

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

February 12, 2009

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, February 12, 2009, 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.

Kenneth A. Duron
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.
- D. (CONTINUED from January 8, 2009, Board Meeting)
Public Hearing: Proposed BART Plus Ticket Price Increase – Bus Portion.* For information.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of January 12, 2009 (Special), January 22, 2009, (Regular), and January 28, 2009 (Special).* Board requested to authorize.
- B. Revision of 2009 Standing Committee and Special Appointments.* Board requested to authorize.
- C. Leases on BART-Owned Properties.* Board requested to authorize.
- D. Grant of Easement to the Alameda County Flood Control and Water Conservation District Zone 7 at the Dublin/Pleasanton Station (East).* Board requested to authorize.
- E. Employee Recruitment and Relocation for the Position of Department Manager, Labor Relations.* Board requested to authorize.
- F. Resolution of Project Compliance and Initial Project Report for Regional Measure 1 and Regional Measure 2 Funds for the Warm Springs Extension (WSX) Project.* Board requested to authorize.
- G. Resolution Accepting Lifeline Transportation Funds.* Board requested to authorize.
- H. Fiscal Year 2009 Second Quarter Financial Report.* 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 Murray, Chairperson

- A-1. Proposed BART Plus Ticket Price Increase – Bus Portion. Board requested to authorize.* (TWO-THIRDS VOTE REQUIRED.)
- A-2. Agreement with Burke, Williams & Sorenson for Chief Negotiator Services (Agreement No. 6M4091).* Board requested to authorize.
- A-3. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting
Director Keller, Chairperson

- B-1. Change Order to Contract No. 09DJ-110, Replacement and Repairs of Anode Arrays and Cable Installations at Transbay Tube Cathodic Protection System, with Vortex Marine Construction, Inc., for Additional Cable Replacement Work (C.O. No. 3).* Board requested to authorize.
- B-2. Quarterly Performance Report, Second Quarter Fiscal Year 2009 - Service Performance Review.* For information.
- B-3. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Immediately following the Engineering and Operations Committee Meeting
Director Sweet, Chairperson

- C-1. Proposed 2009 State and Federal Advocacy Programs.* Board requested to authorize.
- C-2. Proposed 2009 Federal Economic Stimulus Program.* For information.
- C-3. General Discussion and Public Comment.

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. Proposed BART Plus Ticket Price Increase – Bus Portion. Board requested to authorize.* (TWO-THIRDS VOTE REQUIRED.)
- A-2. Agreement with Burke, Williams & Sorenson for Chief Negotiator Services (Agreement No. 6M4091).* Board requested to authorize.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Change Order to Contract No. 09DJ-110, Replacement and Repairs of Anode Arrays and Cable Installations at Transbay Tube Cathodic Protection System, with Vortex Marine Construction, Inc., for Additional Cable Replacement Work (C.O. No. 3).* Board requested to authorize.

B-2. Quarterly Performance Report, Second Quarter Fiscal Year 2009 - Service Performance Review.* For information.

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

C-1. Proposed 2009 State and Federal Advocacy Programs.* Board requested to authorize.

C-2. Proposed 2009 Federal Economic Stimulus Program.* For information.

5. GENERAL MANAGER'S REPORT

A. Review of the Draft Agenda for the Capitol Corridor Joint Powers Board Meeting of February 18, 2009.* For information.

6. BOARD MATTERS

A. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR.

Property: Oakland Airport Connector
District Negotiators: Teresa E. Murphy, Assistant General Manager – Administration; and Kathleen Mayo, Deputy Executive Manager – Transit System Development
Negotiating Parties: Port of Oakland and San Francisco Bay Area Rapid Transit District
Under Negotiation: Price and Terms
Government Code Section: 54956.8

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Yu-Hwa Pa, individually and dba P&A Construction v. BART; San Francisco Superior Court, Action No.: CGC 05443581

Government Code Section: 54956.9 (a)

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Johnson et al. vs. BART
Government Code Section: 54956.9 (b)(1)

Public Hearing
Proposed BART Plus Ticket
Price Increase

February 12, 2009

Background

- Program began in 1992
- BART Plus ticket available in 8 denominations, good for half-month
 - Unlimited ride bus pass and
 - Stored BART value with “high value discount” plus “last ride bonus”
- Ticket Sales & Revenue
 - Per half month, about 2,200 BARTPlus tickets sold
 - Annually, BART Plus is 0.6% of net passenger revenue

BART Plus Bus Participants

- 1. San Francisco Muni**
- 2. County Connection**
- 3. SamTrans**
- 4. WestCat**
- 5. Tri-Delta**
- 6. Santa Clara VTA**
- 7. Union City Transit**
- 8. LAVTA Wheels**
- 9. Dumbarton Express**
- 10. Rio Vista Delta Breeze**

Proposed BART Plus Agreement

- **Bus operators want to increase price of bus portion of BART Plus ticket**
 - **From \$24 to \$29, effective July 1, 2009, when Muni Fast Pass price increases**
 - **Bus operators share additional \$5 revenue**
- **BART portion of ticket unchanged**
 - **Same stored values, 6.25% high-value discount, “last ride bonus”**

BART Plus Ticket Price Example

	BART Plus Ticket Price	Ticket Revenue Shared by Bus Operators	Ticket Revenue to BART*	BART Stored Value to Rider
Current	\$38	\$24	\$14	\$15
Proposed	\$43	\$29	\$14	\$15
Difference	+\$5	+\$5	\$0	\$0

*Ticket Revenue to BART equals BART Stored Value to Rider less 6.25% discount, rounded to nearest dollar.

Proposed Board Action

- **Authorize the General Manager to execute a new BART Plus agreement with the bus operators**

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors DATE: February 5, 2009
FROM: District Secretary
SUBJECT: 2009 Standing Committee and Special Appointments Revision

President Blalock is proposing a revision to the Standing Committee and Special Appointments for 2009.

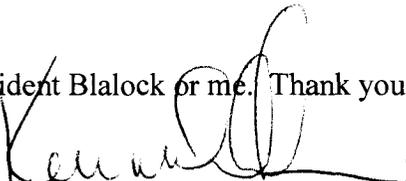
Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board. In accordance with Board Rule 3-3.2, President Blalock is bringing a revision of the 2009 Standing Committee and Special Appointments before the Board of Directors for ratification on February 12, 2009.

The proposed revision will abolish the I-580 Livermore Study Policy Advisory Committee Liaison and substitute the Tri-Valley Regional Rail Policy Working Group. The membership shall remain the same. The two Directors serving on this Policy Working Group are Director McPartland, representing the Alameda County portion of the Tri-Valley and Director Murray, representing the Contra Costa County portion of the Tri-Valley.

The scope for the I-580 Livermore Study Policy Advisory Committee Liaison involving transit improvements in the I-580 corridor has been merged with the Tri-Valley Regional Rail Policy Working Group. The Tri-Valley Regional Rail Policy Working Group was formed to advise BART on a possible rail extension to Livermore from the existing BART Dublin/Pleasanton Station and to advise the High Speed Rail Authority on possible high speed rail service into the Tri-Valley area from San Joaquin County.

The Working Group is composed of representatives of the District and for the following jurisdictions: 10th Congressional District, County of Alameda, Town of Danville, Cities of Dublin, Livermore, Pleasanton, San Ramon, and Tracy, and the Livermore Amador Valley Transit Authority.

Should you have any questions, please contact President Blalock or me. Thank you.



Kenneth A. Duron

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

RATIFICATION OF 2009 STANDING COMMITTEE
AND SPECIAL APPOINTMENTS

REPRESENTATIVES TO THE
TRI-VALLEY REGIONAL RAIL POLICY WORKING GROUP

MOTION:

That the Board of Directors ratifies the proposed representatives to the Tri-Valley Regional Rail Policy Working Group.

Director John McPartland
Director Gail Murray

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS
STANDING COMMITTEES**

ADMINISTRATION COMMITTEE */**

Gail Murray, Chairperson
John McPartland, Vice Chairperson

ENGINEERING AND
OPERATIONS COMMITTEE */**

Joel Keller, Chairperson
Bob Franklin, Vice Chairperson

PLANNING, PUBLIC AFFAIRS, ACCESS,
AND LEGISLATION COMMITTEE */**

Lynette Sweet, Chairperson
Carole Ward Allen, Vice Chairperson

SPECIAL APPOINTMENTS - DISTRICT

ACCESS AND TRANSIT ORIENTED
DEVELOPMENT COMMITTEE

Tom Radulovich, Chairperson Gail Murray
Bob Franklin Lynette Sweet

AC TRANSIT LIAISON

Bob Franklin, Chairperson Carole Ward Allen

ALAMEDA COUNTY CONGESTION
MANAGEMENT AGENCY LIAISON

Thomas M. Blalock Bob Franklin, Alternate

AMERICANS WITH DISABILITIES ACT
(ADA) LIAISON

Bob Franklin, Chairperson John McPartland

CONTRA COSTA TRANSPORTATION
AUTHORITY LIAISON

Joel Keller Gail Murray, Alternate

DISTRICT ORGANIZATIONAL
REVIEW AD HOC COMMITTEE

Thomas M. Blalock, Chairperson Gail Murray
Bob Franklin Tom Radulovich

DISTRICT SECURITY ADVOCACY
AD HOC COMMITTEE

Joel Keller, Chairperson Carole Ward Allen
John McPartland

eBART POLICY ADVISORY COMMITTEE

Joel Keller Gail Murray

FINANCE, BUDGET, AND
INTERNAL AUDIT COMMITTEE

Gail Murray, Chairperson John McPartland
James Fang, Vice Chairperson Lynette Sweet

BART POLICE DEPARTMENT REVIEW COMMITTEE

Carole Ward Allen, Chairperson Tom Radulovich
Joel Keller, Vice Chair Lynette Sweet

METROPOLITAN TRANSPORTATION
COMMISSION LIAISON COMMITTEE¹

Thomas M. Blalock, Chairperson Gail Murray
James Fang Lynette Sweet

OAKLAND AIRPORT CONNECTOR - COLISEUM
STATION AREA DEVELOPMENT LIAISON

Carole Ward Allen, Chairperson Thomas M. Blalock

PLEASANT HILL BART STATION
COMMUNITY LIAISON

Gail Murray

REGIONAL LATE NIGHT SERVICE LIAISON

Bob Franklin Tom Radulovich

REGIONAL RAIL COMMITTEE

Tom Radulovich, Chairperson Bob Franklin
Thomas M. Blalock John McPartland

SAN FRANCISCO TRANSPORTATION
AUTHORITY LIAISON COMMITTEE

Tom Radulovich, Chairperson John McPartland
James Fang Lynette Sweet

SUSTAINABILITY/GREEN COMMITTEE

Bob Franklin, Chairperson James Fang
Thomas M. Blalock John McPartland

WEST CONTRA COSTA TRANSPORTATION
ADVISORY COMMITTEE LIAISON (WCCTAC)

Bob Franklin
Joel Keller

* All Directors are members of this Committee (Thomas M. Blalock, James Fang, Bob Franklin, Joel Keller, John McPartland, Gail Murray, Tom Radulovich, Lynette Sweet and Carole Ward Allen)

** Brown Act Committee, subject to public meeting requirements.

*** Brown Act Board, subject to public meeting requirements.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 2/4/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gary Sue Dept: Real Estate ext. 7502	General Counsel <i>[Signature]</i> 1/12/09	Controller/Treasurer <i>[Signature]</i> 1/13/09	District Secretary	BARC <i>[Signature]</i> 2-2-09
Signature/Date: Gary Sue 2/4/09	[]	[]	[]	[]
Status: Routed	Date Created: 01/06/2009			

TITLE:

Leases on BART-Owned Properties

NARRATIVE:

PURPOSE: To obtain Board approval for the General Manager to issue five new leases for periods not to exceed five years, to tenants currently leasing BART-owned property.

