

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

January 11, 2007

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, January 11, 2007, 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 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.

2. **CONSENT CALENDAR**

- A. Approval of Minutes of the Meeting of December 21, 2006.* Board requested to authorize.

- B. Technical Correction to the Resolution Establishing the 2007-2009 Premium Contributions for Public Employees Retirement System (PERS) Medical Coverage for Employees and Retirees Represented by BART Police Officers Association (BPOA).* Board requested to authorize.
- C. Central Contra Costa BART Crossover Track Project Regional Measure 2 Resolutions of Project Compliance and Initial Project Reports.* Board requested to adopt.
- D. Participation in the State of California Fuel Card Program.* Board requested to authorize.
- E. Award of Contract No. 6M3019A, Installation and Modification of Inverter Systems at Powell Street and Montgomery Street Stations.* Board requested to authorize.
- F. Proposed State and Federal Legislative Advocacy Agreement Renewals.* Board requested to authorize.

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 Keller, Chairperson

- A-1. Authority to Execute Agreement No. 6M2004A Public Liability Claims Adjusting Services.* Board requested to authorize.
- A-2. President Sweet's Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference in Washington, DC, on March 10-14, 2007.* Board requested to authorize.
- A-3. Director Luce's Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference in Washington, DC, on March 10-14, 2007, and the 25th Annual Government/Industry Conference on Global Terrorism in Arlington, Virginia on March 18-22, 2007.* Board requested to authorize.
- A-4. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Fang, Chairperson

- B-1. Sole Source Procurement with Alstom Signaling Corporation for Train Control Equipment for the Central Contra Costa County Crossover Project.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B-2. Professional Services Agreement with Jacobs Engineering Group Inc. for Construction Management Services for the Transbay Tube (Agreement No. 6M8009).* Board requested to authorize.
- B-3. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Director Radulovich, Chairperson

NO REPORT.

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. Authority to Execute Agreement No. 6M2004A Public Liability Claims Adjusting Services.* Board requested to authorize.
- A-2. President Sweet's Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference in Washington, DC, on March 10-14, 2007.* Board requested to authorize.
- A-3. Director Luce's Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference in Washington, DC, on March 10-14, 2007, and the 25th Annual Government/Industry Conference on Global Terrorism in Arlington, Virginia on March 18-22, 2007.* Board requested to authorize.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Sole Source Procurement with Alstom Signaling Corporation for Train Control Equipment for the Central Contra Costa County Crossover Project.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

- B-2. Professional Services Agreement with Jacobs Engineering Group Inc. for Construction Management Services for the Transbay Tube (Agreement No. 6M8009).^{*} Board requested to authorize.

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

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. (CONTINUED from December 7, 2006, Board Meeting)
Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Study for the Bay Area Public Transportation Agencies (BAPT).^{*} Board requested to authorize.
- B. Report of the District Security Advocacy Ad Hoc Committee. For information.
- C. Roll Call for Introductions.

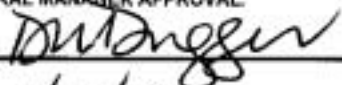
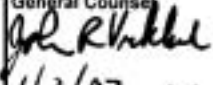


7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Name of Case: BART et al. v. Certain Underwriters at Lloyds, et al., San Mateo Superior Court, Case No. CIV451223
Government Code Section: 54956.9(a)
- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
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
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: one potential case.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board	
DATE: 1/03/07		BOARD INITIATED ITEM: No	
Originator/Prepared by: Mischa Lorraine Dept: Human Resources Ext. 6207	General Counsel:  1/3/07	Controller/Treasurer:  1/3/07	District Secretary: []
Signature/Date:  1/3/07	[]	[]	BARC: []

NARRATIVE:

Technical Correction to the Resolution Establishing the 2007-2009 Premium Contributions for PERS Medical Coverage for Employees and Retirees Represented by BPOA PURPOSE:

To request Board adoption of a resolution correcting a typographical error in Board Resolution 5000 which established the 2007-2009 premium contributions for medical coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA) for employees and retirees represented by BART Police Officers' Association (BPOA).

DISCUSSION:

In its meeting of December 7, 2006 the Board adopted Resolution Number 5000 setting the new premium contributions for the District and employees and annuitants represented by BPOA for 2007- 2009. A typographical error was discovered by PERS which requires correction. The error states that the premium portion paid by the employees is \$75.00 for coverage for the month of January 2007. This statement should read that the premium portion paid by the employees is *\$80.45 for coverage for the month of January 2007*. The corrected resolution reflects the amounts agreed to by the parties in the current collective bargaining agreement.

FISCAL IMPACT:

There is no fiscal impact as a result of this technical correction.

ALTERNATIVES:

Correction of the typographical error in the current Board resolution is necessary to conform the resolution to the current agreement with BPOA and is required by PERS.

RECOMMENDATION:

That the Board adopt the following motion.

EDD: Technical Correction to the Resolution Establishing the 2007-2009 Premium Contrib

MOTION:

To adopt the attached resolution "In the Matter of Fixing The Employer's Contribution Under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by BPOA and to authorize the Board President to sign the resolution on behalf of the Board.

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

Resolution No. _____

In the Matter of Fixing The
Employer's Contribution Under
the Public Employees' Medical
and Hospital Care Act for
Employees/Annuitants Represented
by BPOA:

**RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

- WHEREAS (1) Government Code Section 22892(a) provides that a local agency contracting under the Public Employees' Medical and Hospital Care Act shall fix the amount of the employer's contribution at an amount not less than the amount required under Section 22892(b) of the Act; and
- WHEREAS, (2) The San Francisco Bay Area Rapid Transit District, hereinafter referred to as Public Agency, is a local agency contracting under the Act for participation by its employees who are represented by the BART Police Officers Association (BPOA); now, therefore be it
- RESOLVED, (a) That the employer's contribution for each employee and annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the total premium less \$80.45 for coverage in the month of January 2007 and \$77.25 per month from February through December 2007; plus administrative fees and Contingency Reserve Fund Assessments.
- RESOLVED, (b) That the employer's contribution for each employee and annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the total premium less \$77.25 for coverage in the month of January 2008 and \$79.57, per month from February through December 2008; plus administrative fees and Contingency Reserve Fund Assessments.
- RESOLVED, (c) That the employer's contribution for each employee and annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in

a health benefits plan up to a maximum of the total premium less \$79.57 for coverage in the month of January 2009 and \$81.95, per month from February through December 2009; plus administrative fees and Contingency Reserve Fund Assessments.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ____ day of _____ 2007.



Signed: _____

(Board President)

Attest: _____



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Administration Committee meeting			
DATE: 1/5/07		BOARD INITIATED ITEM: No			
Originator/Prepared by: Todd Morgan Dept: Capital Development & Control Ext. 6551 Signature/Data:  1/4/07		General Counsel  1/4/07	Controller/Treasurer  1/4/07	District Secretary []	BARC []

NARRATIVE:

Approval of a Subsequent Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the Central Contra Costa BART Crossover Project

PURPOSE:

To obtain approval of a Subsequent Resolution of Project Compliance and Initial Project Report ("IPR") for Regional Measure 2 ("RM2") funds for the Central Contra Costa County Crossover Project ("Project"). The IPR includes a request for reimbursement for a total of \$20.35 million planned project expenditures in FY06-07, FY07-08, and FY08-09.

DISCUSSION:

The BART Board previously approved an IPR and Resolution for RM2 funds for the Project in September 2004. That request was for \$1 million in planned expenditures in FY04-05 for completion of the environmental assessment and preliminary engineering. Additionally, in March 2006 the Board approved an IPR and Subsequent Resolution for \$3.65 million for the final design and right of way phases.

MTC Resolution No. 3636, the Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2 requires that the Board approve a Resolution and IPR each time the project sponsor requests an allocation of RM2 funds. In accordance with this policy, staff is requesting an allocation of \$20.35 million in RM2 funds for the construction phase of the Project.

The purpose of the Crossover Project is to provide two new crossovers in the mainline trackway between Walnut Creek and Pleasant Hill Stations where there is presently no means to cross from one track to the other between the two stations. As passenger loads have increased over more than 30 years of operation, this deficiency has not only proved to cause operational problems during a train failure and schedule recovery, but also means that the District must turn trains back towards San Francisco during morning and evening rush hours at Concord station, rather than at the preferred, more efficient turn-back location at Pleasant Hill Station.

EDD: Approval of a Subsequent Resolution of Project Compliance and Initial Project Repo

FISCAL IMPACT:

Approval of the Subsequent Resolution and IPR is a requirement for the District to receive an allocation of RM2 funding from the MTC in the amount of \$20.35 million. These actions have no fiscal impact on unprogrammed District Reserves. Total funding of \$25,000,000 for the Project is provided through Regional Measure 2 Bridge Tolls.

