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*Vice Chair of MTC and BATA*

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*Vice Chair,  
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DAVE CORTESE  
*Chair,  
MTC Administration Committee*

BILL DODD  
*Chair,  
BATA Oversight Committee*

SCOTT WIENER  
*Vice Chair,  
MTC Administration Committee*

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STEVE HEMINGER  
*Executive Director*

ANN FLEMER  
*Deputy Executive Director, Policy*

ANDREW B. FREMIER  
*Deputy Executive Director, Operations*

## BAY AREA HEADQUARTERS AUTHORITY (BAHA)

March 28, 2012

### MINUTES

#### Attendance

Vice Chair Amy Rein Worth convened the meeting at 12:00 p.m. In addition to Vice Chair Rein Worth, the following Authority members were in attendance: Tom Bates, Dave Cortese, Bill Dodd, and Scott Wiener and Chair Adrienne Tissier.

Additional MTC Commissioners in attendance: Anne Halsted, and Sam Liccardo.

#### Quorum was confirmed

#### Minutes

Upon the motion of Commissioner Dodd and the second from Commissioner Bates, the Authority unanimously approved the meeting Minutes of the February 22, 2012 meeting.

Vice Chair Rein Worth requested that Item # 3, 390 Main Status Report March 2012 for information be moved to be discussed after Item # 5 of the Agenda.

#### Contract – 390 Main Street Renovation, Construction Manager at Risk: McCarthy Building Companies, Inc. (\$700,000)

Mr. Stephen Wolf, BAHA Staff, informed the Authority about the procurement for the 390 Main Street Renovation, Construction Manager at Risk (CMAR). Twelve Statements of Qualifications (SOQ's) were received in response to the solicitation and five firms were shortlisted. All five were interviewed. Based on the panel's evaluation, McCarthy Building Companies, Inc. ("McCarthy") was considered the top-ranked firm. McCarthy had strengths in all evaluation criteria. In particular, McCarthy had the best safety record of all the firms interviewed. McCarthy also had a strong dispute resolution practice that was demonstrated by having no claims against owners or any litigation within the last five years. McCarthy is also very strong with special systems as demonstrated with their work on hospitals, which shows they will be able to handle the labs and server rooms required in the new 390 Main building.

Mr. Wolf went on to introduce Mr. Rich Henry, President of Northern Pacific division, Mr. Ranji Sinhaf, Project Executive and Greg Johnson, Project Manager, all with McCarthy, who were present at the meeting.

Mr. Wolf asked that the Authority authorize the Executive Director or his designee to negotiate and sign a contract for Construction Manager at Risk (CMAR) preconstruction services for the 390 Main Street, San Francisco renovation and seismic retrofit, with McCarthy in an amount not to exceed \$700,000, which includes a contingency of \$145,000; or should staff be unable to enter into a contract with McCarthy then to negotiate with Turner Construction Company, the second ranked firm, in an amount not to exceed \$911,036, which includes a contingency of \$145,000.

Upon the motion of Commissioner Cortese and the second from Chair Tissier, the Authority unanimously approved the recommendation.

BAHA Resolution No. 5, Office Lease and Purchase and Sale Agreements with the Bay Area Air Quality Management District and Declaration of Covenants, Conditions and Restrictions for Agency Space at 390 Main Street Office Building

Mr. Steve Heminger, BAHA Executive Director, presented this item which requested approval of BAHA Resolution No. 5, approving the forms of the Office Lease and Purchase and Sale Agreements with the Bay Area Air Quality Management District (BAAQMD) and the Covenants, Conditions and Restrictions (CC&Rs) for the Agency Space and authorizing the Executive Director and the Treasurer and Auditor and each of them to negotiate and execute the Office Lease and Purchase and Sale Agreements with BAAQMD and to execute the CC&Rs.

Mr. Heminger stated that the BAAQMD wants to purchase their space at 390 Main Street, SF under a condominium arrangement similar to the Joseph P. Bort MetroCenter structure. The first agreement before the Authority to be executed is an Office Lease with an Option to Purchase. Mr. Heminger referred the Authority to Attachment B in the packet which showed how the transaction is structured. BAHA is the landlord and the property manager, to be selected at the next meeting, would manage the building. The government agency space will include all government purchases and leases. For example, the San Francisco Bay Conservation and Development Commission (BCDC) can only lease space through the State General Services Department. Mr. Heminger concluded by requesting the Authority approve BAHA Resolution No. 5.