DISCUSSION: The rental program has been successful in providing a return on District-owned real property and reducing the burden and cost of maintaining these properties. Income is derived from excess land wherever possible until the property can be sold. Some of these accounts provide income from parcels that are in the operating right of way, such as land under aerial transit structures or from parcels that may be required for future BART needs.

The District currently has three month-to-month leases on holdover from term leases and two leases that will expire within the next several months. Attachment A lists these accounts, the income derived, uses, and their respective locations.

Board approval is required for any leases, or extensions of leases, that would provide a total tenancy beyond two years. Staff is seeking approval for the issuance of new term leases for the five described accounts. By issuing new leases, staff will be able to standardize lease provisions and track the leases more consistently. All the leases will have a specific termination date. Board authorization will provide staff with the authority to execute the leases; however, staff may not enter into all of the leases if there are lease compliance issues.

BART is currently receiving revenues of approximately \$85,644 annually for these accounts. Staff evaluated the current rental rates for these accounts and will raise rents by 3%. It is anticipated that these revenues will increase to \$88,212 annually during the first year of these leases, representing a 3% increase over existing rents. Thereafter, rents will automatically increase 3% per year. Staff will continue to evaluate whether the current uses of and income from the described properties are the best attainable for the District.

The Office of the General Counsel will approve the new leases as to form.

FISCAL IMPACT: There will be no adverse fiscal impact to BART. BART anticipates receiving annual lease payments totaling approximately \$88,212 for the first year and a total of

approximately \$468,324 over the five-year lease with a 3% annual rent increase. The payments will be deposited into the General Fund Account 030.

ALTERNATIVES: Continue the existing rental agreements on a month-to-month basis or terminate them with notice. After termination, the District would be responsible for maintenance expenses until it entered into agreements with new tenants.

RECOMMENDATIONS: Adoption of the following motion.

MOTION: That the General Manager, or her designee, be authorized to issue new leases to Douglas Parking - Oakland (Parcel Number O-K078), Terranomics - Oakland (Parcel Number O-K005), Clear Channel - Oakland (Parcel Number O-RE53), Calco Fence - Livermore (Parcel Number L-5010), and Greyhound - Hayward (Parcel Number O-A689), each for a period not to exceed five years, and to increase existing rents for the first year by 3% and by 3% per year for subsequent years.

Attachment A

REVENUE LEASES

<u>RENTAL ACCOUNT</u>	<u>PARCEL NUMBER</u>	<u>NAME OF TENANT & CITY</u>	<u>TENANCY START DATE</u>	<u>PARCEL SIZE</u>	<u>ANTICIPATED MONTHLY RENT</u>	<u>ANTICIPATED ANNUAL RENT</u>	<u>TENANT USE</u>	<u>PARCEL ADDRESS</u>
1255	O-K078	Douglas Parking Co.-Oakland	9/1/1973	14,393 SF	\$1,993.00	\$23,916.00	Parking	21st & Broadway, Oakland
1299	O-K005	Terranomics-Oakland	6/1/1982	9336 SF	\$1,623.00	\$19,476.00	Parking	4th St. & Clay St., Oakland
1310	O-RE53	Clear Channel -Oakland	9/1/1986	5500 SF	\$78.00	\$936.00	Billboards	3924 MLK, Jr. Way, Oakland
1325	L-5010	Calco Fence-Livermore	6/1/1990	3.8 ACRES	\$2,868.00	\$34,416.00	Fence Co.	715 Laughlin Rd., Livermore
1361	O-A689	Greyhound- Hayward	1/1/2002	400 SF	\$788.00	\$9,456.00	Ticket Sales	699 B St., Hayward (BART Station)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeBenedetto</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward the Board		
DATE: 2/4/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gary Sue Dept: Real Estate ext. 7502 <i>Gary Sue</i> Signature/Date: 2/4/09	General Counsel <i>Andreafaras</i> Signature/Date: 1/6/09 []	Controller/Treasurer <i>[Signature]</i> Signature/Date: 1/6/09 []	District Secretary []	BARC <i>[Signature]</i> Signature/Date: 2-2-09 []
Status: Routed		Date Created: 12/11/2008		

Grant of Easement to the Alameda County Flood Control and Water Conservation District, Zone 7, at the Dublin/Pleasanton Station (East)

NARRATIVE:

PURPOSE: To request that the Board authorize the grant of an easement on a portion of BART Parcel L-3020 in the city of Dublin, to the Alameda County Flood Control and Water Conservation District, Zone 7 (Zone 7).

DISCUSSION: BART acquired parcel L-3020 from Alameda County in 1999 for construction of a parking lot as part of the expansion of the BART line to Dublin/Pleasanton. There was an existing pipeline easement on the parcel which had been granted by the Department of the Army for a term not to exceed fifty years (1961 to 2011). The easement is located along the southerly portion of the northerly parking lot of the Dublin/Pleasanton Station (East).

Zone 7 has requested to purchase easement rights from BART in order to allow Zone 7's pipeline to remain in place beyond 2011. BART staff has determined that the transaction would be beneficial to both agencies. Relocation of the existing pipeline from the existing limited term easement area would be very disruptive to BART activities at the station as well as costly for Zone 7.

Zone 7 has agreed to pay BART a negotiated fair market value of \$38,000.00 for the approximately 6,800 square foot easement as shown on Exhibit "A" attached to the proposed resolution. Staff has determined that this value is fair and reasonable based on the utility of the parcel.

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

FISCAL IMPACT: BART will incur no costs in granting this easement. The \$38,000.00 payment for the easement will be deposited to General Fund 030.

ALTERNATIVE: Not convey the easement to Zone 7, which may result in a condemnation action by Zone 7 to retain these property rights.

RECOMMENDATIONS: Adoption of the following motion.

MOTION:

Adoption of the attached resolution.

BEFORE THE BOARD OF DIRECTORS OF THE
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

In the matter of authorizing the grant of easement to
the Alameda County Flood Control and Water Conservation
District, Zone 7 (Parcel L-3022E1)
(Portion of APN 986-0034-005-02 /

Resolution No. _____

RESOLVED by the Board of Directors of the SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT that said Board determines that the grant of easement substantially as
shown on the attached Exhibit "A" is in the best interest of the District, and hereby authorizes the
execution of an easement grant deed by the President or Vice President of the Board, and the District
Secretary or Assistant Secretary, on behalf of the District, in consideration for the sum of
\$38,000.00.

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SECRETARY'S CERTIFICATE

I, KENNETH A. DURON, District Secretary, of the SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT, do hereby certify that the foregoing is a true copy of the original
resolution adopted by the Board of Directors of the SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT at its meeting regularly called and held on _____ 2009, a majority
of the members of said Board being present and voting therefor.

Dated this ____ day of _____, 2009.

Kenneth A. Duron, District Secretary
San Francisco Bay Area Rapid Transit District

