

**MASSACHUSETTS
BAY
TRANSPORTATION
AUTHORITY**

Board of Directors
Transportation Building
Ten Park Plaza
Boston, Massachusetts 02116

BOARD MEETING OF MAY 5, 2010

At the call of the Chair, a Meeting of the Board of Directors of the Massachusetts Bay Transportation Authority was held at Ten Park Plaza, Offices of the Board, Third Floor, Boston, Massachusetts, on Wednesday, May 5, 2010 at 3:30 p.m.

There were present: Messrs. Jenkins, Alvaro and Whittle and the Misses Loux and Levin, being all members of the Board of Directors of the Authority.

Also in attendance were: the General Manager, Mr. Davey, and Messrs. Mitchell, Davis, Wallace, DePaola, Scheier, Turcotte, Ray and Johnson and the Misses Ramsay and Charles.

The Chairman, Mr. Jenkins, presided.

The Recording Secretary kept the records of the Meeting and presented the Order of Business.

Chairman Jenkins called the 1035th Open Meeting to Order.

The Chairman announced the start of the public comment period and introduced the first speaker, Mr. John Keenan, Quincy City Councilor. He addressed the Board in support of Agenda Item No. 6, Accessibility Upgrades at Symphony, Hynes and Wollaston Stations. He said that the project is critical to the City of Quincy and the accessibility community.

The Secretary asked that City Councilor Keenan provide the Board with an update on the mitigation of the Neponset River Bridge. Mr. Keenan said that it is his understanding that the project is going well. He said that he has not received any complaints regarding the traffic.

The next speaker, Ms. Marilyn MacNab, spoke in support of three agenda items, 5, 6 & 7 which addresses accessibility issues. She asked that the Board support each item. Ms. MacNab requested that brick pavers and cobblestone not be used.

The next speaker, Mr. Paul Regan from the MBTA Advisory Board reminded the Board of the Transportation Summit Conference on May 18 at the Federal Reserve Bank of Boston. He said that, the Federal Transportation Administrator, Mr. Peter Roboff, will be the keynote speaker and other attendees include, five former general managers with four current, congressmen, including panels of business leaders, who will speak about their experiences, challenges and solutions on how to support public transportation. Mr. Regan invited everyone to attend the conference.

Ms. Joe Hart from Worcester addressed the Board regarding CSX. She addressed the Board about the sale of property at the Allston Yard. She expressed concern regarding pollution that will be associated with the traffic.

The Secretary said that, the Allston Yard sale has been transparent, announcements were made, and various forums were held with the MPOs. The Secretary explained the process of the sale of the property.

At this time, the Chairman closed the public comment period.

(A list of speakers is provided as an attachment to these minutes.)

The Minutes of the Meetings of March 25, 2010 and April 7, 2010 were approved as presented.

At this time, the Chairman stated that Agenda Item Nos. 4 & 16 which relates to the Massachusetts Bay Commuter Railroad (MBCR) would now be presented. The Chairman stated that he and the General Manager, Mr. Davey are recusing themselves and would be leaving the room. Director Loux chaired the meeting at this time.

At this time, Mr. Frank DePaola, Assistant General Manager for Design and Construction, presented the immediately following item concerning the MBTA Old Colony Tie Replacement Project.

In response to Director Alvaro's inquiry, Mr. DePaola said that the Authority met with the FTA in regards to securing federal support.

In response to Director Levin's inquiry, Mr. DePaola said that MBCR review design is specifically for signals and the day-to-day construction. The Authority developed the bid documents and put together the schedule for the scope of services. Under a separate action when service is suspended on weekends the Authority will receive a credit from MBCR.

In response to Board Member's concerns, Mr. Mitchell, General Counsel, said that a claim was filed in Suffolk Superior Court against the manufacturer, ROCLA. The Authority has had several meetings and will proceed with discussions and negotiations. The following action was taken.