ALTERNATIVES:

Do not approve the Subsequent Resolution and IPR. This would delay or prevent construction of the proposed Crossover Project.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

Approve the attached Subsequent Resolution of Project Compliance And Initial Project Report for Regional Measure 2 Funds for the Central Contra Costa BART Crossover.

Central Contra Costa BART Crossover

Initial Project Report Summary

The purpose of the Central Contra Costa BART Crossover Project is to provide two new crossovers in the mainline trackway between Walnut Creek and Pleasant Hill Stations where there is presently no means to cross from one track to the other between the two stations. As passenger loads have increased over more than 30 years of operation, this deficiency has proved to not only cause operational problems during a train failure and schedule recovery, but means that the District must turn trains back towards San Francisco during morning and evening rush hours at Concord station, rather than at the preferred, more efficient turn-back at Pleasant Hill Station.

The benefits of these two new crossovers include increased service in the Walnut Creek-Pleasant Hill area, increased flexibility in operational and delay management, maintenance advantages, reduced cost of waiting trains and a better allocation of resources.

Project Delivery Milestones

Phase-Milestone	Planned - Initial		Planned/Revised		Actual	
	Start Date	Completion Date	Start Date	Completion Date	Start Date	Completion Date
Environmental Document	10/04	6/05	11/04	3/06	11/04	3/06
Environmental Studies, Prelimin.Eng. (ENV/PE/PA&ED)	10/04	6/05	11/04	3/06	11/04	3/06
Final Design - Plans, Specs. & Estimates (PS&E)	7/05	3/06	4/06	3/07	4/06	
Right-of-Way Activities Acquisition (R/W)	7/05	3/06	4/06	3/07	4/06	
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	9/06	3/08	6/07	3/09		

Total Project Budget Information

Phase	Total Amount - Escalated - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	\$1,230,000
Design - Plans, Specifications and Estimates (PS&E)	\$2,920,000
Right-of-Way Activities /Acquisition (R/W)	\$500,000
Construction / Rolling Stock Acquisition / Operating Service (CON)	\$20,350,000
Total Project Budget (in thousands)	\$25,000,000

**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 2 Funds for the Central Contra Costa
BART Crossover

Resolution No. _____

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

Whereas, allocation requests to MTC must be submitted consistent with the procedures and conditions outlined in Regional Measure 2 Policy and Procedures; and

Whereas, the San Francisco Bay Area Rapid Transit District (BART) is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

Whereas, the Central Contra Costa BART Crossover is eligible for funding in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

Whereas, the Regional Measure 2 allocation request, attached hereto in the Initial Project Report and incorporated herein as thought set for the at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which BART is requesting that MTC allocate Regional Measure 2 funds; and

Whereas, the project application includes certification by BART of certain assurances required for the allocation of funds by MTC; and

Whereas BART previously authorized its General Manager, or his/her designee, to execute and submit an allocation request for the environmental assessment, preliminary engineering, final design and right of way phases to MTC for Regional Measure 2 funds in the amount of \$4.65 million for the project, purposes and amounts included in the IPR; now, therefore, be it

Resolved, that BART and its agents shall comply with the provisions of the MTC's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636); and be it further

Resolved, that BART certifies that the Central Contra Costa BART Crossover is consistent with the Regional Transportation Plan (RTP).

Resolved, that the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project.

Resolved, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment.

Resolved, that BART approves the Initial Project Report as described in the attached Initial Project Report Summary (Summary), and be it further

Resolved, that BART approves the cash flow plan, as set forth 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 as described in the attached Summary, 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 Section 30914(c); and be it further

Resolved, that BART is authorized to submit an application for Regional Measure 2 funds for the Central Contra Costa BART Crossover in accordance with California Streets and Highways Code Section 30914(c); and be it further

Resolved that BART certifies that the projects and purposes for which RM2 funds are being requested is 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 15000 et seq.) and if relevant 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 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 RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 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 shall, if any revenues or profits from any non-governmental use of property (or project) are generated, that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the projects(s); and be it further

Resolved, that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes during their useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back or credited to MTC in the same proportion that Regional Measure 2 funds were originally distributed; and be it further

Resolved, that BART shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Central Contra Costa BART Crossover is funded with Regional Measure 2 Toll Revenues; and be it further

Resolved, that BART authorizes its General Manager, or his/her designee, to execute and submit an allocation request for the construction phase to MTC for Regional Measure 2 funds in the amount of \$20.35 million for the project, purposes and amounts included in the Initial Project Report; and be it further

Resolved that the use of Regional Measure 2 funding will result in completion of the construction phase for the Central Contra Costa BART Crossover.

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



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Forward to the Board of Directors		
DATE: 1/04/07		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept: Maintenance and Engineering Ext. 6442 Signature/Date: <i>[Signature]</i> 12/13/06	General Counsel <i>[Signature]</i> 12/13/06	Controller/Treasurer <i>[Signature]</i> 12/13/06	District Secretary ()	BARTC <i>[Signature]</i> 1/2/07

NARRATIVE:

STATE OF CALIFORNIA FUEL CARD PROGRAM

PURPOSE:

Request the Board to authorize BART's continued participation in the State of California Fuel Card Program with a three year agreement beginning November 1, 2006. The state has the option to extend the contract term for two additional one year terms and if it does so, BART may similarly extend the agreement. The contractor will be U.S. Bank Voyager Fleet Systems, Inc (Voyager), who will monitor and administer the State Fuel Card Program. The State of California made and entered into this competitively bid agreement with Voyager on October 23, 2006. The program will provide credit card purchases for self-serve unleaded gasoline, diesel fuel, M-85 methanol, emergency oil replacement, and minor emergency repairs to State and eligible public agency vehicles.

DISCUSSION:

Section 10298 of the California Public Contract Code permits the Director of the California Department of General Services to consolidate the needs of its agencies for goods, information technology, and services and establish contracts, master agreements, multiple award schedules, cooperative agreements, and other types of agreements that leverage the State of California's buying power. In addition, the Department of General Services may make its services available, upon the same terms and conditions, to any district empowered to expend public funds for the acquisition of goods, information technology, and/or services. Districts, including BART, may then enter into agreements with suppliers awarded such contracts, master agreements, multiple award schedules, and cooperative agreements without further competitive bidding.

This fuel credit card is accepted by all of the major oil companies as well as most of the smaller independent stations, ensuring necessary service to District vehicles virtually anywhere night or day in the Bay Area. The District's use of the fuel credit card will be only for those designated BART vehicles which are driven to outlying areas and must refuel their tanks when it is not physically or economically feasible to use the Oakland Shop Fueling Facility. In November 1995, the Board of Directors approved participation in a State of California Motor Fuel Credit Card Program with Chevron, USA. In May of 1998 and then again in June of 2003 the Board approved participation in the most recent contract with Voyager, based on State of California agreements that were awarded through competitive bidding. On October 23 of this year the State

EDD: STATE OF CALIFORNIA FUEL CARD PROGRAM

once again awarded this contract to Voyager after the company submitted the successful proposal on the latest RFP by the Department of General Services. Significant advantages for use of the State of California Fuel Card Program rather than a single oil retailer for this service include:

1. A single credit card will access a major retail network of gasoline vendors to choose from during a 24 hour day.
2. U.S. Bank Voyager Fleet Systems, Inc. will consolidate all billings from participating oil companies with one monthly statement minimizing District administrative costs.
3. Competitive gas price savings to the District using multiple vendors, while a single source offers only one gasoline retailer.
4. Maintain BART's public image by taking advantage of free car washes with self-serve fill-ups at selected retailers.

A credit card service is necessary for fueling vehicles assigned to outlying locations systemwide, including BART Police Patrol Units, and transporting of personnel and supplies to BART work locations for maintenance of the BART system. These vehicles are used on a 24 hour basis. The credit cards are issued on a selective basis to ensure that the employees and vehicles assigned to these credit cards are authorized to possess the credit card under proper approval.

FISCAL IMPACT :

Funding for this contract will included the following estimated expenditures and time periods:

FY07.....	\$245,000
FY08.....	\$441,000
FY09.....	\$463,000
FY10.....	\$487,000
FY11.....	\$511,000
FY12.....	<u>\$223,000</u>
Total.....	\$2,370,000

The funding for the Fuel Credit Card Program will be from the Operating Funds of Cost Center 642 (Non-Revenue Vehicle Maintenance Division of Maintenance and Engineering) Operating Budget, Account 680-030. Additionally approximately \$35,000 will be from previously approved funding from San Jose extension project 02GF.

ALTERNATIVES:

1. Seek another supplier through BART's own competitive bidding process. The State of California has however already selected the vendor based on it's own competitive bid process. There is no cost to the District to use the Voyager card above the retail price of products and services purchased.
2. Refuel at Oakland Shop Facility only. This is not cost effective for vehicles assigned to outlying facilities such as Richmond Yard, Hayward Yard and the new West Bay Stations.