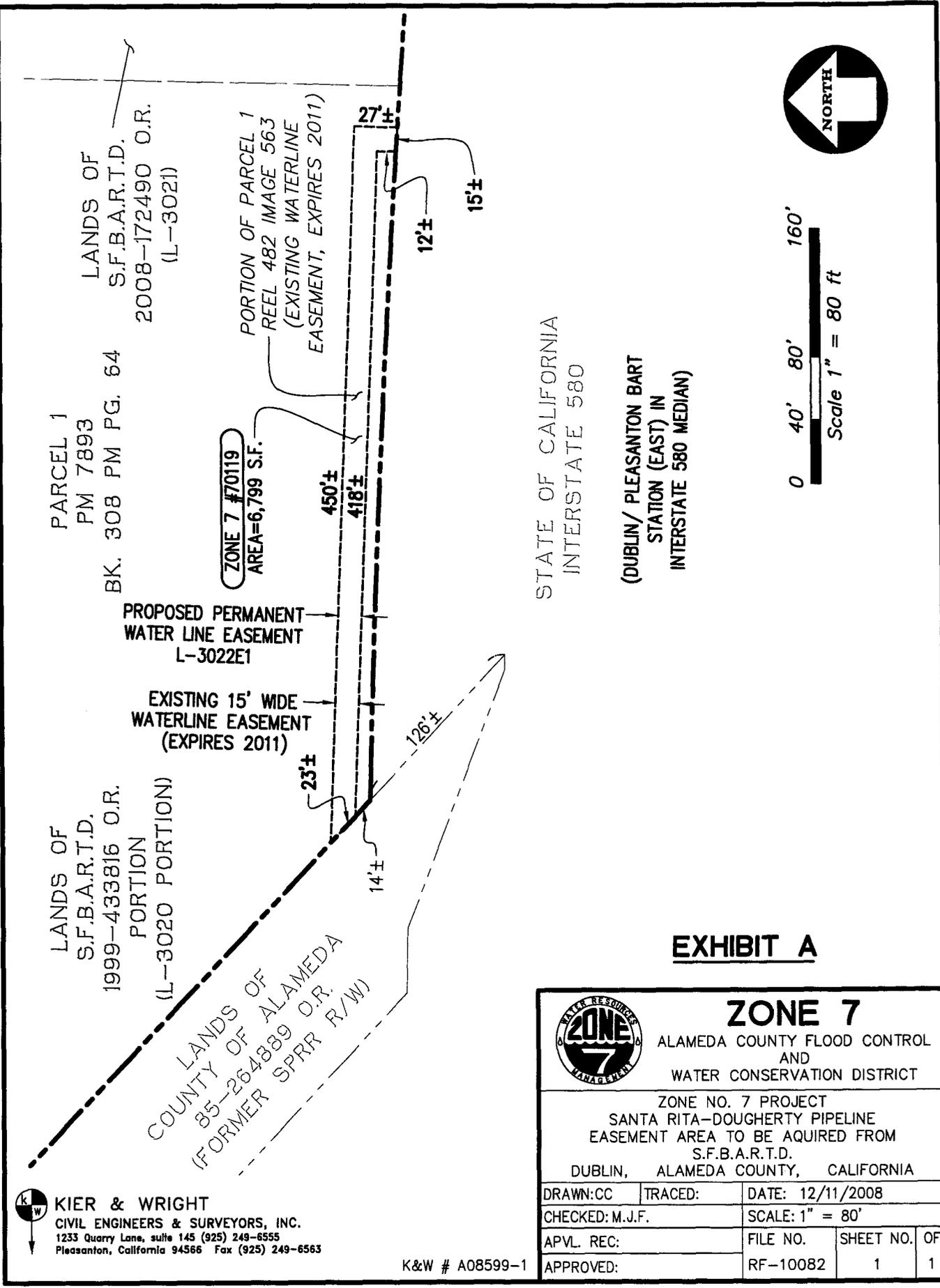


EXHIBIT A

		<h2 style="margin: 0;">ZONE 7</h2> <p style="margin: 0;">ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p>	
		<p style="margin: 0;">ZONE NO. 7 PROJECT SANTA RITA-DOUGHERTY PIPELINE EASEMENT AREA TO BE ACQUIRED FROM S.F.B.A.R.T.D. DUBLIN, ALAMEDA COUNTY, CALIFORNIA</p>	
DRAWN:CC	TRACED:	DATE: 12/11/2008	
CHECKED: M.J.F.		SCALE: 1" = 80'	
APVL. REC:	FILE NO.	SHEET NO.	OF
APPROVED:	RF-10082	1	1


KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 1233 Quarry Lane, suite 145 (925) 249-6555
 Pleasanton, California 94566 Fax (925) 249-6563

K&W # A08599-1



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Narciso Delacruz</i>		GENERAL MANAGER ACTION REQ'D: Board Approval and Authorization		
DATE: 2/6/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Elaine M. Kurtz Dept: Human Resources <i>Elaine M. Kurtz</i> Signature/Date: 2/5/09	General Counsel <i>Andrya Kavan</i> 2/5/09	Controller/Treasurer <i>[Signature]</i> 2/6/09	District Secretary []	BARC <i>[Signature]</i> 2/6/09
Status: Routed		Date Created: 02/02/2009		

TITLE:

EMPLOYEE RECRUITMENT AND RELOCATION FOR THE POSITION OF DEPARTMENT MANAGER, LABOR RELATIONS

NARRATIVE:

PURPOSE:

To obtain Board authorization to conduct a nationwide recruiting effort for the position of Department Manager, Labor Relations, and to offer relocation expense reimbursement in accordance with Management Procedure 70, as needed, for the position.

DISCUSSION:

On March 11, 1993, the Board adopted Resolution 4487 regarding Board approval prior to certain recruiting activities to employ a person who is not a current District Employee for an annual salary of \$50,000 or more. The resolution also states that the District should confine its recruiting to the State of California, consistent with provisions of the law, and that no relocation or moving expenses are to be offered to new employees without prior Board approval.

The position of Department Manager, Labor Relations requires knowledge of highly technical labor relations laws and principles as well as extensive managerial and organization skills and experience. Attached is a summary job description. The position became vacant as of January 23, 2009 due to the incumbent's death. Identifying qualified applicants with the necessary skills for this position requires specialized recruiting efforts that can most effectively be conducted by third party resources.

By adopting this motion, the Board will authorize staff to use an executive search firm for the recruitment. This will enhance the District's access to the strong candidate pool needed in order to appropriately make a selection for this key position. The District will conduct an informal request for proposals from at least three (3) national search firms. The services will be procured in accordance with District policy and procedures. The selected consultant will be required to focus its efforts on individuals within California, specifically the San Francisco Bay Area. However, recruitment will not be confined to California.

The staff intends to enter into a search agreement. Proposals will be solicited from executive search firms that have:

- Expertise in transit and/or public sector recruitment for executive level management positions.
- An ability to provide timely customized searches on a national scale.
- Acceptable business references.
- The ability to meet the terms of agreement
- Acceptable price and fee structure.

Interested firms will be required to provide a search plan summary document that outlines their search tasks, proposed fee structure and estimated time of completion.

The Board's action will allow for the execution of a relocation agreement within the parameters of current District practice as provided in Management Procedure 70. This procedure allows a maximum reimbursement amount of \$18,000 for relocation, and does not include financial participation by the District in the purchase or sale of real estate.

The General Manager has previously requested authorization to use executive search firms for six positions since 2001. Relocation expenses were involved in only two of these cases. Authorization for relocation reimbursement only was requested twice within that timeframe, and used once.

FISCAL IMPACT:

The cost for search firm fees are estimated at \$55,000 and any subsequent relocation agreement would be capped at \$18,000. The funding for the recruitment and relocation expenses will come from the FY09 Operating Budget of the Labor Relations Department

ALTERNATIVE:

Identify an incumbent for the position using the District's in-house recruitment resources.

RECOMMENDATION:

Adopt the following motion:

MOTION:

That the General Manager or her designee is authorized, in conformance with established District procedures governing the procurement of professional services, to obtain executive search services to identify qualified candidates both inside and outside of California, for the position of Department Manager, Labor Relations. In addition, the General Manager is authorized to enter into a relocation agreement, if necessary, in an amount not to exceed \$18,000 for the position, in accordance with Management Procedure Number 70 – New Employee Relocation Expense Reimbursement.

Summary Job Description – Department Manager, Labor Relations

Under the general supervision of the Assistant General Manager, Administration the Department Manager, Labor Relations directs, manages, supervises and coordinates the activities and operations of the Labor Relations Department, including the negotiation of collective bargaining agreements, administration of the resulting agreements, and provision of professional assistance to District management on labor relations matters. This position is responsible for extensive coordination with other divisions, departments and outside agencies, and for providing complex administrative support to the Assistant General Manager, Administration.

Subject to Board Approval, the search activity will focus on candidates who possess the desired skill set. If viable candidates do not appear to be readily available in the “local” market, the search activities will be expanded to a national level.

Pay Band & Salary Range: Pay Band (12) \$107,002-\$ 165,854



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maica Delacruz</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 2/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Todd Morgan Dept: Capital Development & Control	General Counsel <i>Audrey...</i> 2/4/09	Controller/Treasurer []	District Secretary []	BARC <i>Jan 2-4-09</i> []
Signature/Date: <i>TEM 2.4.2009</i>				

Status: Routed	Date Created: 01/29/2009
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TITLE:

Approval of a Subsequent Resolution of Project Compliance and Initial Project Report for Regional Measure 1 and Regional Measure 2 Funds for the Warm Springs Extension (WSX) Project

NARRATIVE:

NARRATIVE:

PURPOSE:

To obtain approval of a Subsequent Resolution of Project Compliance ("Resolution") and Initial Project Report ("IPR") based on the attached IPR Summary for Regional Measure 1 ("RM1") and Regional Measure 2 ("RM2") funds for the Warm Springs Extension Project ("WSX" or "Project"). The IPR includes an allocation request for a total of \$187 million in planned project expenditures in FY09-10 through FY12-13.

DISCUSSION:

Final design of the Fremont Central Park Subway ("Subway") contract is now essentially complete. Subject to funding availability, the Subway contract will be advertised for construction in February 2009, with Notice to Proceed ("NTP") scheduled for June 2009. The RM2 and RM1 funding included in this IPR and Resolution will be included as part of the funding for the Subway contract.

MTC Resolution No. 3636, the Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2, requires that the BART Board approve a Resolution and IPR each time the project sponsor requests an allocation of RM2 funds. In this case, with the concurrence of MTC staff, BART is joining its application for RM1 funds to its application for RM2 funds, and is requesting a total allocation of \$187 million for the construction phase of the Project. This request includes \$167 million in RM2 funds and \$20 million in RM1 funds.

The Warm Springs Extension Project, a 5.4-mile extension south of the existing Fremont Station, would significantly improve the regional transit network by bringing BART further into southern Alameda County. It would better balance current local and regional transportation demand and would provide increased transportation capacity for future growth in employment and population. The extension would help relieve increasing congestion on highways and local streets by offering people a high-quality alternative to driving. It would also support the region's efforts to meet state and federal air quality standards.

FISCAL IMPACT:

Approval of the Resolution and IPR is a requirement for BART to receive an allocation of RM2 and RM1 funds from MTC. This action will have no fiscal impact on unprogrammed District Reserves.

ALTERNATIVES:

Do not approve the Resolution and IPR. This will result in the loss of RM1 and RM2 funds, with resulting schedule delays and/or cost increases for the Project.

RECOMMENDATION:

Approve the attached Subsequent Resolution of Project Compliance and Initial Project Report in connection with BART's application for Regional Measure 1 and Regional Measure 2 Funds for the Warm Springs Extension Project.

**BEFORE THE BOARD OF DIRECTORS OF THE SAN FRANCISCO
BAY AREA RAPID TRANSIT DISTRICT**

**In the Matter of the Approval
Of a Subsequent Resolution of Project Compliance
And Initial Project Report for Regional
Measure 1 and Regional Measure 2 Funds for the
Warm Springs Extension Project**

Resolution No. _____

Implementing Agency: San Francisco Bay Area Rapid Transit District (BART)
Project Title: Warm Springs Extension Project

Whereas, certain bridge toll revenues, commonly referred to as Regional Measure 1 funds, approved by the voters of the San Francisco Bay Area in March 1988, provide toll revenue funds from the San Francisco Bay Bridges be used for projects that extend passenger rail service in the San Francisco Bay Area, commonly referred to as the “90 percent Rail Extension Reserves” (Streets and Highways Code § 30914(a)(4)); and

Whereas, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2, identified specific transportation projects eligible to receive funding under the Regional Traffic Relief Plan; and

Whereas, Regional Measure 2 was approved by the voters of the San Francisco Bay Area on March 2, 2004; and

Whereas, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

Whereas, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 1 and Regional Measure 2 funding; and

Whereas, allocations to MTC must be submitted consistent with such procedures and conditions; and

Whereas, BART is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

Whereas, the Warm Springs Extension Project is eligible for 90 percent Rail Extension Reserves Regional Measure 1 funds; and

Whereas, BART is requesting that MTC allocate Regional Measure 1 and Regional Measure 2 funds for the project and purposes set forth in the Initial Project Report, based on the Initial Project Report Summary that is attached hereto and incorporated herein as though set forth at length; and

Whereas, MTC intends to require as a condition of its allocation of Regional Measure 1 funds to the Warm Springs Extension Project that BART and MTC execute a funding agreement prior to award of the construction contract, and such agreement would specify the policies and procedures applicable for use of the RM1 funds; now be it

Resolved, that BART and its agents will comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636), including specifically that BART will post on both ends of the construction site(s) at least one sign visible to the public stating that the Project is funded with Regional Measure 1 and Regional Measure 2 Toll Revenues; and be it further

Resolved, that BART certifies that the project is consistent with the Regional Transportation Plan (RTP); and be it further

Resolved, that all environmental clearances necessary for the project have been obtained, and that the year of funding for the construction phase has taken into consideration the time necessary to obtain permitting approval for such construction; and be it further

Resolved, that the phase or segment to be funded by Regional Measure 1 and Regional Measure 2 funds is fully funded and will result in an operable and useable segment; and be it further.