Commissioner Dodd asked if earthquake and seismic retrofit work have been factored into the lease and purchase agreement cost and if the building was being set to a Yellow "Life Safety," or Green, a more costly standard. Mr. Heminger responded by saying it is BAHA's responsibility to make the building ready for occupancy; therefore, it would be BAHA's decision as to the level of seismic retrofit. At a later time, possibly May, staff will come before BAHA with the Seismic retrofit strategy.

Commissioner Dodd asked whether there could be a higher cost on the purchase or lease to cover a higher level of earthquake preparedness, should BAHA determine to adopt the Green Standard. Mr. Heminger clarified that in the case of the BAAQMD, there is already a previously negotiated price that included a Yellow Tag or Life Safety standard in the assumptions.

Ms. Jean Roggenkamp, Deputy with BAAQMD spoke in support of Resolution No. 5, and mentioned that the BAAQMD Board of Directors approved the terms of the current Office Lease purchase and purchase and sale agreement in July 2011. She also stated that the BAAQMD feels this is an excellent opportunity for all to join in the regional headquarters building to integrate the planning efforts to achieve operational efficiencies. BAAQMD is in support of today's action.

Commissioner Cortese asked if an escalation clause is stated within the terms and conditions. Ms. Adrienne Weil, General Counsel mentioned that there is an escalation clause in the Office Lease Purchase option clause which is found in Article 23. Should BAAQMD exercise its option to purchase after the tenth year, any escalation is tied to the consumer price index and other formulas. Commissioner Cortese recommended that in the future, if there are any further

condominium deals, BAHA would want to make sure that option prices are adjustable to fair market value. Commissioner Cortese also asked that if an agency owner that wished to sell its unit would have to offer BAHA the first right of refusal to buy the unit back at a fair market value. Ms. Weil answered that BAHA would have this right.

Commissioner Bates asked what the market is for the square foot price? Mr. Heminger indicated that the current tenant is paying \$44 a square foot and San Francisco leases are moving at a rapid pace.

Ms. Weil mentioned that both Mr. Mayhew and Mr. Jeffrey Mckay, BAAQMD Deputy Air Pollution Control Officer, have been discussing a finance strategy where the BAAQMD can purchase upon occupancy.

Commissioner Liccardo asked for a purchase price comparison square foot basis vs. the purchase price that BAHA paid for the entire building. Ms. Green indicated it was around \$198 per square foot including seismic.

Upon the motion of Commissioner Cortese and the second from Commissioner Wiener, the Authority unanimously approved BAHA Resolution No. 5, Office Lease and Purchase and Sale Agreements with the Bay Area Air Quality Management District and Declaration of Covenants, Condition and Restrictions for Agency Space at 390 Main Street Office Building.

#### 390 Main Status Report March 2012

Item #3 was moved on the agenda to the end of the meeting and was presented by Ms. Teri Green, BAHA Director.

Mr. Heminger commented that BAHA is looking into possibly relocating Western Laboratories during the construction period. Commissioner Bates asked for an update on the Association of Bay Area Governments (ABAG). Ms. Green replied that ABAG is now currently participating in the visioning sessions but no decision from ABAG has been announced. Mr. Heminger stated that should ABAG decide to move into 390 Main they could be easily accommodated.

Commissioner Bates then asked about the DeSaulnier bill, Senate Bill (SB) 1545. Mr. Heminger explained three scenarios in the event SB 1545 became law: Scenario 1) The audit is released and BAHA responds to the Legislature before the bill becomes law. In this case, the bill takes effect but has no impact to the project; Scenario 2) The bill becomes law before the audit is released and before BAHA is able to respond to the Legislature, in which case the bill will have an effect on the project. In particular, the bill could prohibit an expenditure of public funds; Scenario 3) The bill never becomes law. In this case, obviously there is no impact to the project.

#### Public Comment/Other Business/Next Meeting/Adjournment

There being no further public comment or business, Chair Tissier adjourned the meeting at 12:34 p.m. The next BAHA meeting is scheduled for April 25, 2012 in Oakland, California at a time to be duly noted.