COST ANALYSIS:

Prior expenditures on gas cards:

FY04.....	\$319,824
FY05.....	\$250,530
FY06.....	\$310,984

The current estimate is based on 120,000 gallons of fuel purchased with the credit cards annually

EDD: STATE OF CALIFORNIA FUEL CARD PROGRAM

and a five percent increase in retail price per annum for regular unleaded gasoline. This also reflects uncertainty in fuel prices in the near future.

RECOMMENDATION:

On the basis of analysis by staff it is recommended that the Board adopt the following motion.

MOTION:

That the Board authorize the General Manager to enter into an Agreement with U.S. Bank Voyager Fleet Systems, Inc. for participation in the State of California Fuel Card Program, Contract DGS-OFA-OPPS-06, for a period of three years and to exercise the option to extend the Agreement for two additional one year periods if so exercised by the State.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>11/3/07</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: MacArthur Gines Dept: M & E Ext. 6694 Signature/Date:	General Counsel <i>S. Wakenon</i> <i>1-3-07</i>	Controller/Treasurer <i>[Signature]</i> <i>10/3/07</i>	District Secretary	PARC <i>Paul Gines</i> <i>11/3/07</i>

NARRATIVE:

AWARD CONTRACT NO. 6M3019A INSTALLATION AND MODIFICATION OF INVERTER SYSTEMS AT POWELL STREET AND MONTGOMERY STREET STATIONS IN THE CITY OF SAN FRANCISCO

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No. 6M3019A, Installation and Modification of Inverter Systems at the Powell Street and Montgomery Street stations in the City of San Francisco, to Eshone Electric.

DISCUSSION:

This Contract is for the replacement of the Emergency power units for the emergency lighting in the two stations. The Work of the Contract includes furnishing all labor, equipment, materials and services required to furnish and install, complete and test the power system for the emergency lighting of both stations. The current ten (10) power units per station are distributed throughout the station. They are 30-years old and repair parts are almost impossible to obtain. The three (3) new units per station are self-testing and eliminate the need for maintenance staff to conduct the monthly and annual tests. This auto-testing feature of the new units is code compliant.

The Contract was advertised on September 11, 2006 and Contract books were sent to 23 plan rooms. A total of four (4) firms purchased copies of the Contract Documents. A Pre-Bid Meeting and site visit were conducted on September 22, 2006 with five (5) potential bidders attending. Bids were publicly opened on November 14, 2006. The following three (3) bids were received:

<u>BIDDER</u>	<u>BID</u>
Eshone Electric Cupertino, CA	\$270,000.00
LC General Engineering & Construction, Inc. San Francisco, CA	\$273,900.00
Triple S Electric Co. Alameda, CA	\$346,000.00

EDD: AWARD CONTRACT NO. 6M3019A INSTALLATION AND MODIFICATION OF

Engineer's Estimate

\$300,000.00

After review by District Staff, the bid of Eshone Electric has been deemed to be responsive to the solicitation. Furthermore, a review of this bidder's license, business experience and financial capabilities has resulted in a determination that the bidder is responsible. Staff has determined that the bid price of \$270,000.00 is fair and reasonable.

FISCAL IMPACT:

Funding of \$270,000 for contract 6M3019A is included in project 15EI - Traction Power Transformers. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

FY00-10 Capital Allocation

50W

\$225,000

As of 11/26/06, \$558,605 is available for commitment from this fund source for this project, and BART to date has committed \$0. There is \$333,605 pending commitment in BART's financial management system. This action will commit an additional \$225,000, leaving an uncommitted balance of \$0 in this fund source.

Capital Maintenance Allocation FY06-10

50Z

\$45,000

As of 11/26/06, \$1,000,000 is available for commitment from this fund source for this project, and BART to date has committed \$858,618. There is \$0 pending commitment in BART's financial management system. This action will commit an additional \$45,000, leaving an uncommitted balance of \$96,382 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The alternative is not to install and modify the inverter systems at Powell Street and Montgomery Street BART Stations. In case of a power outage, the emergency exit lighting for the two stations will not operate.

RECOMMENDATION:

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

MOTION:

The General Manager is authorized to award Contract No. 6M3019A, Installation and Modification of Inverter Systems at Powell Street and Montgomery Street Stations to Eshone Electric for the bid price of \$270,000, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Action approval and forward to Board		
DATE: 1/04/07		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadelli	General Counsel <i>[Signature]</i> 1/5/07	Controller/Treasurer <i>[Signature]</i> 1/5/07	District Secretary	BARC
Dept: Ext.				
Signature/Date:				

NARRATIVE:

State And Federal Legislative Advocacy Agreement Renewals

PURPOSE:

To request that the Board renew expiring agreements with three government relations firms – Schott & Lites, Inc. (formerly Phillip H. Schott, Inc.), CJ Strategies (formerly Copeland, Lowery, Jacquez, Denton and Shockley) and the Blair Law Firm – which represent BART before the California State Legislature, the U.S. Congress, and the federal Executive Branch, respectively.

The Board is also requested to renew and increase supplemental agreements with Schott & Lites, Inc. for continued legislative, funding and advocacy efforts on behalf of the Capitol Corridor Inter-City Passenger Service.

The term of each of the proposed agreements, including the supplemental agreement, would be from January 1, 2007 – December 31, 2007. Each agreement would have an option for renewal for one additional year, at the same rate of compensation, with the possibility of an increase to offset inflation, not to exceed the increase in the Consumer Price Index (CPI) as set by the Bureau of Labor Statistics. The rate of compensation in 2007 for CJ Strategies and the Blair Law Firm would be the same as each firm's current rate of compensation for 2006.

Because the next two years will be critical in determining the structure for allocating state bond funding and how competitive BART and Capitol Corridor will be in securing this new source of revenue, additional time and effort will be necessary to monitor and shape bond trailer legislation in the coming year. Therefore, we propose that an increase in compensation for Schott & Lites is warranted for work to be completed in the next state legislative session.

DISCUSSION:

As outlined in Attachment A, each firm has a proven track record of effectively articulating BART's needs in a continually changing political environment. Retaining this team of experienced lobbyists will ensure continuity in the contacts and relationships that have been

EDD: State And Federal Legislative Advocacy Agreement Renewals

cultivated with key elected and appointed officials who make decisions about transportation policy and funding that directly affect BART.

Schott & Lites, Inc.

Staff recommends that the Board renew and increase the District's agreement with Schott & Lites, Inc., a firm whose representatives have skillfully advocated BART's interests before the California State Legislature, including last year's successful efforts to guide BART through the myriad of issues involved with the infrastructure bonds.

CJ Strategies

Staff also recommends that the Board renew the District's agreement with CJ Strategies, a firm which has successfully represented BART before the U.S. Congress.

Blair Law Firm

Staff recommends that the Board renew the District's agreement with the Blair Law Firm, who has been an effective liaison between BART and the Federal Executive Branch.

The services provided by these three firms do not include the furnishing of legal advice, which is the responsibility of the Office of the General Counsel. All agreements will be approved as to form by the Office of the General Counsel.

FISCAL IMPACT:

All of the proposed agreement renewals cover a one-year period from January 1, 2007 – December 31, 2007. Funds sufficient to cover all three proposed primary agreements and one supplemental agreement, through fiscal year 2007, are provided for in the Government and Community Relations' fiscal year 2007 operating budget. The total amount of these proposed new agreements charged to the Department's operating budget is \$229,626.20 (one half of the total calendar year commitment). Funding for the proposed agreement renewals for the second half of the calendar year 2007 will be budgeted in the Department's fiscal year 2008 budget. Should the General Manager exercise the option to renew these agreements for the calendar year 2008, Government and Community Relations would budget operating funds for this purpose in the second half of the Department's FY 2008 budget and the first half of the FY 2009 budget.

- For Schott & Lites, Inc., the monthly rate for the primary agreement, including expenses, would increase from \$7,808.50 to an amount not to exceed \$8,198.92. Total compensation over the 12-month period would increase from \$93,702 to an amount not to exceed \$98,387.

The monthly rate, including expenses, of the supplemental agreement with Schott & Lites, Inc., to provide legislative, funding and advocacy efforts on behalf of the Capitol Corridor Inter-City Passenger Service would increase from \$1,482.17 to an amount not to exceed \$1,630.33. Total compensation over a 12-month period would increase from \$17,786 to an amount not to exceed \$19,564.76.

EDD: State And Federal Legislative Advocacy Agreement Renewals

- For CJ Strategies, the monthly rate, including expenses, would not exceed \$14,818.42. Total compensation for a 12-month period would not exceed \$177,821.

- For the Blair Law Firm, the monthly rate, including expenses, would not exceed \$13,623.26. Total compensation for a 12-month period would not exceed \$163,479.10.

ALTERNATIVE:

Decline to renew the agreements or alter the terms and conditions. Declining to renew the agreements runs the risk of jeopardizing established relationships with the State Legislature, Congressional and Executive Branch decision-makers and could diminish the District's prospects for accomplishing its state and federal legislative program.

