

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

BOARD MEETING AGENDA

January 14, 2010

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, January 14, 2010, 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 regarding any matter on this agenda. 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.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>), in the BART Board Room, and upon request, in person or via mail, at the Office of the District Secretary, 23rd Floor, 300 Lakeside Drive, Oakland, California.

Any action requiring more than a majority vote for passage will be so noted.

Items placed under “consent calendar” are considered routine and will be received, enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from a Director or from a member of the audience.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Patricia K. Williams
Assistant 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 August 27, 2009 (Regular). Board requested to authorize.
- B. Approval of a Resolution of Local Support for the Receipt of Transportation Enhancement Funds.* Board requested to authorize.
- C. Subsequent Resolution of Project Compliance and Initial Project Reports for Regional Measure 2 Funds for the Warm Springs Extension Project (WSX) – Stage 2 Activities.* Board requested to authorize.
- D. Award of Contract No. 01SZ-110, Hayward Yard – Hayward Shop Renovations.* Board requested to authorize.
- E. Award of Contract No. 15TF-120, Wayside Fence Rehab – A-Line.* Board requested to authorize.
- F. Reject All Bids for Contract No. 15EI-120, Substation WSS (South San Francisco) and CCO (Concord) 34.5kV Transformer Upgrade and Replacement.* Board requested to reject.

3. ADMINISTRATION ITEMS

Director Murray, Chairperson

- A. Condemnation of Temporary Construction Easement for the Earthquake Safety Program, BART Parcel Nos. R44-9-3B, R45-2-3A, and R-45-2-3B.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B. Adoption of Resolution to Approve an Amendment to Contract between California Public Employees' Retirement System (CalPERS) and the District to Add Fourth Level of Survivor Benefits for Safety Members.* Board requested to authorize.
- C. Fiscal Year 2010 Budget Revision.* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Award of Contract No. 15PA-110, BART Earthquake Safety Program Aerial Structures – M Line.* Board requested to authorize.
- B. Translink Program Update.* For information.

5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Sweet, Chairperson

NO ITEMS.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

- A. Report of the BART Police Department Review Committee. For information.
- B. Ratification of 2010 Standing Committees and Special Appointments.* Board requested to ratify.
- C. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: two potential cases.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Narcia Solvante</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>1/8/10</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Deidre Heitman Dept: Capital Development <i>Deidre Heitman</i> Signature/Date: <i>1-6-10</i>	General Counsel <i>Andria Rava</i> <i>1/6/10</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i> <i>1-6-10</i>

TITLE:
Approval of a Resolution of Local Support for the Receipt of Transportation Enhancement Funds

NARRATIVE:

Purpose: To obtain Board adoption of the attached Resolution of Local Support stating that BART is an eligible recipient of federal Transportation Enhancement Funds and agrees to implement the proposed BART Community Wayfinding Project.

Discussion: In October 2009, the Contra Costa Transportation Authority (CCTA) issued a Call for Projects for its subregional share of Transportation Enhancement (TE) funds. The Call was limited to capital projects that would benefit bicyclists and pedestrians in Contra Costa County. The total amount of the funding available was \$3.9 million.

BART staff submitted a proposal titled the BART Community Wayfinding Project with a request of \$2.27 million. CCTA staff is recommending that BART receive \$900,000 in TE funds for one of the proposed wayfinding elements -- the Community-Based Street Kiosks. These street-level kiosks will be installed at all ten Contra Costa BART stations.

These TE funds require no local match. They will be used to complement funding provided by Measure J (Contra Costa County's half-cent sales tax measure) for a comprehensive wayfinding program in Contra Costa County.

MTC requires that each recipient of TE Funds adopt a Resolution of Local Support declaring, among other things, its ability to receive federal funds, and agreeing to certain conditions. The Resolution of Local Support is attached. Staff is recommending that the Board adopt the Resolution of Local Support.

Fiscal Impact: By adopting this Resolution of Local Support, BART will receive \$900,000 in federal Transportation Enhancement Funds for the selected Project. No local match is required.

Alternatives: Project sponsors must adopt a Resolution of Local Support to be included in MTC's 2010 Regional Transportation Improvement Program (RTIP) which sets forth federal fund allocations. If the Board decides against adopting the Resolution, BART will forego the opportunity to fund the implementation of the above-described wayfinding elements at Contra Costa County BART Stations.

Recommendation: Adoption of the attached Resolution of Local Support.

Motion: The BART Board approves and hereby adopts the attached Resolution of Local Support accepting Transportation Enhancement Funds from the Metropolitan Transportation Commission (MTC) for BART's Community Wayfinding Project.

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

**In the Matter of the Approval
Of a Resolution of Local Support for
The Receipt of Transportation Enhancement Funds/**

Resolution No. _____

**Implementing Agency: San Francisco Bay Area Rapid Transit District (BART)
Project Title: BART Community Wayfinding Project**

Whereas, the San Francisco Bay Area Rapid Transit District (herein referred to as "APPLICANT") is submitting an application to the Metropolitan Transportation Commission (MTC) for \$900,000 in funding from the 2010 Regional Transportation Improvement Program (RTIP) for the BART Community Wayfinding Project (herein referred to as "PROJECT" or "PROJECTS") for the MTC 2010 RTIP, as authorized by MTC by Resolution No. 3928 (herein referred to as "PROGRAM"); and

Whereas, SB 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

Whereas, as part of that process, MTC is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the RTIP, and submission to the California Transportation Commission, for inclusion in the State Transportation Improvement Program; and

Whereas, MTC will review and include, if approved, 2010 RTIP projects in the federal Transportation Improvement Program (TIP); and

Whereas, MTC has requested eligible transportation project sponsors to submit applications nominating projects to be programmed for Regional Improvement Program funds in the RTIP; and

Whereas, applications to MTC must be submitted consistent with procedures, conditions, and forms it provides transportation project sponsors; and

Whereas, APPLICANT is a sponsor of transportation projects eligible for Regional Improvement Program funds; and

Whereas, the RTIP Project Programming Request (PPR) form of the PROJECT application, attached hereto and incorporated herein as though set forth at length, lists the project, purpose, schedule and budget for which APPLICANT is requesting that MTC program Regional Improvement Program funds for inclusion in the RTIP; and

Whereas, Part 2 of the PROJECT application, attached hereto and incorporated herein as though set forth at length, includes the certification by APPLICANT of assurances required by SB 45 in order to qualify the PROJECT listed in the RTIP project nomination sheet of the PROJECT application for programming by MTC; and

Whereas, as part of the application for 2010 RTIP funding, MTC requires any Resolution adopted by the responsible implementing agency to state that the PROJECT will comply with the procedures specified in the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, Page 13, and as may be further amended).