Resolved, that BART approves the updated Initial Project Report; and be it further

Resolved, that BART approves the cash flow plan described in the Initial Project Report; and be it further

Resolved, that BART has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the Initial Project Report; and be it further

Resolved, that BART is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c); and be it further

Resolved that the Warm Springs Extension Project is an eligible project for receipt of Regional Measure 1 funds under California Streets and Highways Code 30914(a)(4); and be it further

Resolved, that BART is authorized to submit an application for Regional Measure 1 and Regional Measure 2 funds for the Warm Springs Extension Project in accordance with the provisions of the California Streets and Highways Code; and be it further

Resolved, that BART certifies that the projects and purposes for which Regional Measure 1 and Regional Measure 2 funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.), the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et seq. and the applicable regulations thereunder; and be it further

Resolved, that there is no legal impediment to BART making allocation requests for Regional Measure 1 and Regional Measure 2 funds; and be it further

Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of BART to deliver such project; and be it further

Resolved that BART indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of BART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of Regional Measure and Regional Measure 2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of Regional Measure 1 and Regional Measure 2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages; and be it further

Resolved, that BART authorizes its General Manager, or her designee, to execute and submit an allocation request for the construction phase with MTC for \$20 million in Regional Measure 1 funds and \$167 million in Regional Measure 2 funds for the project, purposes and amounts included in the Initial Project Report; and be it further

Resolved, that the General Manager, or her designee, is hereby delegated the authority to make non-substantive changes or minor amendments to the Initial Project Report as she deems appropriate; and be it further.

Resolved, that a copy of this Resolution shall be transmitted to MTC in conjunction with the filing of the BART application referenced herein.

Warm Springs Extension

Initial Project Report Summary

The Warm Springs Extension will add 5.4-miles of new tracks from the existing Fremont Station south to a new station in the Warm Springs District of the City of Fremont, with an optional station to be located approximately midway in the heart of the Irvington District. The optional Irvington Station is dependent upon future funding through the City of Fremont.

Project Delivery Milestones

Phase-Milestone	Planned (Update as needed)	
	Start Date	Completion Date
Environmental Document	January 2002	October 2006
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	January 2002	October 2006
Final Design - Plans, Specs. & Estimates (PS&E)	December 2002	April 2011
Right-of-Way Activities /Acquisition (R/W)	February 2002	June 2011
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	June 2009	July 2014

Total Project Budget Information

Phase	Total Amount - in 2004 dollars - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	8,713
Design - Plans, Specifications and Estimates (PS&E)	39,565
Right-of-Way Activities /Acquisition (R/W)	98,300
Construction / Rolling Stock Acquisition / Operating Service (CON)	743,422
Total Project Budget (in thousands)	890,000



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maecia deKorfer</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>2/4/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Deidre Heitman Dept: <i>Deidre A Heitman</i>	General Council <i>Andrea Pavao</i> 2/3/09 []	Controller/Treasurer <i>[Signature]</i> 2/3/09 []	District Secretary []	BARC <i>Deidre Heitman</i> 2-3-09 []

TITLE:

Adoption of A Resolution Accepting Lifeline Transportation Funds

NARRATIVE:

Purpose: To obtain Board approval of a Resolution accepting Lifeline Transportation Funds and agreeing to meet project deadlines and provide local matching funds.

Discussion: In July 2008, the Metropolitan Transportation Commission (MTC) adopted the Second-Cycle Lifeline Transportation Program Guidelines and Fund Estimate for Fiscal Year 2009 through Fiscal Year 2011. This action designated the County Congestion Management Agency (CMA), or another countywide entity, in each of the nine Bay Area counties to conduct a competitive selection process for Lifeline projects.

The Lifeline Transportation Program is intended to fund projects that result in improved mobility for low-income residents of the nine San Francisco Bay Area counties. Eligible projects were required to be developed through a collaborative and inclusive planning process and address transportation gaps and/or barriers identified through a Community-Based Transportation Plan or another documented assessment of needs.

In fall 2008, BART staff submitted a total of six projects in three counties – Alameda, Contra Costa and San Francisco – to the respective CMAs. Each CMA conducted a competitive process, and four of the six projects submitted by BART were selected to receive all or partial funding. In addition to these projects, BART was awarded funding for a project in Alameda County earlier in the year (part of a separate funding swap agreement) which was not subject to the competitive process. Attached is a Lifeline Status Report describing the program background and the projects for which BART is receiving funding under this program.

MTC requires that each recipient of Lifeline Transportation Funds adopt a Resolution agreeing to meet project delivery and obligation deadlines and provide the 20% local matching funds required under this program. The Resolution along with the list of recommended projects is attached.

Fiscal Impact: By adopting this Resolution, BART will receive \$4,957,800 in Lifeline Funds for the selected projects and agrees to provide the required local match. The local match for several of the projects is already secured through existing fund sources including the Station Modernization Program (Proposition 1B), staff in-kind services, local developer impact fees, and a combination of federal, state and local funding. BART capital funds in the amount of \$140,200

will be required to meet the local match requirement for the remaining two projects. Potential sources for these match funds include funds already allocated to the Access Improvement Fund and/or allocations from operating to capital. If BART is unable to provide the local match, as specified, staff will undertake to identify other funding sources. To the extent that any local match funds do not become available, the scope and budget of specific activities may need to be reduced.

Alternatives: MTC will not release the Lifeline Transportation Funds without a duly adopted Resolution by the BART Board. If the Board decides against adopting the Resolution, BART will forego the opportunity to make access improvements at several BART stations.

Recommendation: Adoption of the attached Resolution.

Motion: The BART Board approves adoption of the attached Resolution accepting Lifeline Transportation Funds from the Metropolitan Transportation Commission (MTC).

BART's Lifeline Transportation Program: Status Report

The Metropolitan Transportation Commission (MTC) first instituted a competitive grant program, the Low Income Flexible Transportation (LIFT) program, in 2000. The purpose of the program, now called the Lifeline Transportation Program, is to provide funding for a range of transportation programs and projects that result in improved mobility for low-income residents of the San Francisco Bay Area. Projects funded through this program must arise out of a collaborative, community-based planning process. MTC has funded seventeen Community-Based Transportation Plans (CBTPs) throughout the nine Bay Area counties including nine in Alameda, Contra Costa and San Francisco.

In Summer 2008, MTC released a fund estimate of approximately \$66 million for a three year funding cycle (FY 2009-2011) and requested county Congestion Management Agencies (CMAs) to establish a competitive process for distribution of the funds. MTC provided program guidelines but each county developed its own process and weighting of evaluation criteria.

BART applied for \$9,349,000 in three counties for a range of projects including upgrading bus shelters, improving intermodal areas at BART stations, accessible walkways, and secure bicycle parking. Through the competitive processes, BART was awarded funding for five projects. One additional project, an elevator at the Ashby BART station, was pre-awarded by the Alameda County CMA as part of a separate negotiation. Total funding awarded under this program is \$4,957,800. Lifeline projects require a 20% local match.

Alameda County:

- \$689,000 for expanded bicycle facilities at Ashby, North Berkeley and downtown Berkeley BART (funded in two fiscal years);
- \$54,000 for free bicycle repair and maintenance classes for low income residents at Fruitvale and Berkeley bicycle stations
- \$2,000,000 for an elevator at the Ashby BART station as part of the Ed Roberts campus

San Francisco:

- \$1,150,000 for the Balboa Park BART/MUNI Path Project

Contra Costa County:

- \$320,000 for additional lighting and real time bus and BART information at Pittsburg/Bay Point BART
- \$744,800 for additional lighting, upgraded shelters and resurfacing of intermodal zone at Richmond BART

BART staff will continue to monitor MTC's Lifeline program and to participate in its community-based planning efforts related to BART stations. BART staff will also continue to apply for planning funds to conduct station area planning in accordance with the BART Strategic Plan.

BEFORE THE BOARD OF DIRECTORS OF THE SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

In the Matter of Authorizing Actions
Necessary to Obtain Lifeline Transportation Funds
From the Metropolitan Transportation Commission (MTC)

Resolution No.

WHEREAS, the Metropolitan Transportation Commission (MTC) has established a Lifeline Transportation Program to assist in funding projects that 1) are intended to result in improved mobility for low-income residents of the nine San Francisco Bay Area counties, 2) are developed through a collaborative and inclusive planning process and 3) are proposed to address transportation gaps and/or barriers identified through a Community-Based Transportation Plan or are otherwise based on a documented assessment of needs; and

WHEREAS, MTC has identified a certain amount of funds in the Job Access Reverse Commute (JARC), Proposition 1B Transit Funds and State Transit Assistance (STA) programs to be made available for eligible projects for a three-year, second-cycle Lifeline Transportation Program; and

WHEREAS, MTC adopted guidelines, pursuant to MTC Resolution No. 3860 to guide implementation of the second-cycle Lifeline Transportation Program for the three year period from Fiscal Year 2009 through Fiscal Year 2011, and has designated the County Congestion Management Agency (or another countywide entity) in each of the nine bay area counties to help with recommending project selections and project administration; and

WHEREAS, the Alameda County Congestion Management Agency (ACCMA), the San Francisco County Transportation Authority (SFCTA) and the Contra Costa Transportation Authority (CCTA) have been designated by MTC to assist with the Lifeline Transportation Program in Alameda, San Francisco and Contra Costa counties on behalf of MTC; and

WHEREAS, the ACCMA, the SFCTA and the CCTA conducted a competitive call for projects for the Lifeline Transportation Program in their respective counties; and

WHEREAS, BART submitted projects in response to the competitive call for projects; and

WHEREAS, the ACCMA, the SFCTA and the CCTA, after review, recommend BART's proposed projects, described more fully on Attachment A to this Resolution, attached to

and incorporated herein as though set forth at length, be funded in part under the Lifeline Transportation Program; and

WHEREAS, BART agrees to meet project delivery and obligation deadlines, provide for the required local matching funds, and all other conditions set forth in MTC Resolution No. 3860; and

WHEREAS, BART certifies that the projects and purposes for which funds are being requested are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 1500 et seq.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et seq. and the applicable regulations thereunder; and

WHEREAS, that there is no legal impediment to BART making the funding request; and

WHEREAS, there is no pending or threatened litigation which might in any way adversely affect the ability of BART to deliver the proposed projects for which funds are being requested, and

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District:

That BART staff is hereby authorized to request from MTC grant funds available under its Lifeline Transportation Program, in the amounts requested for which BART is eligible, for the projects described in Attachment A of this Resolution; and

That BART staff shall forward a copy of this Resolution, and such other information as may be required, to MTC, the ACCMA, the SFCTA and the CCTA, and such other agencies as may be appropriate.