RECOMMENDATION:

That the Board adopt the following motions:

MOTIONS:

1.) That the General Manager be authorized to enter into a one-year primary agreement for state legislative advocacy services with Schott & Lites, Inc, in an amount not to exceed \$98,387.

That the General Manager be authorized to enter into a one-year agreement for federal advocacy services with CJ Strategies in an amount not to exceed \$177,821.

That the General Manager be authorized to enter into a one-year agreement for Executive Branch advocacy services with the Blair Law Firm, in an amount not to exceed \$163,479.10.

2.) That the General Manager be authorized to enter into a supplemental agreements for legislative, funding and advocacy efforts on behalf of the Capitol Corridor Inter-City Passenger Service with Schott & Lites, Inc. in an amount not to exceed \$19,564 over its one year term.

The General Manager is authorized to extend each agreement described above for one additional year at the same rate of compensation, and based on the Consultant's performance, with the possibility of an increase to offset inflation, not to exceed the increase in the Consumer Price Index.

Attachments

The following are achievement summaries provided by the three BART government affairs contractors:

1. Schott & Lites Accomplishments in 2005-2006

The 2005-2006 Legislative Session ended on an historic note, with the passage of significant legislation and a State Budget with considerable benefit to public transportation. Schott and Lites Advocates was pleased to play a major role in these legislative and budgetary efforts, and proud to represent the San Francisco Bay Area Rapid Transit District (BART) before the Legislative and Executive branches of California State government.

We would characterize BART's efforts during the past session as very successful. We are proud of our role in achieving that success, and greatly appreciate the leadership, hard work and dedication of BART staff. Your external and governmental affairs personnel provided sound strategic thinking, clear direction and pro-active advocacy throughout the session; your program staff provided ready expertise and active involvement, as well.

The following highlights the 2005-2006 Legislative Session and the efforts of Schott & Lites Advocates on behalf of BART.

Bonds and Transportation Funding Propositions

Much of 2006 was consumed with negotiating the Transportation, Housing, Flood, and Education bond measures passed by the voters this past November as Propositions 1B, 1C, 1D, and 1E, as well as a related proposal, passed as Proposition 1A. BART's principal interests were contained in Proposition 1B, the Transportation bond; a companion measure, Proposition 1A, which provided additional protections to transportation-related funding; and Proposition 1C, the Housing bond. The Bond discussions were extremely complex and involved many and disparate interests. Although negotiations were at times tense - and advocacy efforts often furious - by the end of the session, the legislature had approved and the Governor supported the most significant public investment in the state's infrastructure system in decades, including historic levels of funding for public transportation.

Proposition 1A –Greatly limits the conditions under which gasoline sales tax revenues dedicated for transportation uses can be diverted for other purposes, providing increased funding reliability for public transit.

Proposition 1B – Transportation Bond: provides \$19.9 billion in transportation-related funding, including \$4.0 billion dedicated to public transportation improvements and \$1.0 billion for transit security. We were especially active in assuring that significant funding was included for renovation, rehabilitation and capacity enhancements, as well as transit

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security.

Proposition 1C – Housing Bond: provides \$2.8 billion in emergency shelter and housing assistance, including significant funding for transit-oriented development.

State Budget

On behalf of BART, working closely with the California Transit Association (CTA) and many other transportation interests, we provided clear and consistent advocacy for more stable transit funding, less borrowing of transit dollars, and the timely re-payment of outstanding transit loans.

We were pleased that after several years of raids on transportation funding, the 2006 Budget included full transfer of Proposition 42 funds for transportation purposes, as well as a significant re-payment of previously borrowed Prop 42 transit funds. In addition, the Budget also directed “spillover” gas tax-related funds go to benefit public transit.

In addition, after significant outreach and education efforts by BART staff, the Schwarzenegger Administration awarded \$2.9 million from federal UASI funds to support BART’s security program.

Steele Ranch Transfer

As part of the SFO extension project, BART acquired Steele Ranch as mitigation property for the San Francisco Garter Snake. We are pleased to report that significant conversations are on-going between BART and legislative leadership, State Parks executive staff, the Coastal Conservancy and others, attempting to provide the right conditions for a transfer of the property from BART to State Parks. We are continuing to pursue an appropriation of state funds to supply the necessary endowment for the property and to allow State Parks to accept the property without an unfunded mandate.

Other Significant Legislation

- **AB 691 (Hancock)** – Chapter 309, Statutes of 2005
Sponsored by BART, this bill permits specific plans or redevelopment plans adopted prior to January 1, 2006, that conform to the requirements of the Transit Village Development Planning Act, to be declared transit villages, under specified conditions.
- **AB 1170 (Canciamilla)** – Chapter 536, Statutes of 2005
Sponsored by BART, this bill provides an exemption from the California Environmental Quality Act (CEQA) for BART’s seismic retrofit work. CEQA exemptions are extremely difficult to deliver in the current climate in Sacramento, and we were very pleased to secure this legislation.

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- **SB 1678 (Murray)** – Chapter 814, Statutes of 2006
Sponsored by BART and LAMTA, this bill increases the procurement threshold for goods and materials under which BART and LAMTA contracts must be competitively bid, from the current \$40,000 to \$100,000. Authorizes BART and LAMTA to let contracts to either the lowest responsible bidder or, to the responsible bidder with the best value proposal. This new procurement process allows consideration of quality, price and other elements of a proposal that, when considered together, provide the greatest overall benefit, and is expected, among other things, to assist in the advancement of the Strategic Maintenance Program.
- **AB 372 (Nation)** – Chapter 262, Statutes of 2006
CTA-sponsored bill that extends the statute allowing design-build contracts to 2011 and lowers project cost thresholds for application of design-build project delivery. We played a significant role in supporting the bill and were instrumental in assuring that the new sunset date extended to 2011.
- **AB 713 (Torrico)** – Chapter 44, Statutes of 2006
Endorsed by the BART Board, this bill delays the vote for the High Speed Rail Bond until the November 2008 General Election. If passed by the voters, the Bond will provide BART with more than \$280 million for capital improvements.

The 2005-2006 Legislative Session was particularly successful for BART. We were extremely active in the creation of historic funding for capital investments and were successful in re-starting the flow of “regular” transportation dollars that had recently been diverted to support the state’s General Fund. However, current predictions indicate that California will likely face more than \$5.0 billion in structural deficit heading into the 2007-2008 Legislative Session. In addition, the Bonds passed by the voters will likely be appropriated and distributed over 8-10 years, and continuous debate and discussion at the Capitol will center on who gets what and when. While we are cautiously optimistic, clearly much hard work remains to be done in order to deliver the promise of the most recent legislative session.

2. CJ Strategies Accomplishments in 2005-2006

SAFETEA-LU

On August 10, 2005, President Bush signed a \$286.4 billion highway, transit and transportation safety measure (SAFETEA-LU). The act reauthorizes federal surface transportation programs through 2009. The conference report included \$52.6 billion for mass transit. This is a 46 percent increase over transit funding guaranteed in TEA 21. The act provides \$8.6 billion in FY 2006; \$9.0 billion in FY 2007; \$9.7 billion in FY 2008; and \$10.3 billion in FY 2009.

CJ Strategies pushed for the inclusion of \$82.65 million in the bill for the BART to San Francisco Airport extension.

EDD: State And Federal Legislative Advocacy Agreement Renewals

In addition, Congresswoman Tauscher requested language for two BART projects under Preliminary Engineering: the BART extension to Contra Costa County and the BART extension to Livermore. Representative Barbara Lee also successfully advocated for authorization for Preliminary Engineering for a connector to the Oakland International Airport.

Through our work with APTA and the New Starts Working Group, we pushed for the creation of a Small Starts Program to provide funding for smaller projects with a federal New Starts share below \$75 million, including streetcar, trolley, bus rapid transit (if a substantial portion of the project operates in a separate right of way in a defined corridor dedicated for public transit use during peak hours or it has other characteristics of a fixed guideway system), and commuter rail projects. Small Starts projects could not total more than \$250 million.

House Appropriations included no funding for Small Starts in its FY07 appropriations bill and included bill language noting that the Small Starts guidance has not yet been finalized and the program is not yet operating. Senate appropriators included \$17 million for the program. At this time, it is unclear what level of funding will be included in the final FY07 appropriations bill.

Full Funding Grant Agreement

The President's FY 2006 budget request included \$81.86 million for BART to SFO. However, that figure did not factor in the 0.8% rescissions mandated for projects in the FY05 omnibus appropriations bill. Therefore, for the federal commitment to have been completed in FY06, BART needed a total of \$82.7 million. Ultimately, the FY2006 Transportation Appropriations bill provided the same as the President's budget request: \$81.86 million. This left approximately \$800,000 remaining on the \$750 million FFGA. However, as part of the year end budget deal for FY06 appropriations, Congress mandated a 1% across-the-board cut to discretionary spending. This applies to all discretionary spending including projects already signed into law, such as those included in the Transportation appropriations bill. Therefore, this cut reduced the FY06 funding total for BART to \$81.04 million.