NOW, THEREFORE, BE IT RESOLVED, that APPLICANT approves the assurances set forth in Part 2 of the PROJECT application, attached to this Resolution; and be it further

RESOLVED, that APPLICANT will comply with the provisions and requirements of the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, Page 13, and as may be further amended), that PROJECT will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP, and that APPLICANT and PROJECT will comply with the requirements as set forth in the 2010 RTIP Policies and Procedures (MTC Resolution No. 3928); and therefore be it further

RESOLVED, that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule set forth in the RTIP Project Programming Request (PPR) form of the PROJECT application, attached to this Resolution; and be it further

RESOLVED, that APPLICANT is an eligible sponsor of projects in the State Transportation Improvement Program; and be it further

RESOLVED, that APPLICANT is authorized to submit an application for State Transportation Improvement Program funds for PROJECT; and be it further

RESOLVED, that there is no legal impediment to APPLICANT making applications for Regional Improvement Program 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 APPLICANT to deliver such PROJECT; and be it further

RESOLVED, that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC to program Regional Improvement Program funds into the RTIP, for the projects, purposes and amounts included in the PROJECT application attached to this Resolution; and be it further

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

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PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 8/09)

General Instructions

<input checked="" type="checkbox"/> New Project		<input type="checkbox"/> Amendment (Existing Project)		Date:	
Caltrans District	EA	PPNO	MPO ID	TCRP No.	
04					
County	Route/Corridor	Project Sponsor/Lead Agency		MPO	Element
CC		San Francisco Bay Area Rapid Transit Di		MTC	
Project Title					
BART Community Wayfinding Project					
PM Bk	PM Ahd	Project Mgr/Contact	Phone	E-mail Address	
		Deidre Heitman	510-287-4796	dheitma@bart.gov	
Location, Project Limits, Description, Scope of Work, Legislative Description					
The BART Community Wayfinding project is part of a larger countywide wayfinding program at BART stations. The goal is to provide comprehensive, easily understood signage providing local and connecting transit information. This grant is to construct street-level kiosks providing connecting information for transit, bicycle and pedestrian facilities as well as information regarding local points of interest and destinations.					
Component	Implementing Agency			Reimbursements	
PA&ED					
PS&E					
Right of Way					
Construction	BART				
Legislative Districts					
Assembly: 11, 14, 15		Senate: 7			
Congressional: 7, 10					
Purpose and Need					
Since its inception, BART has provided information and signage in its stations and written information schedule and fare information, much of which is produced in several lan-guages. Over the years, however, it has become clear that potential transit riders need information presented in a variety of formats in order to feel comfortable using the system as well as connecting to local transit and in accessing local bicycle and pedestrians paths and routes. The street-level wayfinding kiosks provide maps identifying local destinations as well as locations of connecting bus and bicycle and pedestrian paths and other facilities.					
Project Benefits					
This project provides passengers with a level of comfort in navigating both the transit station as well as the local community. The project will provide useful and easily understood information regarding connecting transit, bicycle and pedestrian facilities. The information is provided graphically so that one needn't be able to read English in order to understand the information being presented.					
Project Milestone					Date
Project Study Report Approved					
Begin Environmental (PA&ED) Phase					
Circulate Draft Environmental Document			Document Type	CE/CE	
Draft Project Report					
End Environmental Phase (PA&ED Milestone)					
Begin Design (PS&E) Phase					04/01/10
End Design Phase (Ready to List for Advertisement Milestone)					04/01/11
Begin Right of Way Phase					N/A
End Right of Way Phase (Right of Way Certification Milestone)					N/A
Begin Construction Phase (Contract Award Milestone)					10/01/11
End Construction Phase (Construction Contract Acceptance Milestone)					01/01/13
Begin Closeout Phase					01/01/13
End Closeout Phase (Closeout Report)					06/30/13

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 8/09)

Date:

County	CT District	PPNO	TCRP Project No.	EA
CC	04			
Project Title: BART Community Wayfinding Project				

Existing Total Project Cost									Implementing Agency	
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total		
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON										
TOTAL										
Proposed Total Project Cost									Implementing Agency	
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON		900	450					1,350		
TOTAL		900	450					1,350		

Fund No. 1:	Transportation Enhancement								Program Code	
Existing Funding									Funding Agency	
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total		
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON										
TOTAL										
Proposed Funding									Notes	
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON		450	450					900		
TOTAL		450	450					900		

Fund No. 2:	BART Operating/MTC Hub Wayfinding								Program Code	
Existing Funding									Funding Agency	
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total		
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON										
TOTAL										
Proposed Funding									Notes	
E&P (PA&ED)										
PS&E										
R/W SUP (CT)										
CON SUP (CT)										
R/W										
CON		450						450		
TOTAL		450						450		

PART TWO: FUNDING

Prepared by: Deidre Heitman Phone: (510) 287-4796
 Title: Principal Planner Fax: (510) 464-7673
 Agency: BART Email: dheitma@bart.gov

PROJECT COMPONENT COSTS — round to nearest \$1,000s

	STIP-TE	ITIP ‡	Other Funds	Source †
Design			\$450	BART operating, MTC Transit "Hub" funding
PS&E			\$0.0	
Right-of-Way Capital			\$0.0	
Right-of-Way Support ‡			\$0.0	
Construction Support ‡			\$0.0	
Construction Capital	\$900		\$0.0	
TOTAL PROJECT COST	\$900		\$750	

† List all sources of other funds **committed** to the projects

‡ TE funds are not available (n/a) for right-of-way or construction support or through the ITIP program

PRELIMINARY ITEM ESTIMATE — CONSTRUCTION CONTRACT ITEMS

Item	Description	Unit	Quantity	Unit Price	Amount
Station ID Signs	Station entrance signs	2 per station	20	\$35	\$70
Street Kiosks	Connecting transit and bike/ped information	3-4 per station	60	\$25	\$900
BART Real-time	BART train arrival and departure info	2 per station	6	\$80	\$480
Transit Info Displays	Connecting transit schedules/fare info	8 per station	24	\$8	\$192
Contingency	10%				Incl
TOTAL CONSTRUCTION CONTRACT ITEMS					\$900

Exhibit B -- Application and PSR Equivalent: Transportation Enhancement (TE) Program.

MAINTENANCE The enhancement must be maintained in a functional and operational manner as its intended purpose for the expected life cycle for the type of project. If it is not maintained in such a manner, reimbursement of all or a portion of the enhancement funds may be required

Who will maintain?

BART will maintain all aspects of the project. BART will work with local jurisdictions to see if they can maintain any street kiosk that is not on BART property.

What is the source of maintenance funds?

