capital Development and Control certifies the eligibility of identified funding sources and the Controller/Treasurer certifies the availability of funding prior to execution of each AWP.

BART's Manager, Earthquake Safety Program, will have the authority to issue AWP's and to administer Agreement No. 6G3975.

Funding for individual AWP's will be provided from BART's Capital Budget accounts as evidenced by the issuance of related work orders.

ALTERNATIVES:

The Board could decline to authorize the Agreement modification. Staff would have to issue a new Request for Proposals and seek a new agreement to complete the required engineering services for the Transbay Tube. Staff would also have to seek a new agreement to complete design for additional operability. This would entail additional time and cost to the Program, both for the cost of the additional procurement and the loss of efficiency if a new firm is required to "ramp up" to complete the analysis and designs.

RECOMMENDATION:

Staff recommends that the Board adopt one of the following alternative motions:

Alternative 3 (Recommended)

The Board of Directors hereby authorizes the General Manager to execute a modification to Agreement Number 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation to increase the not-to-exceed value to \$226,230,000, and to extend the term of the Agreement for an additional fifteen months, from September 2013 to December 2014.

Alternative 2

The Board of Directors hereby authorizes the General Manager to execute a modification to Agreement Number 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation to increase the not-to-exceed value to \$218,370,000, and

to extend the term of the Agreement for an additional fifteen months, from September 2013 to December 2014.

Alternative 1

The Board of Directors hereby authorizes the General Manager to execute a modification to Agreement Number 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation to increase the not-to-exceed value to \$206,092,000, and to extend the term of the Agreement for an additional three months, from September 2013 to December 2013.

Alternative 4

The Board of Directors hereby authorizes the General Manager to execute a modification to Agreement Number 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation to increase the not-to-exceed value to \$197,700,000.