Both the House and Senate FY07 Transportation Treasury HUD Appropriations bills currently include the final installment of \$2,424,694, which the Administration also requested. However, because the remaining FY07 appropriations bills (including Transportation Treasury HUD) will not be completed before Congress adjourns; the 110th Congress will have to take up the appropriations bills in January. It is unclear at this time if an across the board cut will occur. We will continue to advocate for 100% completion of the FFGA commitment.

Security Vulnerability

In 2005 and the beginning of 2006, BART was seeking \$20 million in federal funding for Hardening of the Transition Structure. The Delegation sent a letter to Secretary Chertoff in September of 2005 asking that DHS provide BART with the necessary funding to improve security. Since then, CJ Strategies and BART have briefed the Bay Area delegation on the vulnerability and the urgent need to secure funding by 2007 (Tom Margro, Director Lynnette Sweet, Dorothy Dugger, Katherine Strehl, John Fisher and Jim Dunn have all made visits). The following offices were repeatedly briefed: Feinstein, Boxer, Pelosi, Lofgren, Eshoo, Honda, Lee,

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Tauscher, Pombo, George Miller, Lantos, and Stark. Minority Leader Pelosi and Senator Feinstein have both talked to Secretary Chertoff regarding the issue. Congresswoman Lofgren's staff also communicated with DHS on the issue. Together with Bob Blair, we participated in briefings for the Office of Management and Budget and for officials at the Transportation Security Administration, including the Deputy Administrator. We discussed a possible FY07 appropriations strategy with Minority Leader Pelosi's office as well as Senator Feinstein's to obtain some of the funding, however BART was ultimately able to find sufficient funding without advancing the appropriations request.

Transit Security Funding

The FY06 Homeland Security Appropriations bill included a total of only \$150 million for transit security (the same as in FY05). The FY07 Homeland Security appropriations bill included \$175 million for rail and transit security – an increase of \$25 million from FY06. The FY06 House bill originally included \$200 million for transit security while the Senate bill included \$150 million. The BART Board weighed in with letters of support for the higher House funding level sent to both its California delegation as well as Homeland Security appropriations conferees during debate and negotiation of the bill.

The Senate version of the Port Security bill was amended on the Senate floor to include \$4.5 billion for rail and transit security grants. This amendment was similar to Senator Richard Shelby's legislation: The Public Transportation Terrorism Prevention Act of 2005 (S. 2032), which he introduced in November of 2005. However, the amendment was ultimately stripped during conference negotiations due to opposition from the House leadership and the Administration.

Seismic Funding

BART made a \$50 million request to fund the Earthquake Safety Program in the SAFETEA-LU bill in 2005. BART Board members and senior staff and CJ Strategies briefed Bay Area delegation offices and committee staff on the request. Ultimately, the Transportation and Infrastructure Committee did not support amending the bridge discretionary account to make BART eligible for seismic funding. In addition, T&I Committee leadership and staff decided against creating a new program in the transit title of the bill for transit seismic funding that would benefit a select group of transit systems. BART also made a \$10 million FY07 appropriations request and the Bay Area House delegation sent a letter of support to the House Transportation Appropriations Subcommittee requesting funding for the project. We also held several meetings with House and Senate Committee staff on the issue. Funding was not included in either the House or Senate Transportation appropriations bill, because the Bay Area House delegation and California's senators did not succeed in obtaining the support of a sufficient number of members representing regions not impacted by earthquake activity.

SILO/LILO

The Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005 could impose an excise tax on past sale-in/lease out transactions. The Treasury Department has not yet released its guidance on the issue. We are hopeful that when Treasury does release its guidance it will apply to current year revenue rather than payments made in prior years. We have participated in

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meetings at Treasury with Bob Blair, Brian Reardon and with BART's Controller, Scott Schroeder. CJ Strategies has also participated in a number of meetings (with other CA transit agencies) with Hill staff (House, Senate, Ways and Means and Finance) to educate them on the issue in the case that a legislative fix will be needed in the 110th Congress.

Staff Visits

CJ Strategies facilitated Congressional staff visits to BART. In March of 2005, Senate Banking Committee staff visited BART and other transit agencies in California before completing the SAFETEA-LU authorization in August of 2005. Both majority and minority staff (Aaron Klein and Sherry Little) participated in the visit and were briefed on the seismic project, the transition structure, and also took BART to SFO.

In addition, Debbie Curtis, Chief of Staff to Pete Stark, visited BART in October of 2006. She was also briefed on the seismic issue as well as SILO/LILO in the event that a legislative fix is needed in the 110th Congress.

3. Blair Law Firm Accomplishments in 2005-2006

2005:

SFO Extension. Successfully worked with Federal Transit Administration (FTA), US Department of Transportation (DOT) Budget Office and the White House Office of Management and Budget (OMB) to obtain \$81.86 million in the President's FY2006 Budget for the SFO Extension; worked with FTA, DOT and OMB to help defend the President's Budget during the appropriations process and to answer any questions re the BART budget figure.

SFO Extension Grant. Working with FTA, DOT and the Department of Treasury, successfully expedited the time-sensitive release of the FY2005 \$98.4 million SFO Extension grant, permitting (i) BART to avoid breach of its bond covenants by precise timing of the receipt of funds and (ii) the BART-SFO project budget to avoid increased costs due to higher finance expense.

Homeland Security. BART and its federal representative have been cited during 2005 and 2006 as having the most professional, articulate, persuasive, broad and persistent effort in its presentations to and work with the Administration to obtain and/or find leads for funding BART's critical security needs when compared to other transit systems and APTA. Some properties are only now copying our effort in an attempt to improve their odds. BART and its federal representative worked with various federal agencies, including the Department of Homeland Security ((with its various components, including Office of Domestic Preparedness (now Directorate for Preparedness), Transportation Security Administration, US Customs and Border Protection, the US Coast Guard, and the many sub offices within those components)); US DOT; FTA; OMB; the White House Homeland Security Council, etc.; developing arguments and arranging and participating in various meetings for BART executives and staff throughout the

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year, including the pivotal all-hands-on-deck meeting of all the modes (plus three of the CA Governor's representatives) in order to try to cut through the red-tape and determine what mode or modes could possibly provide funding assistance, even if from separate buckets. The various buckets included Urban Area Security Initiative (UASI), Homeland Security Grant Program (Transit) and Buffer Zone Protection Program. Given the limited federal security funds available, helped BART successfully compete for a share of some of those funds.

Seismic. Starting in 2002 and continuing into 2005, research and assistance at the federal level and in California, re seismic funding possibilities; worked with FEMA; NEMA (National Emergency Management Association of state and local officials); the Congress; CA Office of Emergency Services; alerted BART to available funds, and BART successfully sought and secured \$3.0 million in federal funds through the state for seismic money to tear down the old Madison headquarters building (Pre-Disaster Mitigation Competitive Grant Program).

eBART. Researched possible funding under 5309 small starts account without authorization; determined that a project seeking <\$25 million as the federal share could be funded without authorization, but should be earmarked; liaised with BART and FTA re same; funding was not sought by BART. Assisted at US DOT Secretary Mineta's office in tracking down information re Mococo right-of-way.

Energy Issue: Western Area Power Administration. An esoteric, arcane energy issue that started in 2004 and spilled over into 2005 involved BART's need to find an alternative source of electric power. Intelligence gathering at USG and from former USG officials previously involved in a similar matter with respect to Western Area Power Administration (Western); and assistance to arm BART to seek its preferred source, Western, at favorable rates.

Miscellaneous Other. Following and providing information on Buy America, re changes required in SAFETEA-LU, and rule-making that followed; keeping USG informed re union negotiations to avoid surprises; heads-up on proposed changes in New Starts criteria and provided input on comments to be submitted; assist re other meetings for BART representatives in Washington, calls to obtain information for BART on a variety of issues, and assistance on miscellaneous other matters.

2006:

The 2006 activities/achievements required efforts that equaled approximately two and a half times the 2006 contract amount.

SFO Extension. Successfully worked with Federal Transit Administration (FTA), US Department of Transportation (DOT) Budget Office and the White House Office of Management and Budget (OMB) to obtain \$2.424 million in the President's FY 2007 Budget for the SFO Extension; liaised with FTA and OMB to be available to answer any questions during the Congressional appropriations process.

SFO Extension Grant. Working with FTA, DOT and the Department of Treasury, successfully

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expedited the time-sensitive release of the FY2006 \$80.231 million SFO Extension grant, permitting (i) BART to avoid breach of its bond covenants by precise timing of the receipt of funds and (ii) the BART-SFO project budget to avoid increased cost due to higher finance expense.