On motion, duly made and seconded, it was

VOTED: That the General Manager and Rail & Transit Administrator, be, and hereby is, authorized to execute in the name and on and behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBCR P.I. Agreement No. 1002 to provide engineering design support, flagging and project management, for Design and Construction Phase Services of the Massachusetts Bay Transportation Authority Old Colony Tie Replacement Project, for an estimated sum not to exceed \$6,873,586.00.

Mr. John Ray, Director of Railroad Operations, presented Agenda Item No. 16 regarding the Haverhill Line Double Track and Signal Improvements Project.

On motion, duly made and seconded, it was

VOTED: That the Board of Directors consistent with its vote of July 2, 2009 authorizing the General Manager to take any and all actions deemed necessary to accelerate economic stimulus projects funded under the American Recovery and Reinvestment Act of 2009 ("ARRA") hereby ratifies Acting General Manager Mitchell's prior authorization to enter into Project Initiation Agreement No. CRSTIM-23 with the Massachusetts Bay Commuter Railroad, for an amount not to exceed \$5,031,218 to fund the labor to construct the Haverhill Line Double Track and Signal Improvements Project.

At this time, the Chairman and the General Manager rejoined the meeting.

The Chairman resumed his role as Chairman.

The General Manager, Mr. Davey gave the General Manager's Report. He reminded the Board of his five principles which he outlined. In terms of safety, he said that a safety statement will be displayed throughout the stations, he established a safety hotline for employees, and that he has undertaken a reorganization of the Safety Department. Mr. Davey said that he posted for a new Chief Safety Officer and thanked Mr. Brian Dwyer who has been in that role on an acting basis.

The General Manager said that under Secretary Mullan's leadership, MassDOT and the MBTA will participate in a Safety Summit. He said that 29 labor organizations at the MBTA and the highway division have been invited to talk about safety for the employees.

The General Manager said that, the ridership system-wide average in March 2010 increased by 3% over the previous year, noting that the trend is improving and that the Authority should see an increase in revenue.

Mr. Davey said that, on the service side, he is continuing “Join the General Manager” sessions which are a huge success. He said that he and senior staff have gone to four stations and will be at Forest Hills Station tomorrow. He noted that Chairman Jenkins has confirmed that he will be attending that session and invited the rest of the Board to join him.

Mr. Davey said that he was joined by the Secretary, Congresswoman Tsongas, and a number of state legislators at a groundbreaking for the ARRA funded Haverhill Double Track Commuter Rail Project.

Mr. Davey updated the Board on the single person train operator roll out on the Orange Line. He said that the Authority has been holding public meetings and training the crews on the requirements. He pointed out that implementation of the single person train operator will be this summer.

Mr. Davey reported on the budget, saying that he receives weekly overtime reports to see what the trends are and what we can do better.

Mr. Davey gave a brief update on employee relations. He said that, he visited Cabot and Charlestown, along with Director Levin, and that at Reservoir he had an opportunity to thank 50 employees for their work on the Green Line flooding. He also stopped by Forest Hills Station and thanked the employees for volunteering for Boston Shine. He met with the Latino Alliance and asked them to give him feedback. He said that he is launching two newsletters on a monthly basis, one for

the General Manager, and the other for employees.

Director Loux applauded the General Manager, acknowledging that in a short time he is changing the outlook on safety and looking at the culture of the organization.

The General Manager's Report was accepted as given.

At this time, Mr. DePaola presented Agenda Item No. 3, Engineering Consultant Support Services for Railroad Operations, for the Old Colony Tie Replacement Project.

In response to the Chairman's inquiry, Mr. DePaola stated that a lawsuit was filed against ROCLA.

Director Whittle questioned why the Authority is using wooden ties for the replacement. Mr. DePaola said that it is his belief that the Authority has had to replace concrete ties three times. Mr. DePaola explained the reasoning behind using concrete vs. wooden ties. The Board felt that due diligence should have been conducted regarding the usage of other available concrete ties.