Adopted on _____, 2009

Certification

I, Kenneth A. Duron, District Secretary, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Board of Directors of the San Francisco Bay Area Rapid Transit District on the _____ day of _____, 2009.

Kenneth A. Duron, District Secretary

Date: _____

Attachment A
BART Lifeline Transportation Program FY 09-11

	Project	Description	County	Funding Recommendation (80% of project)	Grant Fund Source	Program Year	Local Match Total (20%)	Local Match Source
1	Bicycle parking at Ashby BART	Funding for e-lockers, cage, racks and electronic access at Ashby BART	Alameda	\$448,000	STA	FY 09	\$112,000	Station Modernization Program (Prop 1B)
	Bicycle maintenance and repair class program at Fruitvale and downtown Berkeley BART	Free monthly bicycle repair and maintenance classes conducted at Fruitvale and Berkeley bicycle stations; classes targeted to low income residents	Alameda	\$54,000	STA	FY 09	\$13,500	BART in-kind services
2	Bicycle parking at N. Berkeley and Berkeley BART stations	E-lockers at North Berkeley BART; racks for Downtown Berkeley bicycle station		\$241,000	STA	FY 10	\$60,200	BART Capital Reser
3	Ashby BART Station Elevator *	Install elevator at the Ashby BART Station in conjunction with the Ed Roberts campus	Alameda	\$2,000,000	Prop 1B	FY 09	\$500,000	Prop 1B
4	Balboa Park BART Station Westside Entrance and Walkway Project	Accessible path connecting westside of Balboa Park BART station to Ocean Avenue	San Francisco	\$1,150,000	Prop 1B	FY 09	\$287,500	Existing project source Federal STP, CMAQ Prop K, BART
5	BART Pittsburg/Bay Point Station Improvements	Additional lighting in intermodal area, real-time bus and BART information	Contra Costa	\$320,000	Prop 1B	FY 09	\$80,000	BART Capital Reser
6	BART Richmond Station Improvements	Upgrade to intermodal area including additional lighting, shelter improvements and resurfacing of zone	Contra Costa	\$744,800	Prop 1B	FY 09	\$186,200	West County Subregional Transportation Mitigation Program (developer Impact fees) -- request pending

* This project received an advance of funds in April 2008

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM DRAFT 2/3/09

TO: Board of Directors
FROM: General Manager
SUBJECT: **FY09 Second Quarter Financial Report**

DATE: February 6, 2009

The attached FY09 Second Quarter Financial Report shows that the District's net operating result continues its unfavorable trend as the economic downturn worsens. Operating revenue was slightly favorable because of better-than-budgeted ridership on the SFO Extension, which will be offset by a reduced need for assistance from the SFO Extension Reserve. Labor and non-labor expenses were both slightly over budget, but later this year insurance should reimburse some of the expense associated with Hayward yard repairs. Year-to-date, the operating budget remains tight and projected declines in operating revenues for the second half of FY09 will leave the District facing significant budget challenges.

Operating Sources

Ridership continued the decline anticipated when we reported first quarter results. Total system ridership was 0.8% under budget for the quarter, compared to 2.1% favorable for the prior quarter. Average weekday ridership, at 364,998, grew just 2.0% over the same quarter last year compared to 5.4% for the first quarter. The SFO Extension continued to out perform, with weekday trips 12.2% over budget, while the core system was 1.2% below budget for the quarter.

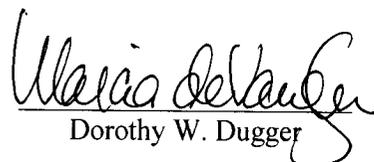
Sales Tax proceeds also continued to decline, with the second quarter (which reflects taxable sales for July – September 2008) declining 4.3% compared to the same period in FY08. The FY09 budget was based on 2% growth. Year-to-date, sales tax revenue is \$5.1 million (M) or 2.9% below budget.

State Transit Assistance continues to be subject to the uncertainties of the state budget. The \$2.1M first quarter payment is likely to be the only amount BART will receive this year.

Operating Uses

Expenses were 2.8% over budget, or \$3.6M unfavorable. Labor expenses for the quarter were essentially on budget. However, year-to-date unfavorable labor results (1.4%) reflect expenses for overtime and staff time dedicated to the repair and maintenance of the Hayward yard. The \$3.5M (9.4%) unfavorable non-labor result is primarily driven by car maintenance costs and materials for the Hayward fire. These over-budget expenses were slightly offset by the positive results in electric power. The high prices of the first few months of the year have moderated. We have purchased power at lower rates and should be able to meet our additional requirements at or below budgeted rates.

The overall net financial results for the second quarter of FY09 were \$7.6M unfavorable to budget due in large part to the sales tax revenue decline and over-budget non-labor expenses. It is clear the worsening economic situation is impacting BART. We will continue to monitor all aspects of the budget, including managing expenses and increasing revenues, while we prepare a second revision to the FY09 budget and develop the FY10 pro-forma budget.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

Second Quarter FY09 BUDGET PERFORMANCE REPORT EXECUTIVE SUMMARY

M=million

REVENUE

- Systemwide average weekday ridership was flat compared to budget. Growth over 2Q FY08 fell to 0.8% for core (was 3.8% in 1Q). The SFO Extension growth slowed to 13.0% (was 20.8% in 1Q). Total trips for were 0.8% less than budget. Of the YTD \$5.1M positive Net Passenger Revenue, \$2.5M is core system and \$2.6M is due to SFO Extension trips.

- In Other Operating Revenue, YTD favorable parking revenue (\$0.3M) was offset by under budget interest revenue (\$1.2M).

EXPENSE

- Net Labor was essentially on budget for the second quarter but slightly unfavorable YTD due to overtime and staff time deployed to the Hayward fire effort.

- Electric Power was \$0.7M favorable to budget for the quarter. YTD, power is \$1.5M unfavorable due to the escalating prices experienced in the first quarter. Recent purchases of market power have been at more favorable prices than budgeted.

- Other Non Labor is \$3.4M unfavorable this quarter and is forecast to exceed the budget by year end due to high rail car maintenance expenses and Hayward fire expenses. Hayward repairs should be all or mostly reimbursed by insurance.

- The Lakeside building lease is recognized over the life of the lease, which is a non-cash book entry and not budgeted; budget includes actual cash outlay for lease payments.

- Total operating expense for the quarter and YTD were both over budget.

EXTRAORDINARY ITEMS

- \$4.2M of \$4.5M budgeted grant was received for the Rail Car Fund Swap agreement and transferred to MTC as agreed. The grant is behind schedule, resulting in a favorable variance in the expense portion, but does not affect the bottom line, as the favorable variance is offset by lower financial assistance.

OPERATING DEFICIT

- The over budget expense variance resulted in an unfavorable Operating Deficit for the quarter, \$2.5M more than budgeted, bringing YTD to \$3.1M unfavorable.

TAX & FINANCIAL ASSISTANCE

- Sales tax continued to decline, with 2Q FY09 down 4.3% from 2Q FY08 and down 2.9% YTD from FY08. The FY09 budget was based upon 2% growth, as a result, sales tax is \$5.1M unfavorable YTD.

- Property tax is on budget, with revenues based upon assessed values as of January 2008, prior to most of the housing market decline.

- STA payment of \$2.1M received. Projected to be \$6.8M under budget by year end.

- Allocation from SFO Reserve variance reflects funds budgeted to come from the Reserve but booked as Financial Assistance.

- Debt Service variance of \$1.3M is timing and will be on budget at year-end.

NET OPERATING RESULT

- The net operating result for the quarter was \$7.5M unfavorable, primarily because of over-budget expenses and under-budget sales tax.

SYSTEM OPERATING RATIO/RAIL COST PER PASSENGER MILE

- The operating ratio (revenue divided by expense) was unfavorable for the quarter due to over budget expenses. Rail cost per passenger mile was also unfavorable due to expense.

CURRENT QUARTER			(\$Millions)*	FISCAL YEAR-TO-DATE		
Budget	Actual	Var.		Budget	Actual	Var.
			REVENUE			
79.6	80.8	1.6%	Net Passenger Revenue	160.0	165.1	3.2%
8.4	8.1	-3.9%	Other Operating Revenue	15.4	14.6	-5.4%
88.0	88.9	1.0%	Total Net Operating Revenue	175.4	179.7	2.5%
			EXPENSE			
94.2	94.4	-0.1%	Net Labor	189.1	191.7	-1.4%
0.3	1.6	-377.8%	OPEB Unfunded Liability**	0.7	2.6	-292.6%
9.7	9.0	6.8%	Electric Power	19.4	19.7	-1.5%
3.6	3.4	6.9%	Purchased Transportation	7.2	7.0	2.8%
0.0	(0.3)		Lakeside Lease Accrual	0.0	(0.6)	
23.8	27.2	-14.5%	Other Non Labor	43.0	46.6	-8.3%
131.6	135.3	-2.8%	Total Operating Expense	259.4	267.0	-2.9%
			EXTRAORDINARY EXPENSES			
4.5	4.2	6.1%	Rail Car Fund Swap	4.5	4.2	6.1%
4.5	4.2		Net Extraordinary Items	4.5	4.2	
(48.1)	(50.6)	-4.8%	OPERATING DEFICIT	(88.5)	(91.6)	-3.3%
			TAX & FINANCIAL ASSISTANCE			
52.9	49.7	-6.2%	Sales Tax	105.4	100.2	-4.9%
17.9	17.6	-1.7%	Prop Tax, Other Assistance	19.3	21.0	8.8%
2.2	2.1	-4.0%	State Transit Assistance (STA)	2.2	2.1	-4.0%
4.5	4.2	-6.1%	Rail Car Fund Swap	4.5	4.2	-6.1%
1.7	0.0	-100.0%	Allocation from SFO Reserve	3.3	0.0	-100.0%
(17.5)	(18.0)	-3.2%	Debt Service	(34.9)	(36.2)	-3.7%
(4.1)	(4.0)	3.1%	Capital and Operating Allocations	(12.1)	(12.2)	1.2%
(0.1)	(0.1)	0.0%	Other Reserve Allocations	(0.1)	(0.1)	0.0%
0.7	1.6	138.9%	OPEB Unfunded Liability Offset**	0.7	2.6	292.6%
58.3	53.1	-8.8%	Net Financial Assistance	88.2	81.6	-7.5%
10.1	2.6		NET OPERATING RESULT	(0.3)	(9.9)	
66.9%	65.7%	-1.1%	System Operating Ratio	67.6%	67.3%	-0.3%
35.1 ¢	36.4 ¢	-3.8%	Rail Cost Per Passenger Mile	34.4 ¢	35.0 ¢	-1.8%

* Totals may not add due to rounding to the nearest million.