Oakland Airport Connector (OAC) Project. Over an intense six-month period, developed and executed a strategy to obtain, and obtained, a critical, timely decision from the US DOT based upon multiple underpinnings unchallengeable on the merits that enabled BART to proceed with the OAC project. This assignment required liaising with the office of BART's General Counsel and drawing upon personal legal expertise to interpret documents and fashion arguments consistent with and supportive of the office of the General Counsel. Reviewed hundreds of pages of documents; researched and obtained relevant information from Internet sources; researched interpretations and history of relevant Executive Orders provided by BART; developed a strategy to approach, and present to, the USG; using BART drafted legal materials, drafted white papers re OAC to present to the USG; during the course of work, met seriatim over time with key, senior USG policy makers, culminating in a critical senior multi-person meeting; continued to liaise with FTA in the event FTA/DOT's assistance required to enable OAC (one example: apprising and discussing with them the three outstanding pre-qualifiers); commenced work re possible waiver or relaxation of federal bonding requirements, which also includes trying to head off a possible attempt by Region 9 to de-federalize the project (which could eviscerate the earlier US DOT decision).

Homeland Security. Successfully helped BART establish a firm, well-documented record to support federal funding from various buckets, including Urban Area Security Initiative (UASI), Homeland Security Grant Program (Transit) and Buffer Zone Protection Program (BZPP); successfully worked with BART and the USG to get BART's critical infrastructure listed as one of only twelve national priorities, thereby qualifying BART for one of the twelve \$1.0 million BZPP grants; the overall effort continued the work with senior USG officials and their subordinates at the Department of Homeland Security (with its various components, including the Directorate for Preparedness (formerly Office of Domestic Preparedness), Transportation Security Administration, US Customs and Border Protection, the US Coast Guard, and the many sub offices within those components), US DOT, FTA, the White House Office of Management and Budget (OMB), the White House Homeland Security Council, etc., in order to put BART in the best possible position to obtain federal funds; worked with senior officials such as TSA Administrator, Deputy Under Secretary to Under Secretary, Domestic Preparedness, Counsel to the Under Secretary and the White House Homeland Security Council, among others; the effort also included an attempt to get the region to include BART in the Regional Working Group for UASI; worked with the CA Governor's D.C. Office re several of these efforts; counseled re how BART should pursue its actual applications, and revised the transit grant application and urged seeking maximum possible amount; provided advice and assistance re DHS actions relative to BART.

SILLO/LILO. Assisted initially to help counter the possibility of the imposition of draconian excise taxes by the US Treasury on closed BART financing transactions possibly called for by the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA). Found the person who

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previously worked on the issue within the Administration and with the Congress as part of a crackdown on abusive tax shelters and transactions (including SILO/LILO transactions), and helped recruit him as a special Washington representative to the BART/Other CA transit properties team; revised BART's submission to Treasury; monitored and liaised with the special Washington representative and participated in the larger conference calls among transit properties nation-wide; the effort continues.

Public Private Partnership Pilot Program (P5). Commenced work with the FTA in an attempt to gain benefit of P5 status for eBART and other BART projects, even though Program targeted for New Starts projects; liaised with FTA re same.

Miscellaneous Other. Arranged and participated in meetings with new FTA Deputy Administrator (with General Manager), FTA representative re "small starts" (with BART Board member) DHS representatives re other non-"asset" security matter (with BART Board member); assisted in getting BART Board member in over-booked FTA session; calls to obtain information for BART on a variety of issues, and assistance on miscellaneous other matters.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/04/07		BOARD INITIATED ITEM: No		
Originator/Prepared by: James Bridgeman Dept: Insurance Ext. 6940 Signature/Date: <i>[Signature]</i> 11/3/07	General Counsel <i>[Signature]</i> 11/3/07	Controller/Treasurer <i>[Signature]</i> 11/3/07	District Secretary	BARC

NARRATIVE:

Agreement No. 6M2004A Public Liability Claims Adjusting Services

PURPOSE: To obtain Board authorization for the Controller-Treasurer to execute Agreement No 6M2004A with John Glenn Adjusters & Administrators, Inc. ("Glenn") of San Ramon, CA.

DISCUSSION: The Insurance Department uses a public liability claims adjuster to investigate claims, evaluate their merits, and negotiate settlements on behalf of the District. If a settlement cannot be reached with the claimant and suit is filed, the adjuster coordinates and manages defense activities with counsel selected by the District. A Source Selection Plan based on the Best Value methodology was developed for this Agreement. Under this approach, the District retained the right to award to other than the lowest cost proposal, based upon a determination that certain technical advantages available from a proposal will equate to added value to the District.

On October 23, 2006 a Request for Proposals (RFP) was mailed to 32 claims service organizations identified by the Insurance Department and the Office of Civil Rights. Proposals were received on November 14, 2006 from eight firms: Pearce & Frankman, Inc. (the current contractor), NovaPro Risk Solutions, LLP., John Glenn Adjusters & Administrators, Inc., Carl Warren & Co., Acclamation Insurance Management Services, Inc., Frye Claims Consultation and Administration, Tristar Risk Management, and Ron Phares & Co.

An evaluation committee composed of representatives from the Insurance Department, Human Resources, and the Office of Civil Rights was selected to review and evaluate the proposals. The committee was chaired by a representative of Contract Administration. Proposals were evaluated under the best value methodology on the following factors: experience of staff, experience with liability claims against public entities, experience with public transportation (especially rail), effective team management, and information system capabilities.

EDD: Agreement No. 6M2004A Public Liability Claims Adjusting Services

Based on the committee's evaluation of the written proposals and the determination of the competitive range of the price proposals, four firms were invited to make oral presentations on December 5, 2006. The firm's bids for the three year term plus two option years were as follows:

Firm	Bid
Frye Claims Consultation and Administration	\$1,102,812
John Glenn Adjusters & Administrators, Inc.	\$1,123,950
Pearce & Frankman	\$1,265,200
Acclamation Insurance Management Services, Inc.	\$1,281,200

The committee then ranked the proposers oral presentations on the above criteria. A combined score was developed with 60% credit for the written proposal and 40% for the oral presentation. Based upon the combined score, Glenn was the highest ranked firm. The proposal submitted by Glenn has been determined to be responsive to the solicitation and the prices offered are fair and reasonable. A review of the firms financial and business data indicates that it is a responsible firm. Based on the Best Value Analysis, Glenn is recommended.

FISCAL IMPACT: The maximum compensation under this agreement will not exceed \$651,137 for the three year term of the contract with two (2) one-year options for \$231,788 and \$241,025. The total maximum compensation will not exceed \$1,123,950 for the full five year term. This agreement will be funded by the Insurance Department Operating Budget for the term of the Agreement.

ALTERNATIVE: The alternative is to not award this Agreement and re-bid the services. The current Agreement expires February 28, 2007. Failure to appoint a claims adjustment firm may result in the District's inability to comply with its obligation to respond to claims. The Insurance Department does not have the resources to provide these services.

RECOMMENDATION: Adopt the following motion. The Office of the General Counsel will review and approve the Agreement as to form.

MOTION: That the Controller-Treasurer is authorized to execute Agreement No. 6M2004A with John Glenn Adjusters and Administrators, Inc. for public liability claims adjusting services for a term of three years with two (2) one-year options in an amount not to exceed \$1,123,950 and that the Controller-Treasurer is authorized to exercise one or both options at his discretion, subject to notification to be issued by the Controller/Treasurer and compliance with the District's protest procedures.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: January 4, 2007

FROM: District Secretary

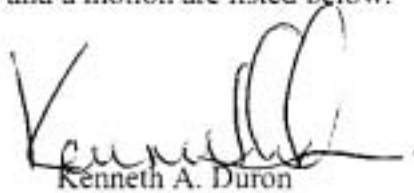
SUBJECT: Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference

President Lynette Sweet proposes to travel to Washington, D.C. from March 10, 2007 to March 14, 2007 to attend the APTA Legislative Conference.

In accordance with Board Rule 5-3.2(b), this proposal is being submitted to the Board for prior authorization.

The estimated costs for President Sweet's travel and a motion are listed below.

Thank you.



Kenneth A. Duron

Estimated Costs APTA Legislative Conference:

Airfare	\$ 500
Hotel (\$228/night, for 4 nights plus 15% tax)	\$ 1,049
Registration	\$ 575
Per Diem (4 days @ \$61/day)	\$ 244
Transportation to/from airports	\$ 130
Miscellaneous	\$ 50
Total Estimated Costs	\$ 2,548

MOTION: That President Lynette Sweet's travel to Washington, D.C. from March 10, 2007 to March 14, 2007 to attend the APTA Legislative Conference be approved.

cc: Board Appointed Officers
Deputy General Manager
Executive Manager, External Affairs
Executive Manager, Planning and Budget

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: January 4, 2007

FROM: District Secretary

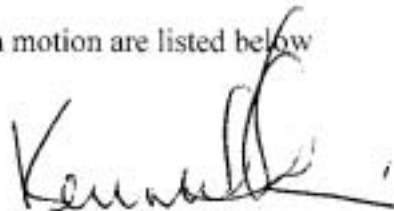
SUBJECT: Proposed Travel to Attend the American Public Transportation Association (APTA) Legislative Conference

Director Zoyd Luce proposes to travel to Washington, D.C. from March 10, 2007 to March 14, 2007 to attend the APTA Legislative Conference.