BART operating funds

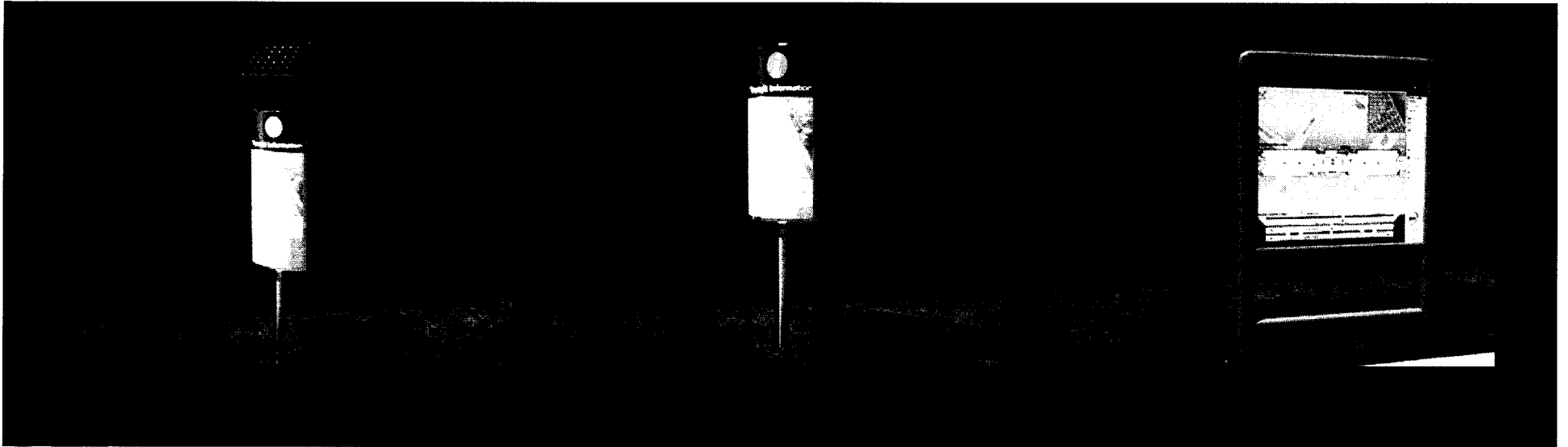
If project is within Caltrans right of way, must be signed by Deputy District Director, Maintenance

DDD, Maintenance

N/A

Date:

Examples of Community-Based Street Kiosks



Solar Street Kiosk

Street Kiosk

Indoor/Outdoor Map Frames



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Delkunge</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/8/10		BOARD INITIATED/ITEM: No		
Originator/Prepared by: Todd Morgan Dept: <i>Todd Morgan</i> Signature/Date: <i>Todd Morgan</i> 1.7.2010	General Counsel <i>Angela Pavaas</i> 1/7/10	Controller/Treasurer <i>[Signature]</i> 1/7/10	District Secretary []	BARC <i>[Signature]</i> 1-7-10
Status: Routed		Date Created: 12/21/2009		

TITLE:

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

NARRATIVE:

PURPOSE:

To obtain approval of a Subsequent Resolution of Project Compliance ("Resolution") and Initial Project Report ("IPR") based on the attached IPR Summary for Regional Measure 2 ("RM2") funds for the Warm Springs Extension Project ("WSX" or "Project"). The IPR includes an allocation request for a total of \$10.3 million for planned project expenditures in FY09-10 through FY10-11.

DISCUSSION:

BART design of the Line, Trackwork, Systems, and Station ("LTSS") contract is now complete. Contractor prequalification will commence January 2010 and subject to funding availability a Request for Proposals will be released in Spring 2010, with Notice to Proceed ("NTP") anticipated for Spring 2011. The RM2 funding included in this IPR and Resolution will be included as part of the funding for activities leading up to NTP of the LTSS contract.

MTC Resolution No. 3636, the Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2, requires that the BART Board approve a Resolution and IPR each time the project sponsor requests an allocation of RM2 funds. In this case, with the concurrence of MTC staff, BART is requesting a total allocation of \$10.3 million for the construction phase activities of the Project.

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

FISCAL IMPACT:

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

ALTERNATIVES:

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

RECOMMENDATION:

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

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

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

Resolution No. _____

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

Whereas, 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, SB 916 identifies the Warm Springs Extension Project as a project eligible to receive Regional Measure 2 funds, and also identifies a portion of said funds to be used for grade separation work in the City of Fremont necessary to extend BART; 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, BART is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

Whereas, the Warm Springs Extension Project is eligible for 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 Initial Project Report, as reflected in the Initial Project Report Summary (Summary) that is attached hereto and incorporated herein as though set forth 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; 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 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 Summary, and be it further

Resolved, that BART approves the cash flow plan, 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 designates the City of Fremont as the implementing agency for the grade separation work in the City of Fremont necessary to extend BART, 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 BART Extension to Warm Springs 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 Regional Measure 2 funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), 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 Regional Measure 2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of Regional

Measure 2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and be it further

Resolved, that BART 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 Regional Measure 2 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 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 Warm Springs Extension Project is funded with Regional Measure 2 Toll Revenues; and be it further

Resolved, that BART authorizes its General Manager, or her designee, to execute and submit an allocation request for the construction phase to MTC for Regional Measure 2 funds in the amount of \$10.3 million for the project, purposes and amounts included in the IPR; and be it further

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

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

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Warm Springs Extension

Initial Project Report Summary

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

Project Delivery Milestones

Phase-Milestone	Planned (Update as needed)	
	Start Date	Completion Date
Environmental Documents	January 2002	October 2006
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	January 2002	October 2006
Plans, Specifications & Estimates (PS&E)	April 2002	June 2010
Right-of-Way Activities /Acquisition (R/W)	April 2002	June 2012
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	May 2009	December 2014

Total Project Budget Information

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

FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast 9/14/09	REMARKS
<u>ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT</u>			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	<i>Completed</i>
TOTAL E, E & CM	\$92,958,175	\$97,987,009	
<u>CONSTRUCTION</u>			
Fremont Subway	\$282,000,000	\$164,100,660	
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
TOTAL CONSTRUCTION	\$658,000,000	\$538,200,660	
<u>BART SERVICES</u>			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
TOTAL BART SERVICES	\$0	\$15,000,000	
<u>PROGRAM COSTS</u>			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	Includes budget for QA Oversight consulting for \$1M and Environmental Monitoring services for \$2M.
Right-Of-Way Acquisitions	\$80,394,486	\$79,202,672	
Contingency	\$2,776,319	\$88,048,837	
TOTAL PROGRAM COSTS	\$139,041,825	\$238,812,331	
TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maria del Buge</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 11/8/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: James Wiscarson Dept: Procurement	General Counsel <i>David Lewis</i> 11/7/10	Controller/Treasurer <i>[Signature]</i> 11/7/10	District Secretary	BAR: <i>Paul Jensen</i> 11/8/10
Signature/Date: <i>[Signature]</i> 11-7-10				
Status: Routed		Date Created: 11/16/2009		

TITLE:

HAYWARD YARD-HAYWARD SHOP RENOVATIONS

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 01SZ-110, Hayward Yard-Hayward Shop Renovations.

DISCUSSION:

The work under this contract consists of constructing two (2) additional loading dock facilities at the North end of the Hayward Shop Warehouse. Currently the Hayward Shop Warehouse is the primary warehouse for all revenue vehicle consumable and repairable commodities. Items are shipped to and from the warehouse to three outlying shops (Concord, Richmond and Daly City) via District trucks. There are currently two loading docks at the southwest corner of the warehouse that are shared by the District and external vendors. The current layout of the loading dock is inefficient, as both outgoing and incoming shipments must compete for the same dock space.

In conjunction with the District's Strategic Maintenance Program, staff determined that a more efficient flow of work inside the Hayward Warehouse could be created by adding two loading docks on the North side. The new loading docks will be dedicated to incoming shipments and access to storage while the Southwest loading docks will be used for outgoing shipments.

On October 19, 2009, Advance Notice to Bidders were sent to 84 contractors and contract books were mailed to 19 plan rooms including minority assistance plan rooms. The contract was advertised on October 21, 2009. A pre-bid meeting and site visit was held on Friday, October 30, 2009 and was attended by 20 contracting firms.