**The Other Post Employment Benefits (primarily retiree medical) is a non-cash expense to recognize the difference between actual retiree medical funding and the full Annual Required Payment, and does not affect the bottom line.

■ No Problem

□ Caution: Potential Problem/Problem Being Addressed

■ Significant Problem



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Nancy Delaney</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: C 2/6/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Financial Planning 6377	General Counsel <i>Andrew...</i> 2/5/09 []	Controller/Treasurer <i>[Signature]</i> 2/6/09 []	District Secretary []	BARC <i>[Signature]</i> 2-6-09 []
Signature/Date: <i>[Signature]</i> 2/5/09				

TITLE:

BART Plus Agreement with Bus Portion Price Increase

NARRATIVE:

PURPOSE

To authorize the General Manager to execute a new BART Plus Agreement.

DISCUSSION

A BART Plus ticket can be used on both BART and any participating bus operator's system. The following ten bus operators participate in the BART Plus program:

- City and County of San Francisco (San Francisco Muni)
- Central Contra Costa Transit Authority (County Connection)
- San Mateo County Transit District (SamTrans)
- Western Contra Costa Transit Authority (WestCat)
- Eastern Contra Costa Transit Authority (Tri-Delta)
- Santa Clara Valley Transportation Authority (VTA)
- City of Union City (Union City Transit)
- Livermore Amador Valley Transit Authority (Wheels)
- Dumbarton Bridge Consortium (Dumbarton Express)
- City of Rio Vista (Rio Vista Delta Breeze)

BART Plus tickets are available in eight denominations and are good for one-half of a month, beginning either on the first day or the 16th day of the month. On participating bus operators' systems, the patron uses the BART Plus ticket as a flash pass for unlimited local bus rides. The ticket also has stored value that can be used to pay for BART trips. BART gives patrons a 6.25% discount to the cost of the stored value as well as a "last ride bonus." The last ride bonus feature lets the patron take a final ride anywhere on the BART system with a ticket that has as little as a nickel left on it and, after this last trip, the fare gate returns the ticket to the patron to keep using as a bus flash pass.

The new BART Plus Agreement will be valid through December 31, 2009. A new agreement is needed because the bus operators wish to increase the price of the bus portion of the half-month BART Plus ticket by \$5, from \$24 to \$29. The increase would take effect on July 1, 2009, at the same time that the San Francisco Municipal Transportation Agency's monthly adult Fast Pass price increases from \$45 to \$55. Revenue from the bus portion of the ticket is shared among the bus operators based on ridership--operators with higher ridership get more revenue. The proposed additional \$5 per ticket would be distributed among the bus operators in accord with

the existing revenue-sharing procedure. For the BART portion of the BART Plus ticket, the price would be unchanged, and the patron would continue to receive the same BART stored values with the 6.25% discount and last ride bonus.

Staff has determined that the rate proposed is reasonable as required under Public Utilities Code Section 29038 and that the fare is Statutorily Exempt from the California Environmental Quality Act under the provisions of Public Resources Code Section 21080(b)(8) and 14 Cal. Code of Regs. Section 15273, as reflected in the findings in the attached resolution.

The new agreement has updated estimates of FY09-FY10 program costs for clearinghouse, marketing, and transaction expenses as well as the costs of reprogramming BART's ticket vending machines so that the tickets can be sold at the new prices. In addition, the City of Benicia (Benicia Breeze) will no longer participate. The other terms and conditions of the agreement are essentially the same as those of the current agreement, including the option to extend the new agreement annually in one-year increments for a period of up to three years.

The Office of the General Counsel will approve the new BART Plus Agreement as to form.

FISCAL IMPACT

For FY08, about 53,000 BARTPlus tickets were sold, generating about \$1.7 million in net revenue for BART, or 0.6% of BART's net passenger revenue. It is estimated the \$5 increase to the price of the bus portion will result in little or no change to BART Plus ticket sales and revenue to BART because the bus operators that account for most of the connecting ridership are also increasing the prices of their bus-only passes.

ALTERNATIVES

Do not authorize the General Manager to execute a new BART Plus Agreement that facilitates transfers between BART and participating bus operators. BART and the bus operators are currently operating under the terms of an agreement that expired December 31, 2008. Without a new BART Plus agreement, it is possible that riders will not have a reusable discount ticket to transfer between BART and participating bus operators.

RECOMMENDATION

Adopt the following motions.

MOTIONS

Motion 2 should be adopted only after the adoption of Motion 1.

1) That the Board adopt the attached Resolution in the matter of BART Plus Ticket Program Fees and Charges.

2) That the General Manager or her designee is authorized to enter into a new BART Plus agreement with bus operators, effective through December 2009 with options to extend in one-year increments for up to three years, that incorporates the fees and charges reflected in Exhibit A to the attached Resolution and updated estimates of program costs. (2/3 VOTE REQUIRED)

BEFORE THE BOARD OF DIRECTORS OF THE SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

**In the Matter of Adopting Modified
BART Plus Ticket Program Fees and Charges**

Resolution No. _____

WHEREAS, the Central Contra Costa Transit Authority (“CCCTA”), the City and County of San Francisco (“Muni”), the Dumbarton Bridge Service Consortium (“DB Express”), the Eastern Contra Costa Transit Authority (“ECCTA”), the Livermore Amador Valley Transit Authority (“LAVTA”), the San Mateo County Transit District (“SamTrans”), the Santa Clara Valley Transportation Authority (“VTA”), the City of Union City (“Union City”), the Western Contra Costa Transit Authority (“WCCTA”), and the City of Rio Vista (“Rio Vista Delta Breeze”) (collectively, “Bus Operators”) and the San Francisco Bay Area Rapid Transit District (“District”) have determined that a BART Plus Ticket for use on public transit vehicles operated by the District, CCCTA, Muni, DB Express, ECCTA, LAVTA, SamTrans, VTA, Union City, WCCTA, and Rio Vista Delta Breeze will encourage transit use and is responsive to the objectives of SB 602 (California Government Code Section 66516) regarding regional fare coordination.

WHEREAS, it is the intention of the District and the Bus Operators to enter into an Agreement providing for the sharing of revenues from the BART Plus Ticket Program.

WHEREAS, the District and the Bus Operators acknowledge that, periodically, the District or one or more of the Bus Operators may increase fares for their services. A fare increase for Muni is scheduled to occur on July 1, 2009. Concurrent with the July 1, 2009 increase, the Bus Operators and the District have agreed to increase the bus portion of the price of the BART Plus ticket good for one-half month by five dollars (\$5) from twenty-four dollars (\$24) to twenty-nine dollars (\$29).

NOW, THEREFORE, the Board hereby makes the following findings:

- (1) After careful study of staff recommendations, public comment, and due deliberations, the Board determines, as required by Public Utilities Code Section 29038, that the rates and charges for service set forth in Exhibit A hereto are reasonable; and that insofar as practicable, these rates and charges are calculated to result in revenue which will:
 - (a) Pay for operating expenses of the District and/or Bus Operators;
 - (b) Provide repairs, maintenance and depreciation of works owned and operated by the District and the Bus Operators;

- (c) Provide for purchases, lease, or acquisitions of rolling stock, including provisions for the interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the District and/or Bus Operators for vehicles; and
 - (d) After making any current allocation of funds for the foregoing purposes and by the terms of any indebtedness incurred under Public Utilities Code Articles 6 (commencing with Section 20240) and 7 (commencing with Section 29250) of Chapter 8, provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of Part 2 of Decision 10 of the Public Utilities Code.
- (2) The fees and charges set forth in Exhibit A hereto are for the purposes of:
- (a) Meeting operating expenses such as employee wage rates and fringe benefits for the District and/or the Bus Operators;
 - (b) Purchasing or leasing supplies, equipment or materials for the District and/or the Bus Operators;
 - (c) Meeting financial reserve needs and requirements for the District and/or the Bus Operators; and
 - (d) Obtaining funds for capital projects necessary to maintain service within existing service areas of the District and/or the Bus Operators.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District that:

- (1) The General Manager is authorized to implement the fees and charges as set forth in Exhibit A.
- (2) The fees and charges for service set forth in Exhibit A are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines, 14 Cal. Code Regs. Section 15273 and that Notices of Exemption shall be filed in the affected counties.

###

EXHIBIT A BART PLUS TICKET PROGRAM FEES AND CHARGES

The following fees shall apply to the BART Plus Ticket Program:

EFFECTIVE JANUARY 1, 2009: BART PLUS TICKET PRICES, BART SHARE & BUS SHARE

TICKET PRICE ¹	BART STORED VALUE	BART SHARE OF TICKET PRICE ²	BUS SHARE OF TICKET PRICE ³
\$38	\$15	\$14	\$24
\$43	\$20	\$19	\$24
\$47	\$25	\$23	\$24
\$52	\$30	\$28	\$24
\$57	\$35	\$33	\$24
\$62	\$40	\$38	\$24
\$66	\$45	\$42	\$24
\$71	\$50	\$47	\$24

EFFECTIVE JULY 1, 2009: BART PLUS TICKET PRICES, BART SHARE & BUS SHARE

TICKET PRICE ¹	BART STORED VALUE	BART SHARE OF TICKET PRICE ²	BUS SHARE OF TICKET PRICE ³
\$43	\$15	\$14	\$29
\$48	\$20	\$19	\$29
\$52	\$25	\$23	\$29
\$57	\$30	\$28	\$29
\$62	\$35	\$33	\$29
\$67	\$40	\$38	\$29
\$71	\$45	\$42	\$29
\$76	\$50	\$47	\$29

NOTES:

¹**TICKET PRICE** = BART stored-value minus (BART's high value ticket discount of 6.25% multiplied by BART stored-value), rounded to the nearest dollar + (bus share of ticket price)

²**BART SHARE:** The gross share of BARTPlus revenue allocated to BART, which equals BART stored-value minus (BART's high value ticket discount of 6.25% multiplied by BART stored-value), rounded to the nearest dollar

³**BUS SHARE** = The gross share of BART Plus revenue shared by the bus operators.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marica DeLuca</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>2/4/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Noel Felton Dept: Labor Relations	General Counsel <i>Andreea Rivas</i>	Controller/Treasurer <i>Roberta Collins</i>	District Secretary	BARC
Signature/Date: <i>2/2/09</i>	<i>2/2/09</i> []	<i>2/2/09</i> []	[]	<i>2-2-09</i> []

TITLE:

AGREEMENT NO. 6M4091 FOR CHIEF NEGOTIATOR SERVICES

NARRATIVE:

PURPOSE

To authorize the General Manager to execute Agreement No. 6M4091 with Burke, Williams & Sorenson, Menlo Park, California, to utilize M. Carol Stevens, Esq. to provide Chief Negotiator services in support of the District's 2009 collective bargaining.

