

Link21 Expenditures Missing from Public Reports

Office of the Inspector General

Investigation Results

Descriptive financial reports would improve [Link21](#) accountability and create transparency. BART awarded \$255 million to the program so far and has the option to renew five contracts that could award an additional \$595 million for a total of \$850 million. Given the scale of the program and expected capital projects, the total costs will be in the billions, though a comprehensive cost analysis has not yet been completed. Link21 is described as a transformative rail improvement program that will better connect BART and regional rail systems. It is comprised of various projects that will provide more services, faster connections, and better access to jobs for people traveling throughout the Northern California



Megaregion. We received an allegation that there was intentional obfuscation of expenditure reporting for the Link21 program. We launched an investigation into that allegation to achieve compliance with our mandate to identify best practices for delivering capital projects and recommend policies to enable BART to adopt these practices when practicable.

BART awarded six Link21 contracts to five separate consultants to provide strategic advising and program management, engagement and outreach, travel and demand use analysis, planning and engineering, and environmental constraints and opportunities analysis. As of September 2022, BART spent \$61.2 million on those contracts, but this has not been shared with BART stakeholders. This creates frustration for those interested in tracking how their tax dollars are used. BART presents periodic progress presentations to the Board of Directors on the status of Link21. The presentations provide information on the Link21 timeline, phases of the program, funding sources, and contract award amounts. Likewise, the Link21 website provides information about the program and its goals and objectives, and, under the Events page, links to the Board Meeting presentations. Neither source provides information tying contract services to amounts expended.

Other transit agencies in the region provide such reports. For example, SMART (Sonoma Marin Area Rail Transit) provides contract summary reports that identify contractors and the scope of work of their active contracts along with projected and actual expenditures under the contract. The report easily ties costs to activities and vendors, which members of the public find useful. BART does not provide comparable reports to the public. Instead, BART stakeholders must submit public records requests to obtain the information, as was the case for the complainant to this investigation. Initially, BART responded to the request with only aggregate information that did not tie to contractors and their scopes of services and expenditures. This required submission of a second public records request to obtain the necessary information. This created the appearance of intentional withholding of information, which erodes trust. Making contract expenditures more transparent and easy to identify for BART stakeholders can help avoid distrust. See Exhibit A for an example.

Recommendations

1. Provide regular public financial reports showing contractor, scope of work, expenditures to date, and award amount for Link21 and other large-scale program and project contracts.
2. Have the Link21 financial reports based on Recommendation 1 added to the Link21 website to provide a consolidated location for BART Stakeholders to review the details of the work done along with costs to date.

Management agreed to our recommendations. See page four for details.



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Providing independent oversight of the District's use of revenue.



Exhibit A: Link21 Contract Expenditures as of Mid-September 2022

| Link21 Contracts - 6M8159, 6M6155, & 6M6146 Series | |
|--|---------------|
| Total Awards | \$255,000,000 |
| Total Expenditures | \$61,183,200 |
| Available Balance | \$193,816,800 |
| | |
| Total Options (Not Yet Exercised) | \$595,000,000 |
| Total Awards & Options | \$850,000,000 |

| HNTB 6M8159: Strategic Advising & Program Management | | Balance |
|--|---|-------------------------------|
| Award Amount: \$50,000,000 | | \$352,933.87 |
| NTRC = New Transbay Rail Crossing (Link21 Project) | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01 A01-02 | NTRC Program Definition & Management: Establish foundation & parameters for success & identify objectives to be met before advancing to next stage. Supplemental: Support BART & regional transit working group by developing education & briefing materials for major regional funding opportunities. | \$1,932,495.69 |
| A02 A02-02 | Define the NTRC Program, continue to establish the program management structure, & identify alternatives. Laying the groundwork for entire NTRC lifecycle. Supplemental: Procure megaregion travel data & provide travel pattern analyses. | \$24,536,891.46 |
| A03 A03-02 | Program management & strategic advisory. Supplemental: Additional engagement & outreach. | \$12,695,830.94 |
| A04-01 | Continued program management & strategic support; consultant management & oversight support; develop & implement program controls & information system processes, procedures, automation, & reporting; provide strategic funding & legislative advise; facilitate & document Stage Gate 1 closeout; refine business case methodology & initiate Phase 1 evaluation; & develop initial travel demand & land use tools to support refinement & screening of program alternatives. | \$10,481,848.04 |
| Total Expenditures | | \$49,647,066.13 |