The following bids were received on December 1, 2009:

<u>BIDDER</u>	<u>LOCATION</u>	<u>BID</u>
1. Jonas and Associates Inc.	Martinez, CA	\$509,000.00
2. Rodan Builders Inc,	Burlingame, CA	\$510,000.00
3. EE Gilbert Construction Inc.	Martinez, CA	\$518,760.00
4. Jim Freethy Excavating Inc.	Danville, CA	\$526,223.00
5. B-Side.	Oakland, CA	\$539,000.00
6. Riverview Construction Inc.	Sacramento, CA	\$549,000.00
7. JFC Construction Inc.	Martinez, CA	\$555,809.00
8. Valentine Corporation.	San Rafael, CA	\$569,369.00
9. Aztec Consultants Inc.	San Ramon, CA	\$588,555.00
10. Redwood Engineering.	Redwood City, CA	\$590,000.00
11. Bay Construction Co.	Oakland, CA	\$633,000.00
12. LC General Engineering.	San Francisco, CA	\$1,033,989.00

ENGINEER'S ESTIMATE

\$728,800.00

Staff has determined that the bid submitted by Jonas and Associates Inc. is responsive to the solicitation; and the bidder's license, business experience, financial capabilities indicate that the bidder is responsible. Staff has also determined that the bid of \$509,000.00 is fair and reasonable and reflects current market conditions.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 23% for MBE's and 12% for WBE's. The bidder committed to 55% MBE and 10% WBE. The bidder did not meet the WBE percentage, therefore the bidder was requested to provide the District with information to determine if it had discriminated. Based on the review of the information submitted by the bidder, the Office of Civil Rights found no evidence of discrimination.

Staff has determined that there will be no significant effect on the environment with installation of two new loading docks at BART facilities, and that the work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to subsection D of Section 15301, Existing Facilities, of the State CEQA Guidelines.

FISCAL IMPACT:

Funding of \$509,000 for the award of Contract 01SZ-110 is included in the total project budget for the FMS #01SZ – Hayward Shop Loading Dock. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this contract will come from the following source:

<u>F/G 51W - FY07- 11 Capital Allocation</u>	<u>\$509,000</u>
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As of the month ending 11/29/09, \$762,000 is available for commitment from this fund source for this project and BART has committed \$0 to date. There is no pending commitment in BART's financial management system. This action will commit \$509,000 leaving an uncommitted balance of \$253,000 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The Board may reject all bids and rebid the contract. Rejecting bids will result in the delay in implementation of the Strategic Maintenance Program in the Logistics Department further hampering the ability of the Logistics Department to service their customers. A rebid is not likely to result in better pricing.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to award Contract No. 01SZ-110 "Hayward Yard-Hayward Shop Renovations" to Jonas and Associates, Inc., for the bid price of \$509,000 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c <i>1/8/10</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Pepe Vallenias Dept: Maintenance and Engineering <i>[Signature]</i> <i>1/04/10</i>	General Counsel <i>[Signature]</i> <i>1/4/10</i>	Controller/Treasurer <i>[Signature]</i> <i>1/4/10</i>	District Secretary	BARC <i>[Signature]</i> <i>1/4/10</i>
Signature/Date:		Signature/Date:		

TITLE:

Award Contract No. 15TF-120, "Wayside Fence Rehab, A Line"

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No.15TF-120: "Wayside Fence Renovation, A line" to Fence Corp, Inc. of Sacramento.

DISCUSSION:

Adequate fencing along BART's operating envelope is required for safe operation and protection of the public. In general, work under this contract consists of providing all labor, materials, equipment and other accessories necessary to rehab approximately 2,200 linear feet of deteriorated existing chain link fence including barbed wire and razor coil between Hayward and South Hayward Stations.

Advance Notice to Bidders was mailed on September 27, 2009 to 44 prospective bidders. Contract bid books were mailed to 17 plan rooms and minority assistance organizations. The Contract was advertised on September 30, 2009. A pre-bid meeting was held on October 9, 2009. Two site inspection tours were held on October 13 and 15, 2009.

Eleven prospective Bidders attended the pre-bid meeting. Four Bids were received on November 10, 2009 as follows:

<u>Bidder; Location</u>					<u>Total Bid</u>
1. Fencecorp, Inc.; Riverside					
Base Bid	Option A	Option B	Option C		
\$79,116	\$111,945	\$29,306	\$91,773		\$312,140
2. CF Contracting; Fairfax					
Base Bid	Option A	Option B	Option C		
\$92,343	\$122,657	\$28,902	\$87,015		\$330,917

3. Crusader Fence Co. Inc.; Rancho Cordova				
Base Bid	Option A	Option B	Option C	
\$130,000	\$200,500	\$44,750	\$95,000	\$470,250
4. Chain Link Fence & Supply, Inc. Livermore				
Base Bid	Option A	Option B	Option C	
\$138,349	\$200,501	\$30,140	\$126,227	\$495,217

ENGINEER'S ESTIMATE

Base Bid	Option A	Option B	Option C	
\$87,043	\$152,670	\$47,665	\$166,612	\$453,990

Staff has determined that the Bid submitted by Fencecorp, Inc. is responsive to the solicitation; and the Bidder's license, business experience, and financial capabilities indicate that the Bidder is responsible. Staff has also determined that the Bid of \$312,140 is fair and reasonable and reflects current market conditions.

This contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this contract and determined that there were no subcontracting opportunities. Therefore, no DBE participation goal was set for this contract.

Staff has determined that there will be no significant effect on the environment with installation of replacement fence materials at BART facilities, and that the work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Subsection (d) of Section 15301, Existing Facilities, of the State CEQA Guidelines.

The project will receive federal funding and is therefore subject to the National Environmental Policy Act (NEPA). The federal funding agency, FTA, has concurred that implementation of the project will not have a significant impact on the environment and qualifies for a categorical exclusion as defined under 23 CFR 771.117 (d)(9).

FISCAL IMPACT:

Funding for this \$312,140 award of Contract 15TF-120 is included in the total project budget for the FMS# 15TF, Wayside Fence Rehab. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 47Z – FTA CA-05-0216

\$312,140

As of month ending 11/29/09, \$600,000 is available for commitment from this fund source for this project and BART has committed \$92,874 to date. There are no pending commitments in BART's financial management system. This action will commit \$312,140 leaving an uncommitted balance of \$194,986 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The Board may reject all Bids and rebid the Contract. Rejecting Bids will result in the deferral of deteriorated existing fence replacement that is vital for public safety, resulting in potential liability for the District. A rebid is not likely to result in better pricing.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15TF-120, "Wayside Fence Rehab, A Line" to Fencecorp Inc. of Riverside, for the Base Bid Amount of \$79,116. The General manager is also authorized to exercise, at her discretion, Option Bid Item A for \$111,945.00; Option Bid Item B for \$ 29,306.00; and Option Bid Item C for \$91,773.00, for a total contract amount not to exceed the Bid price of \$312,140. The award is pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and FTA requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board	
DATE: c <i>11/8/10</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: Abdulhaque Shaikh Dept: Maintenance & Engineering <i>[Signature]</i> .. 11/5/10	General Counsel <i>[Signature]</i> 11/5/10	Controller/Treasurer <i>[Signature]</i> []	District Secretary BARC <i>[Signature]</i> 11/5/10
Signature/Date:			

TITLE:

Reject all Bids for Contract No.15EI-120 for Substation WSS and CCO 34.5kV Transformer Upgrade and Replacement

NARRATIVE:

PURPOSE:

To reject all Bids for Contract No. 15EI-120 for South San Francisco Substation ("WSS") and Concord Substation ("CCO") 34.5kV Transformer Upgrade and Replacement.