DISCUSSION

The District is currently without a Chief Negotiator for 2009 collective bargaining. The General Manager determined it to be in the best interests of the District at this time to hire a consultant to provide these services. The consultant will serve as Chief Negotiator, and at the direction of the General Manager and the Board, will develop and execute the overall labor relations strategy for 2009 collective bargaining.

Staff interviewed several firms with public sector labor negotiations experience, and experience working with the transit districts. M. Carol Stevens, Esq. of the firm Burke, Williams & Sorenson, was selected as the consultant that represents the best value to provide these highly specialized services for the District, based on her expertise, her availability, and her rates. Since 1995, Ms. Stevens has served as a Chief Negotiator for the City of Oakland for various negotiations. She has also served as the Chief Negotiator for the County of Santa Clara, the Alameda County Water District and the Oak Grove School District in South San Jose. She represented AC Transit at the bargaining table with the ATU in the early 1990s. Ms. Stevens is very familiar with District staff, its organization, and its collective bargaining agreements, as a result of her having provided labor relations consultant services to staff over a number of years. Although Ms. Stevens will not be providing legal services under this agreement, her expertise as a practicing attorney is a significant asset. Ms. Stevens has served as a labor and employment attorney for public agencies in California since 1978, representing California cities, school districts, and transit districts. She serves as the Executive Director of the California Public Employers Labor Relations Association. (CALPELRA). Through her firm, she has served as a special counsel to the District's Office of the General Counsel on labor and employment legal matters. Ms. Stevens is available on very short notice. Her hourly rate for Chief Negotiator services is

competitive with quotes received from the other consultants who were contacted by staff.

The office of the General Counsel will approve the agreement as to form.

FISCAL IMPACT

The estimated cost for this agreement is \$375,000 and will be funded from the Office of Administration's FY09 operating budget..

ALTERNATIVE

Solicit other consultants to provide these specialized services.

RECOMMENDATION

Adoption of the following motion.

MOTION

That the General Manager or her designee is authorized to execute the Agreement No. 6M4091 with Burke, Williams & Sorenson, to utilize M. Carol Stevens for Chief Negotiator services in the amount of \$375,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 2/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Khawaja Zubair Dept: Engineering Signature/Date: <i>K. Zubair 2/2/09</i>	General Counsel <i>[Signature]</i> 2/2/09 []	Controller/Treasurer <i>[Signature]</i> 2/2/09 []	District Secretary []	BARC <i>[Signature]</i> 2/2/09

Status: Routed	Date Created: 01/23/2009
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TITLE:

CHANGE ORDER NO. 3 TO CONTRACT NO: 09DJ-110, REPLACEMENT AND REPAIRS OF ANODE ARRAYS AND CABLE INSTALLATIONS AT TRANSBAY TUBE (TBT) CATHODIC PROTECTION SYSTEM

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to execute Change Order No. 3 to Contract No. 09DJ-110 for replacement and repair of Anode Arrays and Cable Installations at TBT Cathodic Protection System for an amount of \$860,000.

DISCUSSION:

Award of Contract No. 09DJ-110 to Vortex Marine Construction, Inc. in the amount of \$1,809,356.00 was authorized by the Board on June 26, 2008 following a public bidding process wherein Vortex was deemed the lowest responsive bidder. Notice to Proceed was issued on August 21, 2008.

The purpose of this Change Order No. 3 is to perform additional cable replacement work from the TBT to anode in the bay.

Presently, the transbay tube steel shell is protected from corrosion by a series of cathodic protection anodes. These anodes are located at some distance away from the TBT at the bottom of the bay, and provide the required current to charge the tube shell to a negative voltage. This negative voltage in turn protects the steel shell from corrosion. Each anode is connected to a power source located in the TBT with an armored submarine cable at the bottom of the bay. The steel shell is required around the concrete tube structure for the integrity of the tube against mechanical damages as well as against water leakage.

Under contract 09DJ-110, originally 18 inactive anodes were to be replaced along with corresponding cable connections. All the 18 anodes were found and tested; some of them can not be brought back to operation unless the entire cable is changed from the top hat. Fourteen (14) anodes already have been replaced; 12 of the 14 are operational. The remaining two of the fourteen will require cable change through the top hats. The remaining four (4) inactive anodes of the original 18 will require replacement of both the anode array and the cables through top hats. Once installation is completed, and power supply is operating, all 18 anodes will be active.

In over 40 years, there may have been only 2 occasions when full length cables were replaced all the way through top hat into the tube. Most of the 18 old cables are in need of replacement; unless they are replaced, even new anodes can be ineffective. Changing these cables through the top hat can be expensive and must be performed very carefully to protect the integrity of

the tube. With this existing contract we have successfully replaced two cables at 43 AC and 43 IC. The present contractor's freshly gained experience in changing these cables will allow them to work confidently to complete the job on time.

To elaborate on the new measures to be performed under this Change Order, the contractor will replace cables from the anodes through top hats at 5AC, 5IC, 12IC, 19AC, 19IC, 22AC, 33AC; the contractor will also replace anode arrays at locations 12IC, 19AC, 19IC and 22AC. Please note that 5IC is a working anode at this time, but has a very old cable with low impedance. This anode must be moved when the cable at the twin anode 5AC is being replaced. For this reason the old cable at 5IC will be changed.

Vortex Marine has quoted a price of \$857,018.00 for this Change Order. The requested approval is for \$860,000.00 which allows for small miscellaneous cost items during implementation. Many uncontrollable and unknown variables such as water current, weather and exact location may have an impact on the duration and cost of implementation. This Contract Price is a unit price labor contract and the exact cost is dependent on these variables. Therefore, all effort will be made to install all the cables and anodes described herein, or until the funding is exhausted.

Based on all the marine work done so far on Cathodic Protection, Vortex quote is fair and reasonable as supported by engineer's estimate. This change order will bring the total change order value to 48% of the original contract amount of \$1,809,356.00.

Pursuant to Board Rule 5-2.4, except for construction and procurement contracts greater than \$200 million, all change orders which involve an expenditure of more than \$200,000 require the approval of the Board of Directors.

The Office of the General Counsel will approve this Change Order as to form, and the Procurement department will review this Change Order for compliance with the District's procurement guidelines, prior to execution.

FISCAL IMPACT:

Funding of \$860,000.00 for contract 09DJ-110 change order No. 3 is included in the total project budget for the FMS#09DJ – Track Rehab (Cathodic Protection). The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

CA-03-0729 FY05

47W

\$860,000

As of month ending 12/28/08, \$4,958,891 is available for commitment from this fund source for this project and BART has committed \$3,207,953 to date. There are pending commitments of \$828,948 in BART's financial management system. This action will commit an additional \$860,000 leaving an uncommitted balance of \$61,990 in this fund source.

There is no fiscal impact on available un-programmed District Reserves.

ALTERNATIVES:

To not replace and repair the cables of the cathodic protection system or to replace and repair fewer cables. This will leave the Transbay Tube more susceptible to corrosion.

RECOMMENDATION:

Based on the analysis by Staff, it is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to **execute** Change Order No. 3 to Contract No. 09DJ-110 for Cable and Anode Installations at Transbay Tube Cathodic Protection System, to Vortex Marine Construction, Inc. in an amount not to exceed \$860,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Delk</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 2/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadelli Dept. Government & Community Relations	General Counsel <i>Andrea C. ...</i> 2/3/09	Controller/Treasurer <i>[Signature]</i> 2/4/09	District Secretary	BARC <i>[Signature]</i> 2-4-09
Signature: <i>[Signature]</i>	[]	[]	[]	[]
Status: Routed		Date Created: 01/14/2009		

TITLE:

BART 2009 State and Federal Advocacy Programs

NARRATIVE:

PURPOSE: To review and approve the District's state and federal advocacy program.

DISCUSSION: based on BART priorities and in consideration of the dramatically changing political environment and dynamics in both Sacramento and Washington, DC, staff has outlined the following state and local legislative and advocacy objectives for the year ahead.

Proposed **State** Advocacy Program for BART:

(1) General State Budget Oversight and Action. The continuing state budget crisis will require monitoring and coordination within BART and among transit allies and the California Transit Association (CTA) to participate in the process, articulate important state transit assets and to defend adequate transit funding. With a projected state budget deficit approaching \$44 billion over the next eighteen months, BART and other transit agencies will need to work hard to resist additional cuts in the current State Transit Assistance (STA) program, in addition to convincing legislators to keep the program which has been proposed for elimination.

Part of this effort must include assuring that any available Proposition 1B funding (including the Public Transportation Modernization, Improvement, Service Enhancement Account [PTMISEA], the State and Local Partnership program and security funds) is made available in ways that benefit BART. For example, there have been discussions that should a budget deal be completed, the distribution of PTMISEA funds could be accelerated as part of the governor's "stimulus" package.

(2) Secure Stable Transit Funding. Following a third year of fiscal crisis in the capitol from budget deficit issues, transit funding is once again a target to fill the General Fund shortfall. In addition to educating new and continuing legislators on the importance of STA operational funding, significant strides need to be made to find a *secure* dedicated funding source for transit in the state.

To better guarantee that its system remains in a state of good repair, BART will need to work with a coalition of transportation, business and environmental interests on the difficult challenge of establishing a dedicated stream of transit funding. This may take a significant organized effort to begin planning for a ballot measure seeking a constitutional amendment, which may seek to redirect “spillover” funding from sales tax on motor fuel to flow directly through Proposition 42 to the State Transportation Improvement Program (STIP), local streets and roads and transit programs. These options are presently being discussed for action by MTC, CTA and the new transit/environmental coalition organized to secure transit funding so important new environmental legislation can be implemented.

