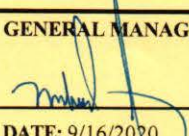
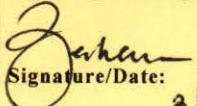

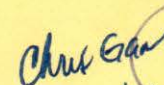
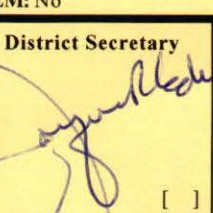
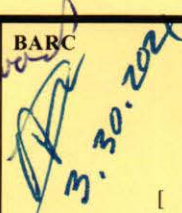




EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  3/31/2021		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 9/16/2020		BOARD INITIATED ITEM: No		
Originator/Prepared by: Zecharias Amare Dept: Capital Program ESP/HMC  Signature/Date: 3/30/21	General Counsel  3/30/21 []	Controller/Treasurer  3/30/21 []	District Secretary  []	BARC  3/30/2021 []

TBT Seismic Retrofit Project / A Waiver of Board Rule 5-2.3

PURPOSE:

To request Board authorization of a waiver of Board Rule 5-2.3 for Contract No. 09AU-120, BART Earthquake Safety Program Transbay Tube (TBT) Internal Retrofit and to allow the rule to be applied when Change Orders issued within the General Manager's authority reach \$49.0 Million or 15.0% of the current Contract Price of approximately \$326 Million.

DISCUSSION:

On December 1, 2016, the Board authorized the award of Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit to Shimmick/CEC Joint Venture with a base Contract value of \$267 Million. Notice to Proceed was issued on February 2, 2017.

To date the General Manager has issued Change Orders for approximately 7% of the original Contract Price. Under Board Rule 5-2.3, the General Manager is required to notify the Board when the value of Change Orders issued reaches 10% of the original Contract Price, or \$26.7M.

Considering the significant revisions made to the Contract Scope, Schedule, and Bid Schedule, Staff anticipates additional Change Orders will be required that will soon exceed 10% of the original Contract price. In order to proceed with the remaining work without delays to this vital project, Staff requests a waiver of Board Rule 5-2.3 and requests that it be applied when Change Orders issued within the General Manager's authority reach \$49 Million or 15.0 % of the revised Contract Price.

Although the Contract has been progressing for the past three years, the most challenging aspects of the work in the bores is underway. The nightly track and bore plate work are complicated and performed in short work windows. Therefore, these activities carry significant financial and technical risks. As these potential risk elements arise, the District will need to issue timely Change Orders to implement the appropriate mitigation measures.

Accordingly, staff requests that the Board authorize the requested waiver of Board Rule 5-2.3.

FISCAL IMPACT:

The table below lists funding assigned to 09AU000, TBT Retrofit and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

Earthquake Program Funds	
801F & 801J - ESP GO Bond	\$ 334,160,266
801I - ESP GO Bond Interest Earnings	\$ 62,550,328
802A & 802B - 2017 Measure RR GO Bond	\$ 188,424,447
850V, 850W & 850X - Capital Allocations	\$ 207,229
6820 – SF County Transportation Authority	\$ 175,000
TOTAL	\$ 585,517,270

As of March 9, 2021, \$585,517,270 is the total budget for this project. BART has expended \$353,353,934, committed \$94,745,773, and reserved \$1,318,919 to date. Total available fund balance of \$136,098,644 remains in these fund sources for this project.

There are sufficient funds to cover the anticipated Change Orders.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves

ALTERNATIVES:

The Board can elect not to authorize a waiver of Board Rule 5-2.3. This may result in delays in addressing changes needed for the Contract to keep the work going uninterrupted, and likely lead to increased costs to the District.

RECOMMENDATION:

That the Board approve the following motion:

MOTION:

The General Manager is authorized to issue Change Orders up to an amount of \$49.0 Million, or 15% of the current Contract Price, which is approximately \$326 Million, prior to providing the Board with the 10 days advance notice required by Board Rule 5-2.3.