DISCUSSION:

On October 8, 2009, the Contract for Substation WSS and CCO 34.5kV Transformer Upgrade and Replacement was advertised. This Contract was for replacement of cast coil transformers with more reliable and environmentally safe natural oil filled transformers. The Contract books were sent to 12 plan rooms and minority organizations. The pre bid meeting was on October 20, 2009. Two (2) addenda were issued on October 29 and on November 11 to further clarify the Contract Specifications. Three (3) Bids were received and publicly announced on November 24, 2009. The three (3) Bids are shown below along with the Engineer's estimate.

BIDDER	TOTAL BID
Stieny and Company, Vallejo, CA	\$ 1,124,000
Blocka Construction, Fremont, CA	\$ 1,805,000
Dahl-Beck Electric, Richmond, CA	\$ 2,331,617
Engineer's Estimate	\$ 875,000

The apparent low Bid submitted by Stieny and Company was determined to be nonresponsive to the solicitation because the Bidder failed to bid on all items. The apparent second low bid submitted by Blocka Construction is 106% higher than the Engineer's estimate and indicated an inability to satisfy the Buy America requirements. The apparent third low Bid submitted by Dahl-Beck Electric is 166% higher than the Engineer's estimate. Both the second and the third low bids are much higher than total available project construction budget.

Staff believes that the cost disparity between the Engineer's estimate and the apparent low Bidder as well as the large cost disparity among all three Bids is mainly due to the large cost differential between the natural oil-filled transformers and older cast coil transformers. Since the natural oil filled heavy duty traction power transformer technology is new and District does not have any costing experience with this product, the Engineer's estimate for this Contract was prepared on an educated guess as to the cost of the natural oil-filled transformer.

Staff believes that if modifications are made to the Contract Specifications, a bid will yield reduced bid prices while still permitting use of the natural oil-filled transformers. Upon rejection of these bids, the staff will revise the contract documents and re-advertise the contract.

FISCAL IMPACT:

There is no fiscal impact as a result of rejecting all bids.

ALTERNATIVE:

Attempt to award the Contract to the second low Bidder Blocka Construction, which would require an FTA waiver for the Buy America requirements.

RECOMMENDATIONS:

On the analysis and evaluation by staff, it is recommended that the Board adopt the following Motion.

MOTION:

All bids for the Contract 15EI-120 for Substation WSS and CCO 34.5kV Transformer Upgrade and Replacement are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/8/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basuino Dept: Real Estate ext. 6852 <i>[Signature]</i> Signature/Date: 1-4-2010	General Counsel <i>[Signature]</i> 1/6/10	Controller/Treasurer <i>[Signature]</i> 1/6/10	District Secretary []	BARC <i>[Signature]</i> 1-8-10
Status: Routed		Date Created: 01/04/2010		

TITLE:

Condemnation of Real Property for the Earthquake Safety Program (ESP) BART Parcel #R-44-9-3B, R45-2-3A and R-45-2-3B

NARRATIVE:

PURPOSE: To adopt by a two-thirds vote of the entire Board the attached Resolution of Necessity to Condemn temporary construction easement interests in real property located at 6403 Knott Avenue, El Cerrito, California. This property is required for the Earthquake Safety Program.

DISCUSSION: The San Francisco Bay Area Rapid Transit District ("BART") proposes to purchase certain real property interests for the purpose of conducting the seismic retrofit of the original BART system ("ESP" or the "Project"). The Project requires the acquisition of approximately 9,818 square feet of a 150,432 square-foot property owned by MG Garden View Apartments LP, Rancho Pointe Apartments LP & Malibu Terrace Apartments LP for temporary construction easements. The property is located at 6403 Knott Avenue, El Cerrito, California (BART Parcel # R-44-9-3B, R45-2-3A, R-45-2-3B or the "Subject Parcel").

The Project is exempted from the need to prepare an environmental document by Statute under BART CEQA Exemption PUC Section 29031.1. The Federal Highway Administration is the lead agency for the Project and has approved a Finding of No Significant Impact for this portion of the Project.

The proposed use of the Subject Parcel is for seismic retrofit work on BART's column footings on the existing R Line aerial structures. The majority of the retrofit work will occur on and within existing BART right of way. Project work proposed on and near this parcel adjacent to the BART right of way has been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible. The temporary construction easement uses on the Subject Parcel are necessary for the successful construction of the Project and the safe and efficient operation of the BART system. The parcel is uniquely suited to support these Project purposes.

The offer required by Section 7267.2 of the Government Code has been made to the owners of record of the Subject Parcel on October 13, 2009. The estimated market value of the temporary construction easements on the Subject Parcel, including advance payment of anticipated damages, is \$442,600.00.

To date, negotiations appear to be at an impasse. The property owners were notified of the Board hearing on November 25, 2009.

In order to proceed with the recommended condemnation, the Board must determine each of the following:

1. The public interest and necessity require the proposed project;
2. The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The proposed property acquisition is necessary for said project; and
4. Whether the offer required by Government Code section 7267.2 has been made to all owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

FISCAL IMPACT: The \$442,600 required for the acquisition of the temporary construction easements on BART Parcel #R-44-9-3B, R45-2-3A, R-45-2-3B is included in Project 15PE, R Line North Aerial Structures. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for the purchase will come from the following source:

<u>F/G 01F – Earthquake Safety – G.O. Bond</u>	<u>\$442,600</u>
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As of month ending 1/4/10, \$500,000 is available for commitment from this fund source for this project and BART has committed \$0 to date. There is no pending commitment in BART’s financial management system. This action will commit \$442,600.00 leaving an uncommitted balance of \$57,400 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES: Withdraw the condemnation action and proceed with negotiations without the backing of eminent domain. Withdrawal of the condemnation action may result in the property not being available for Project construction when required and exposing BART to additional escalation on the capital cost of the ESP Project.

RECOMMENDATION: Adoption of the attached Resolution of Necessity to condemn the Real Property.

MOTION: Adopt the attached, “Resolution of Necessity to Condemn Real Property; Make

Findings and Determinations; Authorize Eminent Domain Proceedings and Application for Possession Prior to Judgment for BART Parcels R-44-9-3B, R45-2-3A and R-45-2-3B; Draw and Deposit Warrant.” (Two-thirds vote required.)

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

RESOLUTION OF NECESSITY TO CONDEMN
REAL PROPERTY; MAKE FINDINGS AND
DETERMINATIONS; AUTHORIZE EMINENT
DOMAIN PROCEEDINGS AND APPLICATION
FOR POSSESSION PRIOR TO JUDGMENT FOR
BART PARCELS R44-9-3B, R45-2-3A AND
R45-2-3B;
DRAW AND DEPOSIT WARRANT /)

Resolution No.