(3) Greenhouse Gas/ Land Use issues. California now has two of the most historic, innovative and strict environmental laws in the nation to combat greenhouse gas (GHG) emissions. Unveiled last December by the California Air Resources Board, the "Scoping Plan" for **AB 32** (passed in 2006) will implement a sweeping climate change strategy for the state. **SB 375** passed last year and will require regional transportation planning agencies to develop "sustainable community strategies" to help limit greenhouse gas emissions. SB 375 also provides incentives for local governments to incorporate these strategies into the transportation elements of their general land use plans.

The BART Board supported SB 375 and worked with the author (now Sen. Pro Tempore Steinberg) to make the bill more amenable to BART Transit Oriented Development (TOD) needs. Senator Steinberg and the Governor have said that follow-up legislation may occur this year to fine-tune SB 375. BART should be a part of that discussion because such efforts may assure fewer hurdles to TOD development in the Bay Area.

BART has also been an active participant in helping to develop the Scoping Plan for AB 32 (directly and through CTA), and continuing our participation in any implementation effort may assure greater opportunities for transit funding. The Scoping Plan identifies several measures including a cap-and-trade system to reduce emissions.

(4) Address Specific BART issues. BART should work with its Bay Area Delegation, staff and the 34 new legislators in the state capitol to build key relationships and articulate specific BART needs as they arise, including:

- Responding to and working with state legislators who have introduced bills to address various aspects of the incident that took place at the Fruitvale Station on New Year’s Day. Bills may be introduced to require a public review mechanism and to mandate specific training requirements for BART Police.
- Reintroducing AB 1221 (Ma), which passed the legislature last year but was vetoed by the Governor. In addition to expanding the definition of a transit village plan to 1/2 mile, AB 1221 would have established certain requirements through the Infrastructure Financing District Act when seeking bond financing for the plan. A similar bill will again be sponsored by BART in order to enhance TOD local financing.

- Supporting legislation which could establish local fee-based revenue streams for transit. Last year BART supported a variety of bills which would have helped finance local programs to combat GHG emissions and support greater transit access. There will again be a variety of such bills this year, including one sponsored by MTC.
- Supporting legislative and administrative efforts which assist development of the CA High Speed Rail system, and connectivity of regional transit to that system.
- Supporting legislation which enhances transit access, including greater pedestrian and bicycle options.

Proposed **Federal** Advocacy Program for BART

(1) Pursue BART Priorities Through Federal Stimulus and Reauthorization Process.

The 111th Congress has begun in the context of a national recession, a financial crisis, and transportation authorization legislation that is expiring. Therefore, the options for funding transit are unknown at best. There may be positive funding opportunities for BART resulting from “economic recovery” (stimulus) legislation, or longer-term efforts which will need to be outlined and pushed in a contentious Reauthorization effort -- which may take years to resolve. Some of these actions to be taken by BART may include:

- Working to secure a long-term funding commitment for nearly 700 new BART cars in any stimulus and/or Reauthorization effort;
- Organizing and submitting BART project candidates for possible “Ready to Go” stimulus funding in year-one and year-two of any economic recovery effort;
- Working with other “Old Rail” systems from around the country to direct greater funding for metropolitan rails systems (capital and core capacity) through Reauthorization; and
- Supporting efforts which assist transit access goals -- including enhancement of bicycle and pedestrian projects.

(2) Seek increased funding sources for security needs. With a long list of security needs left unfunded, BART must work with Congressional leadership and the new Administration to assist the open transit systems most at risk of terrorist attacks. This would include pursuing greater funding through Homeland Security programs and appropriations and more flexible ways to spend that funding.

(3) Monitor and Respond to Climate Change Legislation. Transit can play a vital role in reducing GHG emissions and fulfilling the goals of a federal climate change bill. President Obama has signaled his preference for a cap-and-trade program over a carbon tax approach to the GHG problem, and it appears likely that Congress will favor an approach that involves

auctioning emission credits and “investing” the proceeds in programs to reduce GHG emissions. BART should be an advocate for greater investment in transit as a means to reach the specified public goals for reducing GHG emissions.

(4) Work to Have New Administration Support Public Transit. With increased Democratic majorities in the House and Senate, the new Obama Administration has the opportunity to provide strong leadership with the Congress on key issues involving public transit. This includes economic stimulus and climate change legislation, transit reauthorization and other legislative initiatives. BART’s federal advocacy team would in addition seek to build this support at the U.S. Department of Transportation, the EPA, the Department of Energy and within the White House.

(5) Pursue support for BART’s seismic retrofit efforts. BART has been successful in obtaining small amounts of funding to assist its seismic retrofit goals. While recent news indicates that the costs of retrofitting the Transbay Tube will be lower than expected, additional funds would help with plans for a wider application of necessary seismic work. This may require working to pass authorization or appropriations legislation to further this goal in the new Congress.

(6) Address Specific BART issues.

- If necessary, continue efforts with other transit agencies to resolve SILO/LILO transaction problems which could result in \$40 million in costs to BART if AIG's bond rating declines. This may require administrative action through the Department of Treasury or corrective legislation.
- Prepare and coordinate BART’s participation at annual American Public Transit Association (APTA) March Legislative conference.
- Monitor federal efforts that could impact CA High Speed Rail project (i.e. possible support for Senator John Kerry’s “High Speed Rail for America Act.”)
- Continue support for legislation and/or Administration support for tax or employee incentives to assist transit ridership.
- Work to assure continued federal financial support (FTA) for the Oakland Airport Connector (OAC).
- Build greater federal support for efforts to move transit toward applications which increase energy efficiency.

FISCAL IMPACT:

N/A.

ALTERNATIVE:

Decline to adopt the proposed legislative program or make changes/additions as appropriate.

RECOMMENDATION:

That the Board approves the following two motions:

MOTION:

- 1). The Board approves the described components of a BART **state** advocacy program.
- 2). The Board also approves the described components of a BART **federal** advocacy program.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: February 6, 2009

FROM: General Manager

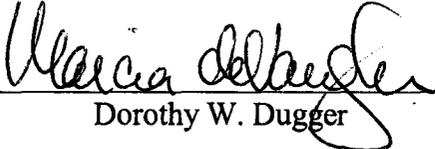
SUBJECT: 2009 Proposed Federal Economic Stimulus Program
PPAAL Committee – February 12, 2009 – For Information

As you are aware, Congress is in the process of drafting legislation to implement President Obama's widely discussed economic stimulus plan. On January 29, the House passed an \$819 billion version of the bill and, as of this writing, the Senate is debating amendments to its version. Despite some significant policy differences in the Senate over the scope, direction and funding contained in the bill, the final version is expected to include new funding for transportation. While the details and funding levels of the transportation element are not yet known, the legislation could become law as early as mid-February.

Concurrent with the Federal process, MTC is hastily developing policy criteria for the allocation of the bulk of transit funds, and has conducted an accelerated Request for Projects to identify and prioritize needed maintenance and rehabilitation projects which meet anticipated stimulus eligibility criteria. BART staff responded to this request by convening meetings of our internal stakeholders and assessing our most critical reinvestment needs that meet the "ready to go" requirement and other anticipated program criteria. The staff level submittal included funding increments for an assortment of "ready to go" maintenance and rehabilitation projects such as Phase I of the Rail Vehicle Replacement Program, the Pleasant Hill Crossover Project, 480v Station Power Switchgear Replacement, and the Balboa Walkway and New Westside Entrance Project, among others. Separately, MTC has proposed to reserve a portion of available transit funds to contribute to "ready to go" Resolution 3434 expansion projects, and has included BART's Oakland Airport Connector as a potential project within this category. Discussions between MTC and regional operators on the program-wide impacts of this proposal are ongoing.

Staff will be presenting a more detailed update, including the latest information on the status of the bill and the MTC project selection process, to the PPAAL Committee on February 12. To help put this report in context, attached as background are several pieces of information on the subject legislation, MTC's policy and allocation proposals, and BART's staff submittals to MTC.

Please let me know if you have any questions or need further information prior to the 2/12 PPAAL report.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



CAPITOL CORRIDOR JOINT POWERS AUTHORITY
MEETING OF THE CAPITOL CORRIDOR JOINT POWERS BOARD
Wednesday February 18, 2009

10 a.m.

City Council Chambers
Suisun City Hall
701 Civic Center Blvd., Suisun City, CA
(see attached map)

DRAFT AGENDA

I. Call to Order

II. Roll Call and Pledge of Allegiance

III. Report of the Chair

IV. Minutes of November 19, 2008 Meeting

Action

V. Consent Calendar [None]

VI. Action and Discussion Items (Executive Director)

1. Business Plan Update (FY 2009-10 – FY 2010-11)

*Action**

2. Governor's Proposed FY 2009-10 Budget/Legislative Matters

Action

3. Update - FY 09 Federal Intercity Rail Capital Grant Opportunities

Discussion

4. Results of December 2008 On Board Surveys

Discussion

5. Managing Director's Report (Status of Service Performance)

Info

6. Work Completed

a. Annual Performance Report (FY 08)

Info

b. CCJPA FY 08 Independent Audit

Info

c. Marketing Activities (November 2008 – February 2009)

Info

7. Work in Progress

a. Proposition 1B Allocations (FY 08 and FY 09)

Info

b. Proposition 1A (California High Speed Train System) Connectivity Projects/Funds

Info

c. Purchase of UPRR Oakland Subdivision Right-of-Way for Dumbarton Rail Project

Info

d. Relocation of Fremont/Cisco A's Ballpark Village

Info

e. Upcoming Marketing Activities

Info

VII. Board Member Reports

VIII. Public Comment

IX. Adjournment. Next Meeting Date: 10:00 a.m., April 15, 2009 at City Council Chambers, Suisun City Hall, 701 Civic Center Blvd., City of Suisun City, CA

Notes:

Members of the public may address the Board regarding any item on this agenda. Please complete a "Request to Address the Board" form (available at the entrance of the Boardroom and at a teleconference location, if applicable) and hand it to the Secretary or designated staff member 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 Public Comment. Speakers are limited to three (3) minutes for any item or matter. The CCJPA Board reserves the right to take action on any agenda item.

Consent calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for discussion or explanation is received from a CCJPA Board Director or from a member of the audience.

* Approval of the business plan requires an affirmative vote of at least two-thirds (11) of the appointed members.

The CCJPA Board provides services/accommodations upon request to persons with disabilities who wish to address Board matters. A request must be made within one and five days in advance of a Board meeting, depending on the service requested. Call (510) 464-6085 for information.