Mr. Ray said that at this time, the reason for using wooden ties had to do with the financials. He said that the Authority's experience with the wooden ties is that they have a longer life cycle.

The Chairman questioned whether the contractor will meet their DBE goals. Mr. DePaola said that on this specific task the Authority insisted that the contractor meet the goal of the contract. The original contract was for \$1 million and this amendment will get them to the end of this design support effort. He said that they are only meeting the DBE participation on a portion of the contract. Mr. DePaola said that the contractor was required to make a good faith effort and they have demonstrated an acceptable level of effort to comply with the goal. The contractor has submitted documentation regarding their DBE performance.

At this time, the Secretary said that, he and the General Manager met with the Mayor of Braintree. He said that the Mayor received a letter from the Senate President office expressing concern about service interruptions during the replacement of the ties. The Secretary said that advanced notification of this work was given indicating that the work will start in the fall. He asked that the Authority remind the contractor to work on service interruptions and traffic mitigation planning with the affected communities. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That The General Manager and Rail & Transit Administrator be, and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, Amendment No. 2 to MBTA Contract No. RRO-008V, MBTA Engineering Consultant Support Services for Railroad Operations, with Vanasse Hangen Brustlin, Inc. (VHB), for Phase IV (60-100%) – Final Design, Bid Phase and Phase V – Construction Phase Services to complete the Old Colony Commuter Rail (OCCR) Tie Replacement Project, for an estimated sum not to exceed \$695,095.00 and an extension of the contract completion date to December 31, 2011.

Regarding the immediately following item concerning Porter Square Vertical Transportation Improvements, Director Whittle requested that more information be included in the staff summary. Mr. DePaola said that at a previous meeting, the Board requested that they only wanted to see the details of professional services only. Mr. DePaola said that, moving forward, he will find a proper balance of requested information. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. A40CN04, Porter Square Vertical Transportation Improvements, with Walsh Construction, for a sum not to exceed 11,604,650.58, based upon a schedule of unit, lump sum and allowance bid prices, said contractor being the lowest responsible and eligible bidder in response to requests for sealed proposals.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. A46PS01, Accessibility Upgrades at Symphony, Hynes and Wollaston Stations, with SEA Consultants, for a sum not to exceed \$3,323,850.00.

At this time, Director Loux requested that the General Manager continue to provide the Board with a chart indicating the availability of elevators and escalators.

In response to Director Whittle's concerns regarding the immediately following item for Professional Design and Construction Phase Services for

Redundant Elevators, Mr. DePaola stated that the additional work is outside of the specific scope of services. Mr. DePaola said that there were revisions to the building code which caused the MBTA to accelerate the design work. We also had issues with the City of Cambridge about acquisition of the property rights for the new elevator shafts which were outside of the scope. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager and Rail & Transit Administrator be, and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, Amendment No. 6 to MBTA Contract No. S41PS01, Professional Design and Construction Phase Services for Redundant Elevators, with SEA Consultants Inc., for additional Phase I – IV (0-100%) Design Services for an estimated sum not to exceed \$833,349.00.

Mr. DePaola explained to the Board the reason for the amount of change orders concerning the immediately following item. Mr. DePaola acknowledged that there were other contracts with financial exposures and suggested that they are all presented to the Board at one time. The Chairman said that going forward the Authority should limit the amount of change orders. Mr. DePaola noted that changes are being made in the department to control the amount of change orders.

Director Alvaro requested that Mr. DePaola put together a list of the 20 largest contracts and note the office estimate, winning bid, and the final contract amount in order to get a better understanding of why there are so many change orders.

The Secretary said that he would provide the Board with statistical analysis on change orders in the Highway Division.

In response to Director Loux's inquiry regarding the tunnel roof at Ashmont Station, Mr. DePaola explained that the contractor work involved restoring the structure back to new condition. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT), and in a form approved by the General Counsel, Change Order No. 28 to MBTA Contract No. S45CN02, Accessibility and Renovation Improvements Ashmont Station Re-advertisement Dorchester, MA, with Barletta Heavy Division Inc., for a lump sum amount of \$139,116.41.