Recitals

1. The San Francisco Bay Area Rapid Transit District (“BART or District”) is undertaking the construction of the Earthquake Safety Program (the “Project”). The Earthquake Safety Program is exempted by Statute, BART CEQA Exemption PUC Section 29031.1. The Federal Highway Administration is the lead agency and has approved a Finding of No Significant Impact on March 9, 2006 for this portion of the Project.

2. The Project requires the acquisition of temporary construction easements on certain property owned by MG Garden View Apartments L.P., a California limited partnership, Rancho Pointe Apartments L.P., a California limited partnership and Malibu Terrace Apartments L.P., a California limited partnership (“MG Properties”) that is defined in paragraph 4 of these Recitals as the Subject Property.

3. The District has complied with all requirements of CEQA and NEPA for the Project.

4. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, to wit, temporary construction easements, together with all improvements situated thereon and together with all rights appurtenant thereto, to certain real property owned in fee simple by MG Properties, as its interests appear of record, which real property,

or interests in property, is located at 6403 Knott Avenue, El Cerrito, CA and is identified as BART Parcel Numbers R44-9-3B, R45-2-3A and R-45-2-3B (Assessor's Parcel Number 501-261-015 and 501-261-016), and is more particularly described and shown in Exhibit A , attached hereto and incorporated herein by this reference (the "Subject Property"). The Subject Property is to be acquired as temporary construction easements.

5. The Board of Directors constitutes the governing body of the District and is authorized by Sections 28953, 29010, and 29031 of the California Public Utilities Code to acquire the Subject Property by eminent domain.

6. The District has tendered a written offer to the owner or owners of record to purchase the Subject Property for the fair market value, and has sent to the owner or owners written notice of the intent to adopt this resolution of necessity.

7. The Board of Directors has given due consideration to all oral and documentary evidence presented and has found that the acquisition of the Subject Property is required by the public interest and necessity for rapid transit purposes, more particularly to construct the Project and all incidents thereto.

Now, therefore, by vote of two-thirds or more of its members, the Board of Directors of the San Francisco Bay Area Rapid Transit District does find and resolve that:

1. The public interest and necessity require the proposed Project;
2. The proposed Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. The Subject Property is necessary for the proposed Project;
4. The offer required by Section 7267.2 of the California Government Code has been

made to the owner or owners of record of the Subject Property.

5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future; and
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

Special counsel, Erickson, Beasley & Hewitt, are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the San Francisco Bay Area Rapid Transit District, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California.

To prepare and prosecute in the name of the San Francisco Bay Area Rapid Transit District such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of just compensation, based on an appraisal, and to apply to said court for an order permitting the San Francisco Bay Area Rapid Transit District to take immediate possession and use the Subject Property for said public uses and purposes.

The General Manager of the San Francisco Bay Area Rapid Transit District is hereby
AUTHORIZED AND EMPOWERED:

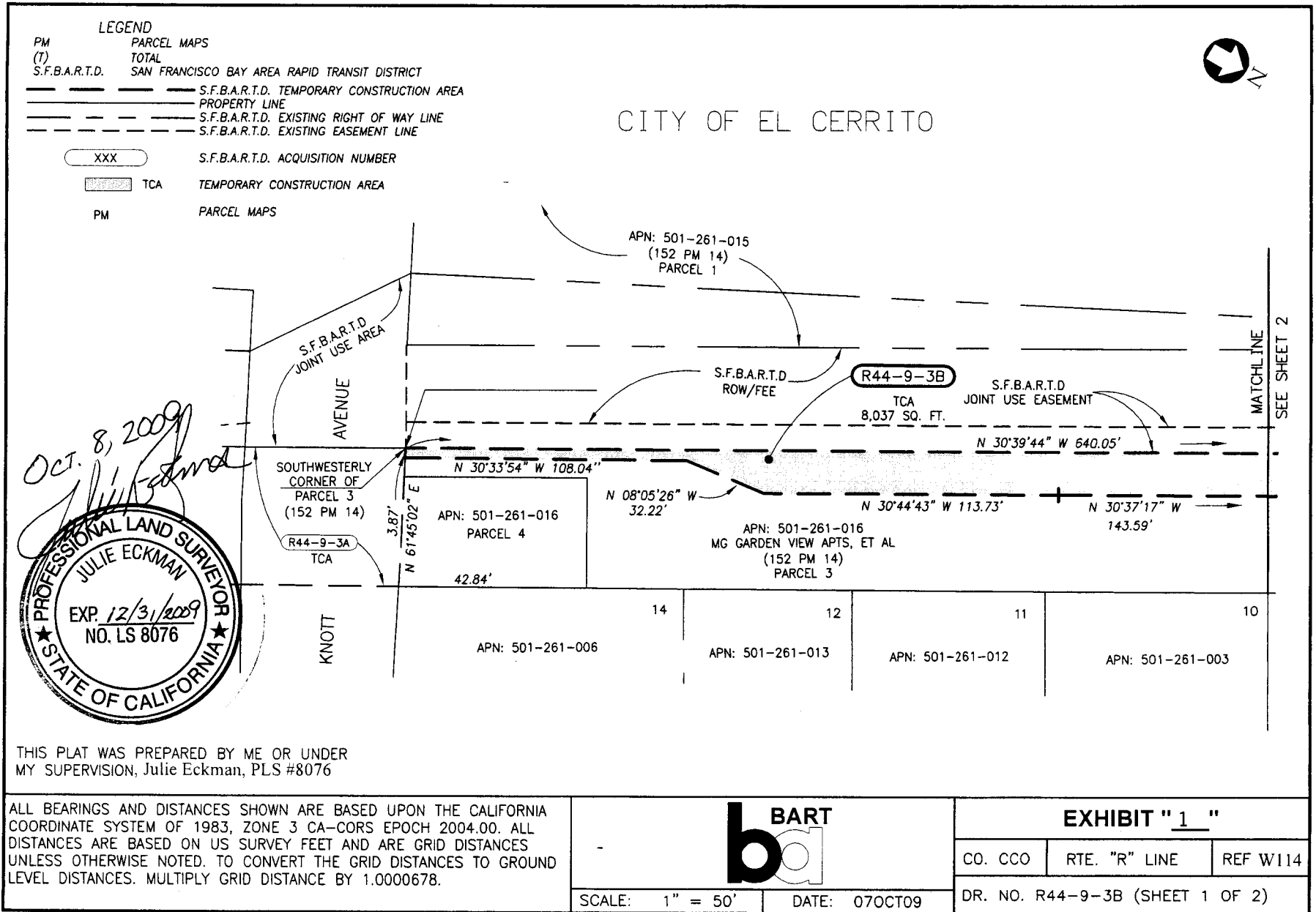
To draw a warrant in the amount as determined by an appraisal of the fair market value of the
Subject Property, made payable on Earthquake Safety Program General Obligation Bond 01F, said
warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said
warrant to said special counsel or wire said sum directly to the State of California Treasurer's Office,
to be deposited with said payee as security for the order for possession hereinbefore authorized.