In accordance with Board Rule 5-3.2(b), this proposal is being submitted to the Board for prior authorization.

The estimated costs for Director Luce's travel and a motion are listed below

Thank you.



Kenneth A. Duron

Estimated Costs APTA Legislative Conference:

Airfare	\$ 500
Hotel (\$228/night, for 4 nights plus 15% tax)	\$ 1,049
Registration	\$ 575
Per Diem (4 days @ \$61/day)	\$ 244
Transportation to/from airports	\$ 130
Miscellaneous	\$ 50
Total Estimated Costs	\$ 2,548

MOTION: That Director Luce's travel to Washington, D.C. from March 10, 2007 to March 14, 2007 to attend the APTA Legislative Conference be approved.

cc: Board Appointed Officers
Deputy General Manager
Executive Manager, External Affairs
Executive Manager, Planning and Budget

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: January 4, 2007

FROM: District Secretary

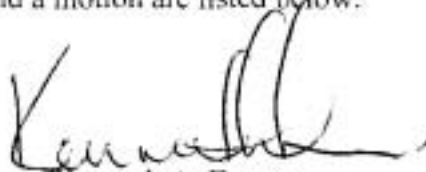
SUBJECT: Proposed Travel to Attend the 25th Annual Government/Industry Conference on Global Terrorism

Director Zoyd Luce proposes to travel to Arlington, VA from March 18, 2007 to March 22, 2007 to attend the 25th Annual Government/Industry Conference on Global Terrorism.

In accordance with Board Rule 5-3.2(b), this proposal is being submitted to the Board for prior authorization.

The estimated costs for Director Luce's travel and a motion are listed below.

Thank you.



Kenneth A. Duron

Estimated Costs Government/Industry Conference on Global Terrorism:

Airfare	\$ 500
Hotel (\$198.90/night, for 4 nights)	\$ 796
Registration	\$ 790
Per Diem (4 days @ \$61/day)	\$ 244
Transportation to/from airports	\$ 130
Miscellaneous	\$ 50
Total Estimated Costs	\$2,510

MOTION: That Director Luce's travel to Arlington, VA from March 18, 2007 to March 22, 2007 to attend the 25th Annual Government/Industry Conference on Global Terrorism be approved.

cc: Board Appointed Officers
Deputy General Manager
Executive Manager, Planning and Budget
Chief of Police



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/3/07		BOARD INITIATED ITEM: No		
Originator/Prepared by: Steve J Kappler Dept: Maintenance & Engineering Ext. 4825 Signature/Date: <i>[Signature]</i> 11/2/07	General Counsel <i>[Signature]</i> 11/2/07	Controller/Treasurer <i>[Signature]</i> 11/2/07	District Secretary []	BARC <i>[Signature]</i> 11/2/07

NARRATIVE:

Procurement of Train Control Equipment for the Central Contra Costa County Crossover Project Pursuant to Public Contract Code Section 20227

51341v6

PURPOSE:

To obtain a finding, by two-thirds vote, that Alstom Signaling Corporation, formerly General Railway Signal Corporation, ("Alstom") is the single source for procurement of train control equipment for the Central Contra Costa County Crossover Project (the "Crossover Project" or "Project") in accordance with Public Contract Code Section 20227 and to obtain Board authorization for the General Manager to negotiate directly with Alstom for the design and purchase of train control equipment for the Crossover Project in an amount not to exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), plus applicable taxes.

DISCUSSION:

On March 9, 2006, the Board adopted the Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Crossover Project. Staff is now taking the first steps to implement the Project. The Crossover Project consists of the construction of two single crossovers between the Walnut Creek and Pleasant Hill Stations, including a single 50 mph crossover centered at-grade approximately 2,200 feet south from the south-end of the Pleasant Hill Station platform and a 27 mph crossover centered at-grade approximately 5,500 feet south of the south end of the Pleasant Hill Station platform. The crossovers will provide turnback capability for trains on the Concord line, allowing trains to run more frequently between the Pleasant Hill Station and San Francisco. In addition, the new crossovers will provide an off-line location for disabled trains, allowing other trains to route around them, resulting in a faster return to normal service.

Installation of the crossovers requires the reconfiguration and installation of additional train detection equipment along the tracks in the vicinity of the crossovers, together with installation of new microprocessor based train control room equipment in both the Walnut Creek and Pleasant Hill Stations. The introduction of new crossovers into an existing line while maintaining service is very complex, requiring the new train control equipment to communicate seamlessly and reliably with the existing train control equipment. At this time, Alstom is the only known supplier manufacturing train control equipment that can meet this requirement.

EDD: Procurement of Train Control Equipment for the Central Contra Costa County Cros

Alstom train control equipment has the demonstrated capacity to integrate with the existing BART train control system and software. Other, similar projects were associated with the East Bay Extensions, where the Dublin/Pleasanton Extension merged into the Alameda Line at Bayfair, and the new south entrance to the Concord Yard constructed with the C Line Extension. Alstom's predecessor, General Railway Signal ("GRS"), supplied the train control equipment for both projects. The GRS equipment has had an excellent performance history for over ten years.

As BART undertakes this necessary project, it is critically important that BART utilize a reliable source for both system design and equipment purchase to avoid the risk of interface and compatibility problems. Alstom's proven track record in providing train control system design and equipment will enable BART to lessen any potential impacts on the remaining BART System while the Crossover Project is carried out.

Utilization of Alstom equipment will avoid the need for additional personnel training and the obtaining of new spares. BART personnel have been fully trained in maintaining and operating the Alstom equipment. Thus, no additional time would be required to train BART personnel to use and maintain the new equipment. That, in addition to Alstom's proven record of reliability and service support, will greatly reduce the need for other contingencies that would be necessary with the purchase of alternative, potentially less reliable, equipment.

Staff believes it would be in the District's best interest to enter into direct negotiations with Alstom in anticipation of obtaining terms and conditions more favorable to the district.. The negotiated price will not exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), plus applicable taxes.

Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement therefore, and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use.

The Procurement Department will review the contract to confirm compliance with the District's procurement standards. The Office of the General counsel will approve the contract as to form.

FISCAL IMPACT:

Upon completion of negotiations, the final fiscal impact will be determined. At present, the contract amount is estimated to be approximately Two Million Dollars (\$2,000,000). In no event will the amount expended under the contract exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), plus applicable taxes. Funding will be provided by Regional Measure 2 Bridge Tolls.

ALTERNATIVES:

Procurement of the equipment is essential to completion of the Crossover Project. An alternative to negotiating a contract directly with Alstom would be to issue an Invitation for Bid (IFB), with the likelihood of receiving only a single bid from Alstom Signaling Corporation or of receiving bids from entities whose equipment could not integrate reliably with the existing BART train control system and equipment without extensive and time consuming design and testing.

EDD: Procurement of Train Control Equipment for the Central Contra Costa County Cros

This would increase the Staff time for monitoring design of the system and obtaining the equipment and in being trained on maintenance of the new equipment, resulting in significant delay in completing the Crossover Project.

RECOMMENDATIONS:

Adopt the following motion.

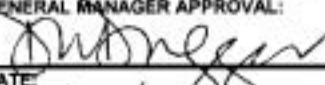

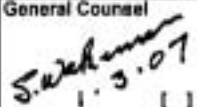
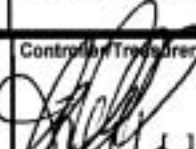
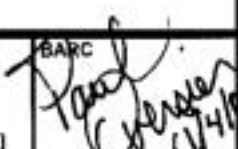
MOTION:

Pursuant to Public Contract Code Section 20227, the Board finds that Alstom Signaling Corporation is the single source for procurement of train control equipment for the Central Contra Costa Crossover Project, and that the procurement is for the purpose of duplicating or replacing equipment in use at the District. The Board also authorizes the General Manager to enter into direct negotiations with Alstom Signaling Corporation to execute a contract for the design and purchase of train control equipment for the Central Contra Costa County Crossover Project for a total price not to exceed Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000), plus applicable taxes.

(Two-Thirds Vote Required)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 1/04/07		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Horton Dept TSD Ext. 4978 Signature:  Date: 1/3/07	General Counsel  1.3.07	Controller/Treasurer  1/3/07	District Secretary	BARC  1/4/07

NARRATIVE:

AUTHORITY TO EXECUTE PROFESSIONAL SERVICES AGREEMENT NO. 6M8009 FOR CONSTRUCTION MANAGEMENT SERVICES FOR TRANSBAY TUBE SEISMIC RETROFITS

PURPOSE

To obtain Board authorization for the General Manager to execute Agreement No. 6M8009 in an amount not to exceed \$8,000,000 with Jacobs Engineering Group Inc. (Jacobs) for Construction Management services in support of Transbay Tube retrofits as part of the Earthquake Safety Program (Program).