On motion, duly made and seconded, it was unanimously

VOTED: To remove Agenda Item No. 9 from the **Table** of the April 7, 2010 meeting concerning Amendment No. 1 to MBTA Contract No. Z90PS02.

At this time, Mr. Erik Scheier, Project Director for Operations, presented the immediately following item concerning On-Call Construction Management/Project Management Oversight Services for the MBTA American Recovery and Reinvestment Act Program (ARRA).

In response to Director Loux's concerns, Mr. Davey noted that there were no adjustments made to the contract scope. Mr. Davey said that at the Board's request he reviewed the recommendation and that he concurs with the recommendation as presented. He explained the contract scope and felt that Gilbane is doing a great

job with the oversight of the ARRA projects.

Director Levin expressed concern regarding the bidding of the work and the amount of change orders that could possibly be associated when the work was not competitively bid.

The General Manager said that there is an overall question about reliance on consultants pertaining to Design and Construction. Mr. Davey said that he and Mr. DePaola are discussing a policy for the MBTA and addressing whether the Authority should be looking at building an internal capability as opposed to consistently relying on consultants as it relates to design and construction, and rail vehicle engineering. Mr. DePaola and Ms. Anna Barry, Senior Director of Rail Vehicle Engineering will offer recommendations as to whether to add internal staff and reducing outside costs at a savings to the Authority. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the Board of Directors approve and authorize the General Manager and Rail & Transit Administrator to execute Amendment No. 1 to MBTA Contract No. Z90PS02, On-call Construction Management/Project Management (CM/PM) Oversight Services for the MBTA American Recovery and Reinvestment Act (ARRA) Program, with Gilbane Building Company for a sum not to exceed \$4,500,000.

Mr. Robert Johnson, Director of Materials, presented the immediately following item concerning an option to a contract to lease tires for the Authority's bus fleet.

In response to the Chairman's inquiry, Mr. Johnson explained the bids that were received and the requirements for the tires. In terms of the DBE participation, Mr. Johnson explained that when the bid was submitted Michelin stated that they would have a 6% DBE participation and demonstrated their good faith efforts that were required. He said that all bids have a federal financial component with DBE language. If the contractor is unable to obtain the goal they have to demonstrate the good faith efforts.

Director Alvaro questioned the amount of times a contractor has been found not to have acted in good faith regarding DBE participation. Mr. Johnson said that it is infrequent. Mr. Johnson said that once bids are opened they are reviewed by the Organizational Diversity and Civil Rights Department for the DBE component and compliance before a recommendation is made.

Director Alvaro requested a report on what percentages of contractors miss their DBE goal.

The Chairman expressed concern regarding companies who claim that they are unable to meet the DBE goals. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager be, and hereby is, authorized to exercise in the name of and on behalf of the Authority, and in a form approved by General Counsel, an option with Michelin North America, Inc., of Greenville, South Carolina, for the lease of tires for the Authority's bus fleet over a one-year period, at a total net cost not to exceed \$1,727,460.

Ms. Janice Ramsay, Deputy Director of Automated Fare Collection (AFC), presented the immediately following item concerning the purchase of contactless smart cards for the AFC program. Ms. Ramsay pointed out that the approval of the options will provide the MBTA with enough smart cards for the next three years. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager be, and hereby is, authorized to execute in the name and on behalf of the Authority, and in a form approved by the General Counsel, contract options #2 and #4 with Giesecke & Devrient America, Inc. (Giesecke & Devrient) of Dulles, Virginia, to supply approximately 3,835,000 contactless smart cards (i.e. "CharlieCards"), as part of the Automated Fare Collection program, at a total cost not to exceed \$2,927,750.00.

At this time, Mr. Scheier was called upon to present the immediately following item concerning engineering services in support of the Real-Time Information Access System.