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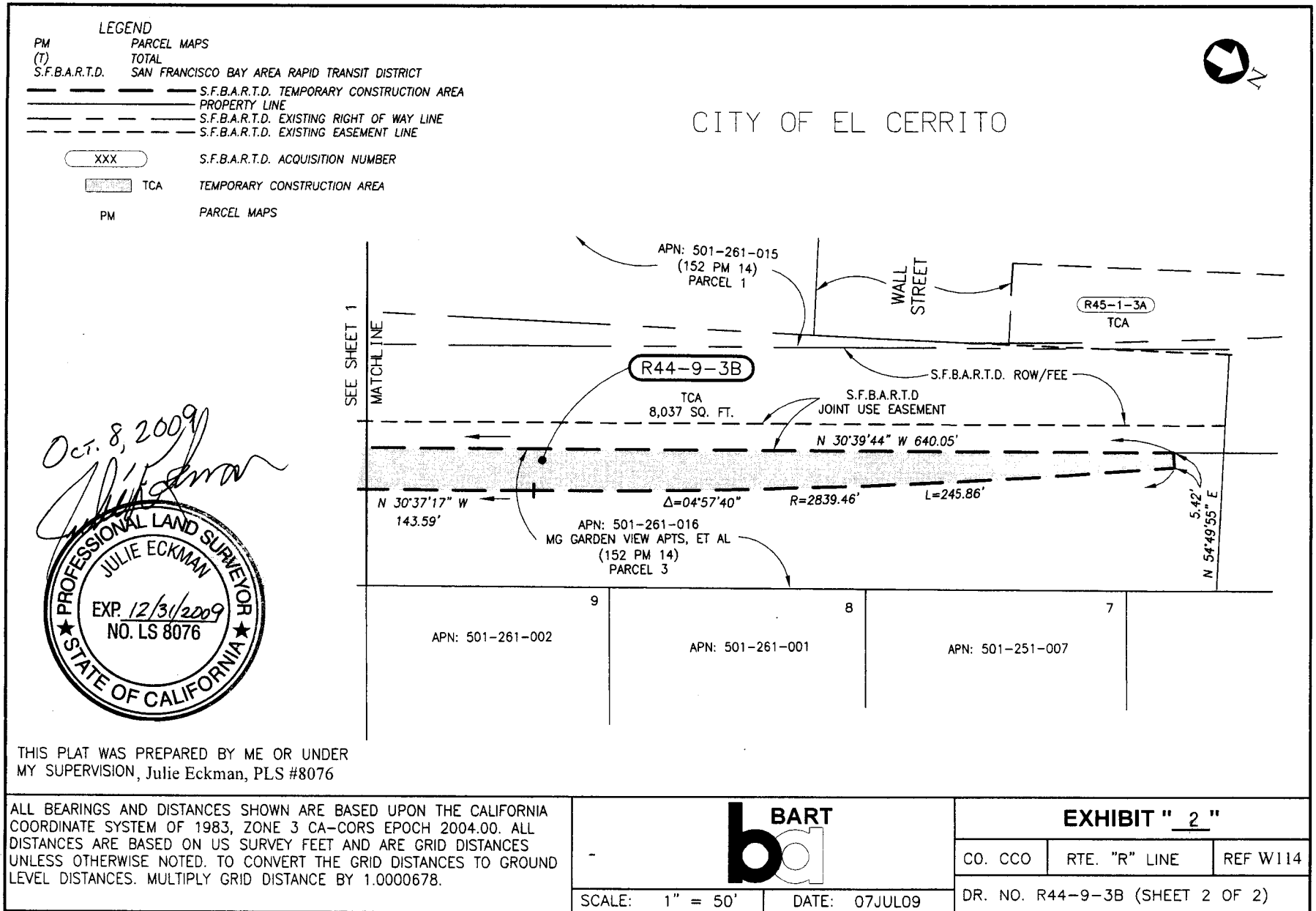
TEMPORARY CONSTRUCTION EASEMENTS

Temporary construction easements in gross for all general and public transit facility construction purposes, including, but not limited to, storage, ingress and egress, and other activities in, on, over and across certain real property in the City of El Cerrito, County of Contra Costa, State of California.

The Temporary Construction Easements are for a period of thirty nine and one-half (39.5) months between January 15, 2010 and April 30, 2013. Possession and use of the temporary easement area is anticipated to be required for a period of thirteen (13) months within the said 39.5-month period. Grantee shall give Grantor at least thirty (30) days advance written notice prior to entry. Upon expiration of the Temporary Construction Easements after said 39.5-month period, BART's rights shall revert automatically to Grantor.



H:\DATA\351008\9\CADD\MAPPING\2\FIG15\1\15 EXHIBIT PRIVATE PARCELS\N4 9-3B.DWG # 004 10/7/09 11:52 am



Oct. 8, 2009
Julie Eckman
 PROFESSIONAL LAND SURVEYOR
 JULIE ECKMAN
 EXP. 12/31/2009
 NO. LS 8076
 STATE OF CALIFORNIA

THIS PLAT WAS PREPARED BY ME OR UNDER MY SUPERVISION, Julie Eckman, PLS #8076

ALL BEARINGS AND DISTANCES SHOWN ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 3 CA-CORS EPOCH 2004.00. ALL DISTANCES ARE BASED ON US SURVEY FEET AND ARE GRID DISTANCES UNLESS OTHERWISE NOTED. TO CONVERT THE GRID DISTANCES TO GROUND LEVEL DISTANCES. MULTIPLY GRID DISTANCE BY 1.0000678.



EXHIBIT " 2 "

CO. CCO	RTE. "R" LINE	REF W114
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SCALE: 1" = 50' DATE: 07JUL09

DR. NO. R44-9-3B (SHEET 2 OF 2)