DISCUSSION

Final design of retrofits for the Transbay Tube is now in progress, with the first of two major retrofit contracts scheduled for contract advertisement in June, 2007. These retrofit contracts will involve extensive marine-based construction, specialized construction techniques and coordination with numerous Federal, State and local agencies. Program staff will require assistance to manage construction and coordinate the construction activities with outside agencies.

Accordingly, RFP No. 6M8009, to procure a consultant to conduct Construction Management activities for the Transbay Tube, was released on September 8, 2006. Advance notices were e-mailed on September 1, 2006 to 66 proposers. RFP No. 6M8009 was advertised in a number of publications both locally and nationally. A pre-proposal meeting was held on September 25, 2006 that was attended by 56 prospective proposers.

Two (2) proposals were received on November 14, 2006 from the following firms:

Firm

Jacobs Engineering Group Inc.
TranSystems/Concept Marine Associates Inc.

Location

Walnut Creek, CA
Oakland, CA

The proposals were evaluated by a Source Selection Committee chaired by BART Contract Administration and composed of representatives from BART's Transit System Development

EDD: AUTHORITY TO EXECUTE PROFESSIONAL SERVICES AGREEMENT NO. 6M

department, Maintenance and Engineering department and Office of Civil Rights. A thorough evaluation of these proposals was conducted. As a result of the technical evaluation, both proposers were recommended for oral presentations. Oral presentations were conducted on December 6, 2006 with Jacobs and TranSystems.

The Source Selection Committee recommends the award of Professional Services Agreement No. 6M8009 for Construction Management services on the Transbay Tube to Jacobs based on its highest cumulative technical evaluation and oral presentation scores. Staff has made a determination that its proposed rates and fees are fair and reasonable.

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

FISCAL IMPACT

Agreement No. 6M8009 has a not-to-exceed cost limit of \$8,000,000. District financial obligations pursuant to each Agreement will be subject to a series of Work Directives. Each Work Directive will have a defined scope of services and a separate schedule and budget. Any Work Directive assigned for funding under a State or local grant will include State or local requirements. Work Directives will be approved only if Capital Development and Control certifies the eligibility of identified funding sources and the Controller/Treasurer certifies the availability of funding prior to execution of each Work Directive.

Authority to issue Work Directives and administration of Agreement No. 6M8009 will reside with BART's Manager, Earthquake Safety Program.

Funding for individual Work Directives will be provided from the Capital Budget accounts as evidenced by the issuance of related work orders.

ALTERNATIVE

Not to authorize award of the proposed Agreement. If the Agreement is not awarded, BART would have to seek other means of furnishing the required construction management services, adding cost and time to the Program.

RECOMMENDATION

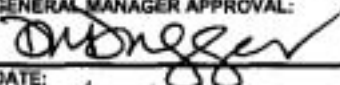


Staff recommends that the Board adopt the following motion:

MOTION

The General Manager is authorized to execute Agreement No. 6M8009 with Jacobs Engineering Group Inc., for Construction Management services for the Transbay Tube in an amount not to exceed \$8,000,000 over a five year period, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/09/06		BOARD INITIATED ITEM: No		
Originator/Prepared by: Lee Davis Dept. Office of Civil Rights 6950 Ext.	General Counsel  MB 11-8-06	Controller/Treasurer 	District Secretary	BARC
Signature/Date:				

NARRATIVE:

Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Study for the Bay Area Public Transportation Agencies (BAPT)

PURPOSE: To obtain Board authorization for the General Manager to execute Agreement No. 6M5006 with CRA International, Inc. (CRA) to conduct an Availability and Utilization Study for the Bay Area Public Transportation Agencies.

DISCUSSION: On August 10, 2006, the Board authorized the General Manager to enter into a Memorandum of Understanding (MOU) with the Bay Area Public Transportation Agencies (BAPT) to retain a consultant to conduct a joint Availability and Utilization Study. The BAPT agencies are BART, San Mateo County Transit District (SamTrans); Peninsula Corridor Joint Powers Board; Santa Clara Valley Transportation Authority (VTA); Central Contra Costa Transit Authority (CCCTA); Golden Gate Bridge, Highway and Transportation District; Alameda-Contra Costa Transit District; and Metropolitan Transportation Commission (MTC). Under the terms of the (MOU) BART is designated as the lead agency and agrees to be the awarding body for the Study and will administer the contract as the Project Manager on behalf of the BAPT. In addition, under the terms of the MOU, a Selection Committee is to evaluate the proposals and recommend a consultant for contract award. The Selection Committee was comprised of five (5) voting members: BART, VTA, SamTrans, MTC and CCCTA.

The Availability and Utilization Study will: (a) investigate the existence of discrimination and its effects in the public transportation contracting industry in the San Francisco Bay Area, and (b) satisfy the requirements for such a Study established by the Ninth Circuit Court of Appeals in the *Western States Paving Co., Inc. v Washington State Department of Transportation, et al* decision.

The District conducted an Industry Review in June 2006. The draft Scope of Services for the Availability and Utilization Study was sent to six (6) firms, specializing in DBE/WBE/MBE disparity studies in order to solicit their professional responses and comments with the intent of strengthening the final Scope of Services to be included in the Statement of Qualifications (SOQ). The six (6) firms were: MGT of America, Inc.,

EDD: Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Study

NERA, Miller 3 Consulting, Inc., BBC Research and Consulting, CRA International, Inc. and Mason Tillman Associates.

Comments received were reviewed by the eight (8) BAPT member agencies and revisions to the draft Scope of Services were made as determined appropriate and useful.

A request for Statement of Qualifications (SOQ) No. 6M5006 was issued on September 8, 2006 to solicit proposals for these services.

Advertisements soliciting interest in the SOQ were placed in a number of publications, including DBE/WBE/MBE publications. The BAPT agencies also utilized their mailing lists to solicit interest in the SOQ. A pre-proposal meeting was held on September 13, 2006 describing the nature of the services required and the source selection process. The SOQ was distributed to all interested potential proposers.

On September 26, 2006, proposals were received from the following three Proposers:

Team	Location
CRA International Inc. (CRA)	Oakland, CA.
Mason Tillman Associates (MTA)	Oakland, CA.
NERA	Dallas, TX.

Evaluation of the proposals was conducted by the Selection Committee and the entire evaluation process was chaired by BART Contract Administration. Proposals were first reviewed to determine if the proposers were considered responsive to the requirements of the SOQ. Subsequently, the proposals were reviewed and scored on the basis of the criteria established in the SOQ with respect to the qualifications of the proposing firms and the qualifications of the key personnel and project team. As a result of the written scoring and the competitive range determination, the following two (2) teams were short-listed and invited to participate in the oral presentation phase of the selection process:

Mason Tillman Associates
CRA International, Inc.

Oral presentations were conducted on October 5, 2006. Based on the combined written and oral evaluations in which CRA ranked the highest cumulative score and the best value analysis conducted by the Committee, it was determined that CRA offers the best value to the BAPT member agencies.

Accordingly, the Committee recommends award of Agreement No. 6M5006 to CRA in an amount not to exceed \$448,439 for a period of one year.

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

FISCAL IMPACT: There are eight agencies participating in the Availability and Utilization Study, including BART. The District's share of the one-year contract amount

EDD: Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Stud

is \$103,846.16. The contribution of the other BAPT agencies will be paid to BART in three installments. The first installment in the amount of \$115,384.62, was received by BART on September 1, 2006. The second installment, \$115,384.62 is due upon execution of the Agreement. The last installment, \$115,384.62 is due upon completion of services and receipt of the final invoice.

Funding for the District's portion for the Availability and Utilization Study is included in the Office of Civil Rights FY07 Adopted Budget.

ALTERNATIVE: Contrary to the intention of the BAPT agencies, the District could decline to award the Agreement to CRA International. This course of action, however, could expose the District to litigation. It could also adversely impact the District and the other BAPT agencies in their ability to meet federal guidelines and continue their goal-setting DBE programs.

RECOMMENDATION: It is recommended that the Board adopt the following motion:

MOTION: The General Manager is authorized to execute Agreement No. 6M5006 with CRA International to provide services to conduct an Availability and Utilization Study. The Agreement will be for a term not to exceed one year and in an amount not to exceed \$448,439; the award is subject to compliance with the District's protest procedures.

MOTION MADE AT THE DECEMBER 7, 2006, BOARD MEETING:

That the staff-recommended motion to authorize execution of Agreement No. 6M5006, for an Availability and Utilization Study for the Bay Area Public Transportation Agencies, with CRA International, be approved, and that staff be directed to seek proposals for a BART only availability and utilization study.