| HNTB 6M6155: Strategic Advising & Program Management | | Balance |
|--|--|-------------------------------|
| 6M159 Continuation | | \$80,000,000 |
| Award Amount – Phase 1: \$80,000,000 | | |
| Option Amount – Phase 2: \$120,000,000 | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01-01 | Program management, strategic advisory, business case framework, engagement, planning, environmental, program integration, engineering, travel demand & land use, and equity for Link21. | \$0.00 |
| Total Expenditures | | \$0.00 |



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|---|---|--------------------------------------|
| HDR Engineering Inc. 6M6146 SC1: Engagement & Outreach | | Balance |
| Award Amount - Phase 1: \$30,000,000 | | \$26,536,093.56 |
| Option Amount - Phase 2: \$105,000,000 (Not Yet Exercised) | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01-01, A01-02 | Assist BART/CCJPA with implementing & building Link21's engagement & outreach strategies. | \$2,377,995.72 |
| A02-01 | Develop, manage, & report on scope, schedule, & budget of engagement & outreach plans & meetings. | \$1,085,910.72 |
| Total Expenditures | | \$3,463,906.44 |

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|---|--|--------------------------------------|
| Cambridge Systematics, Inc. 6M6146 SC2: Travel Demand & Land Use | | Balance |
| Award Amount - Phase 1: \$10,000,000 | | \$7,845,687.60 |
| Option Amount - Phase 2: \$20,000,000 (Not Yet Exercised) | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01-01 | Develop refined travel demand & land use model to evaluate program alternatives. | \$2,154,312.40 |
| Total Expenditures | | \$2,154,312.40 |

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|---|---|--------------------------------------|
| ARUP-WSP JV 6M6146 SC3: Planning & Engineering | | Balance |
| Award Amount - Phase 1: \$55,000,000 | | \$50,980,121.11 |
| Option Amount - Phase 2: \$210,000,000 (Not Yet Exercised) | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01-01 | Develop program alternatives, including conceptual engineering, feasibility studies, & operating cost estimates. | \$1,873,003.31 |
| A02-01 | Lead technical approach & support the decision-making process at Stage Gate 2 - program concepts & candidate project. | \$2,146,875.58 |
| Total Expenditures | | \$4,019,878.89 |

| | | |
|--|---|--------------------------------------|
| ICF Jones & Stokes, Inc. 6M6146 SC4: Environmental Planning | | Balance |
| Award Amount - Phase 1: \$30,000,000 | | \$28,101,963.97 |
| Option Amount - Phase 2: \$140,000,000 (Not Yet Exercised) | | |
| Workplan | Scope Summary | Payments as of September 2022 |
| A01-01 | Develop inventory of environmental constraints & opportunities; recommend environmental strategy. | \$1,758,397.24 |
| A02-01 | Develop, manage, & report on scope, schedule, & budget of environmental plans & meetings. | \$139,638.79 |
| Total Expenditures | | \$1,898,036.03 |



BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDING & RECOMMENDATIONS

Report Title: Link21 Expenditures Missing from Public Reports

| | | |
|---|--------------------------------|---|
| 1 | Recommendation: | Provide regular public financial reports showing contractor, scope of work, expenditures to date, and award amount for Link21 and other large-scale program and project contracts. |
| | Responsible Department: | Link21 (Planning & Development) |
| | Implementation Date: | By end of Calendar 2022. To be updated quarterly |
| | Corrective Action Plan: | Link21 will produce a quarterly financial report to be shared with the public on bart.gov (sample is provided as part of this response). The proposed report format and structure is similar to the report recommended by the OIG, with clarifying changes. Clarifications are related to the use of the terms "Expenditures" and "Payments [to date]". What is categorized as <i>expenditures</i> in the OIG report recommendations are the Contract Authority amounts that have been negotiated for the scope of the work plans. The amounts listed as <i>payments</i> are the maximum committed amounts to be paid through approved work plans - rather than payments to date. The proposed quarterly report also includes the Funding Allocations, which represents the total Link21 monies currently available to the Program. |
| 2 | Recommendation: | Have the Link21 financial reports based on Recommendation 1 added to the Link21 website to provide a consolidated location for BART Stakeholders to review the details of the work done along with costs to date. |
| | Responsible Department: | Link21 (Planning & Development) |
| | Implementation Date: | By end of Calendar 2022. To be updated quarterly |
| | Corrective Action Plan: | The proposed quarterly financial report mentioned for Recommendation 1 will be added to BART website with other similar reports in location TBD. A link to the report will be added the Link21program.org website. |



Sample Financial Report Referenced in Management’s Response to Recommendation 1

Link21 Quarterly Report as of December 31, 2022

Table 1: Funding Allocations (Funding Currently Available for the Contracts)

| Current Funding Sources | Amount |
|-------------------------------|----------------------|
| BART Measure RR | \$149,999,667 |
| CalSTA (CCJPA) 2020 | \$1,000,000 |
| CalSTA (CCJPA) 2021 | \$1,000,000 |
| CalSTA (CCJPA) 2022 | \$1,000,000 |
| BART Capital Allocation | \$954,719 |
| Current Funding Total | \$153,954,386 |
| Future Funding Sources | |
| RM3 | \$50,000,000 |
| Future Funding Total | \$50,000,000 |

Table 2: Contract Authority (Maximum Value of Contracts in Millions)

| Link21 Professional Service Contracts | Contract # | Prime Consultant | Phase 0 | Phase 1* | Phase 2^ | Total Amount |
|--|------------|----------------------------|-------------|--------------|--------------|--------------|
| Strategic Advising and Project Management Contract#1 | 6M8159 | HNTB | \$50 | | | \$50 |
| Strategic Advising and Project Management Contract#2 | 6M6155 | HNTB | | \$80 | \$120 | \$200 |
| Engagement and Outreach | 6M6146-SC1 | HDR Engineering Inc. | | \$30 | \$105 | \$135 |
| Travel Demand and Land Use | 6M6146-SC2 | Cambridge Systematics Inc. | | \$10 | \$20 | \$30 |
| Planning and Engineering | 6M6146-SC3 | Arup-WSP Joint Venture | | \$55 | \$210 | \$265 |
| Environmental | 6M6146-SC4 | ICF Jones & Stokes, Inc. | | \$30 | \$140 | \$170 |
| | | | \$50 | \$205 | \$595 | \$850 |

*Current phase

^option to authorize phase 2 contingent upon BART Board Approval

Table 3: Contract Summaries (Value of Work Plans Issued to Date)

| Link21 Professional Service Contracts | Total Committed |
|--|----------------------|
| Strategic Advising and Project Management Contract#1 | \$50,000,000 |
| Strategic Advising and Project Management Contract#2 | \$27,563,930 |
| Engagement and Outreach | \$11,898,613 |
| Travel Demand and Land Use | \$6,449,438 |
| Planning and Engineering | \$21,977,791 |
| Environmental | \$6,256,118 |
| | \$124,145,890 |