Director Alvaro questioned if the Authority is creating a platform of applications that developers can utilize. Mr. Chris Dempsey from MassDOT, who works on MassDOT's developers' initiative, was called on to respond. He explained that this contract designs the platform and it would be designed with an eye toward making it as open as possible for developers to have access to the data. We want to encourage developers to invest time and money into the products that they are building.

Director Alvaro questioned whether this would create revenue for the Authority. Mr. Dempsey explained what other transit agencies were charging for the use of their data noting that a better model for the agencies were to release the data for free because they have seen the benefit to riders. They can also generate a significant amount of applications to help riders experience a cost savings without a significant investment from the MBTA.

Director Alvaro suggested that we get as many people working on the applications so that we can receive royalties on any applications that we can sell.

In response to Director Whittle's concerns regarding the time-frame, Mr. Scheier said that it is a fairly complex process and the Authority wanted to ensure that it is done correctly.

Mr. James Folk, Deputy Chief Operating Officer, explained that the Authority would be able to release the data before 18 months. He said that the majority of the time frame is the development of the CAD/Automated Vehicle Locator on the Green Line.

The Secretary noted that MassDOT and the MBTA have become national leaders in open data initiative. We have been recognized by many practitioners and wise people in the transportation industry. He said that, this initiative is something that the agencies have nurtured and encouraged which is a metaphor for how we need to manage transportation. The Secretary said that, we are investing to deliver

a great product to our customer which they will demand and that is how the return will be measured. The following action was taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager and Rail & Transit Administrator be, and hereby is, authorized to execute, in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation and in a form approved by the General Counsel, MBTA Contract No. C95PS02, Engineering Consulting Services in Support of the Real-Time Information Access System, with IBI Group for an estimated sum not to exceed \$1,999,964.

Mr. Randy Clark, Director of Security Initiatives, presented the immediately following items concerning option years for the maintenance of the Authority's Security Systems, Carborne Two-Way Radio equipment, and Elevator Intercoms and Police Call Boxes. The following actions were taken.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager be, and hereby is, authorized to execute, in the name and on behalf of the Authority, and in form approved by the General Counsel, a contract with ABC Security Alarm Co., Inc., of Malden, Massachusetts for the procurement of the second option year, and authorize the General Manager to approve the third option year one year from now, to IFB 02-06 for the maintenance of the Authority's Security System to provide preventive and corrective maintenance for a sum not to exceed \$150,000.00 per option year.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager be, and hereby is, authorized to execute, in the name and on behalf of the Authority, and in a form approved by the General Counsel, a contract with CyberComm, Inc. of Waltham, Massachusetts, for the procurement of the second option year to IFB 20-07 for the maintenance of the Authority's Carborne Two-way Radio equipment to provide corrective maintenance for a sum not to exceed \$216,900.00.

On motion, duly made and seconded, it was unanimously

VOTED: That the General Manager be, and hereby is, authorized to approve and execute in the name and on behalf of the Authority, and in a form approved by the General Counsel, a contract with Intelligent Systems & Controls Contractors, Inc., of Canton, Massachusetts for the procurement of the second option year to IFB 105-07 for the maintenance of the Authority's Elevator Intercoms and Police Call Boxes to provide corrective maintenance for a sum not to exceed \$208,125.00.

The Chairman noted that the Green Line Safety Review presentation will be moved to the June Board Meeting.

On motion, duly made and seconded, it was unanimously

VOTED: To adjourn the 1035th Open Meeting.

The meeting adjourned at 5:35 p.m.

A true record.

Attest:

Yolanda L. Reed
Recording Secretary
Board of Directors of the
Massachusetts Bay Transportation
Authority

MAY 5, 2010

SPEAKERS DURING PUBLIC COMMENT PERIOD

1. Mr. John Keenan, Quincy City Councilor
2. Ms. Marilyn MacNab, resident of Boston
3. Mr. Paul Regan, MBTA Advisory Board
4. Ms. Joe Hart, resident of Worcester