Link21 Quarterly Report as of December 31, 2022

| HNTB - 6M8159: Strategic Advising & Program Management Contract #1 | | |
|---|--|-------------------------|
| Total Committed Amount: \$50,000,000 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 and A.01-02 | New Transbay Rail Crossing (Link21) Program Definition & Management. Kick-off the Program and establish foundation & parameters for success & identify objectives to initiate Program Management of the Project. Including developing a Program advancement framework, coordinate roles and responsibilities between agency and consultant staff, and initiate conversation with partner agencies. | \$1,932,496 |
| A.02-01 and A.0-02 | Define the Link21 (NTRC) Program, continue to establish the program management structure, feasibility evaluation process, environmental review process, alternatives development process, market demand analysis work. Establish Project Controls, including tracking/reporting protocols, risk 7 quality management, document controls, etc. Prepare Procurement Process for Consultants support. Advance technical studies related to service and operations planning and develop engagement plan and begin public and stakeholder outreach. | \$24,664,343 |
| A.03-01 and A.03-02 | Development of Initial Travel Demand and Land use tool to support refinement & screening of program alternatives, continued public and stakeholder engagement, and on-boarding and management of four new consultant firms. | \$12,794,715 |
| A.04-01 | Continued Program Management & Strategic Advising support and consultant management & oversight. Including implementation of program controls and information system processes, procedures, automation, and reporting; providing strategic funding and legislative advice; and facilitation and documentation of Stage Gate 1 milestone. | \$10,608,446 |

| HNTB - 6M6155: Strategic Advising & Program Management Contract #2 | | |
|---|--|-------------------------|
| Total Committed Amount: \$27,563,930 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 | Program Management, Strategic Advising services, and Consultant Management Services. Including: Program Controls (contract management, Quality control, risk, consultant management, Schedule and budget management), business case evaluation and preliminary business case documentation, and task management of engagement and outreach, travel demand and land use, Planning and engineering, environmental, and equity. | \$27,563,930 |

| HDR Engineering Inc. - 6M6146-SC1: Engagement & Outreach | | |
|---|--|-------------------------|
| Total Committed Amount: \$11,898,613 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 and A.01-02 | Consultant onboarding and orientation. Advance tasks of implementing and building Link21's Engagement & Outreach strategies and advancing equity work. Project Controls implementation, including develop, manage, and report on scope, schedule, & budget of engagement & outreach plans & meetings | \$2,999,662 |
| A.02-01 | Advance tasks of implementing and building Link21's Engagement & Outreach strategies and advancing equity work. Lead Engagement and Outreach and Equity technical approach and support the decision-making process at Stage Gate 2. | \$8,898,951 |



Link21 Quarterly Report as of December 31, 2022

| Cambridge Systematics, Inc. - 6M6146-SC2: Travel Demand & Land Use | | |
|---|---|-------------------------|
| Total Committed Amount: \$6,449,438 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 | Consultant onboarding and orientation. Develop refined travel demand & land use model to evaluate program Concepts for integration into Preliminary Business Case. Project Controls implementation, including develop, manage, and report on scope, schedule, budget of engagement & outreach plans & meetings. | \$6,449,438 |

| ARUP-WSP JV - 6M6146-SC3: Planning & Engineering | | |
|---|--|-------------------------|
| Total Committed Amount: \$21,977,791 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 | Consultant onboarding and orientation. Develop program concepts, advance conceptual engineering and feasibility studies. Project Controls implementation, including develop, manage, and report on scope, schedule, & budget of engagement & outreach plans & meetings. | \$1,895,541 |
| A.02-01 | Advance Planning and Engineering work, including concept development for analysis by the travel demand and land use models and for integration into the Preliminary Business Case. Lead Planning and Engineering technical approach and support the decision-making process at Stage Gate 2. | \$20,082,250 |

| ICF Jones & Stokes, Inc. - 6M6146-SC4: Environmental Planning | | |
|--|---|-------------------------|
| Total Committed Amount: \$6,256,118 | | |
| Workplan | Scope Summary | Committed Amount |
| A.01-01 | Consultant onboarding and orientation. Develop inventory of environmental constraints and opportunities; recommend environmental strategy. Project Controls implementation, including develop, manage, and report on scope, schedule, & budget of engagement & outreach plans & meetings. | \$2,287,769 |
| A.02-01 | Advance Environmental work, including environmental metrics for concept evaluation as part of the Preliminary Business Case. Lead Environmental technical approach and support the decision-making process at Stage Gate 2. | \$3,968,349 |