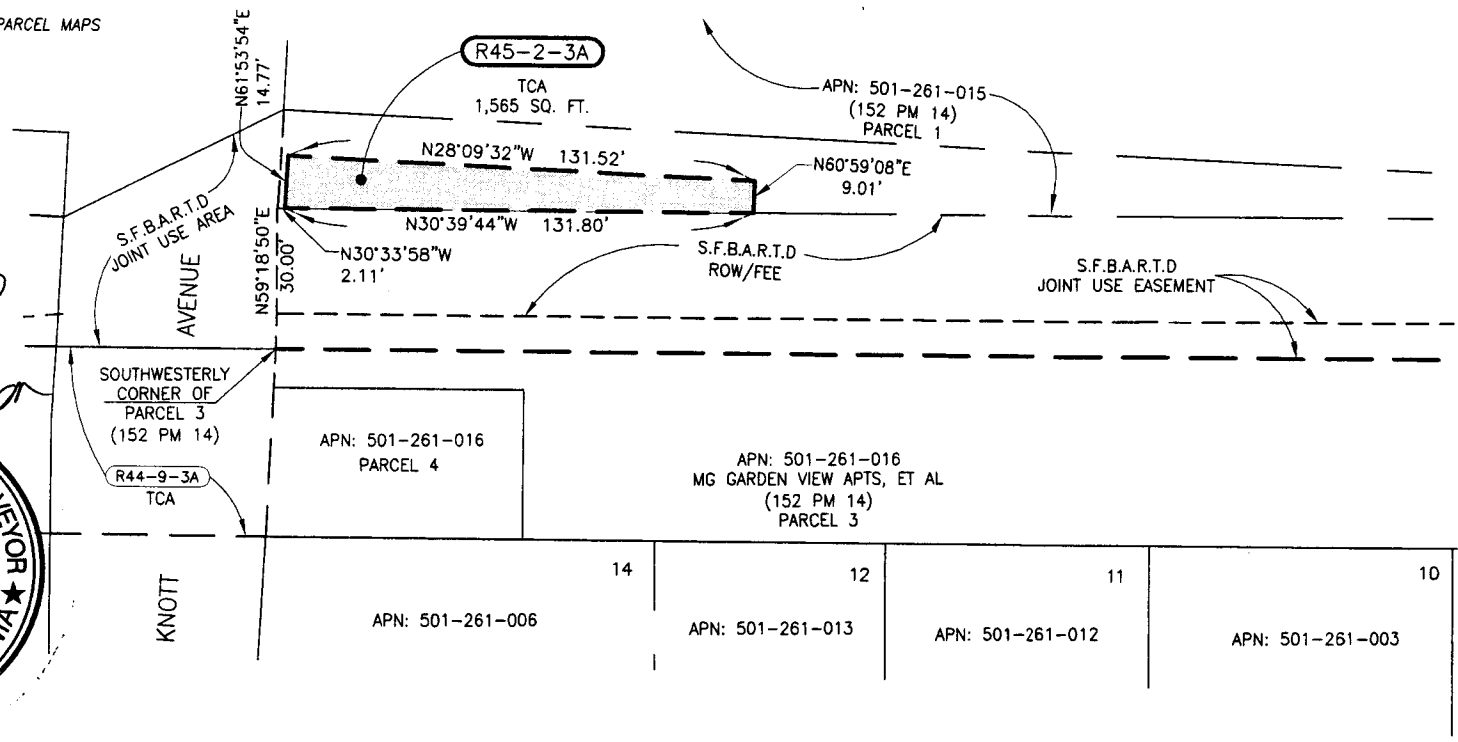
LEGEND
 PM PARCEL MAPS
 (T) TOTAL
 S.F.B.A.R.T.D. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
 S.F.B.A.R.T.D. TEMPORARY CONSTRUCTION AREA
 PROPERTY LINE
 S.F.B.A.R.T.D. EXISTING RIGHT OF WAY LINE
 S.F.B.A.R.T.D. EXISTING EASEMENT LINE

XXX S.F.B.A.R.T.D. ACQUISITION NUMBER
 TCA TEMPORARY CONSTRUCTION AREA
 PM PARCEL MAPS

CITY OF EL CERRITO

Oct. 8, 2009

 PROFESSIONAL LAND SURVEYOR
 JULIE ECKMAN
 EXP. 12/31/2009
 NO. LS 8076
 STATE OF CALIFORNIA



THIS PLAT WAS PREPARED BY ME OR UNDER MY SUPERVISION, Julie Eckman, PLS #8076

ALL BEARINGS AND DISTANCES SHOWN ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 3 CA-CORS EPOCH 2004.00. ALL DISTANCES ARE BASED ON US SURVEY FEET AND ARE GRID DISTANCES UNLESS OTHERWISE NOTED. TO CONVERT THE GRID DISTANCES TO GROUND LEVEL DISTANCES. MULTIPLY GRID DISTANCE BY 1.0000678.

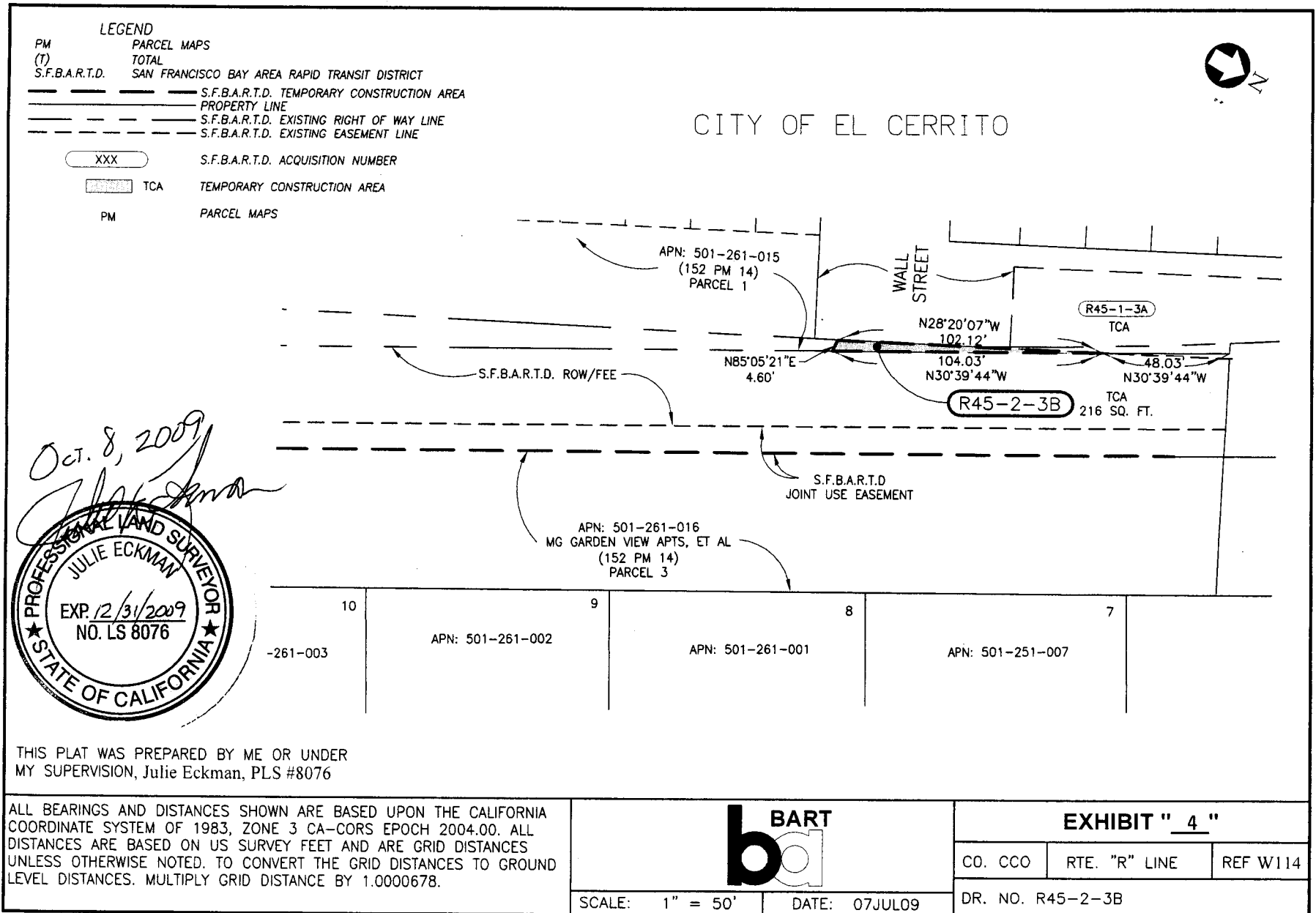
BART

 SCALE: 1" = 50' DATE: 07OCT09

EXHIBIT " 3 "

CO. CCO	RTE. "R" LINE	REF W114
DR. NO. R45-2-3A		

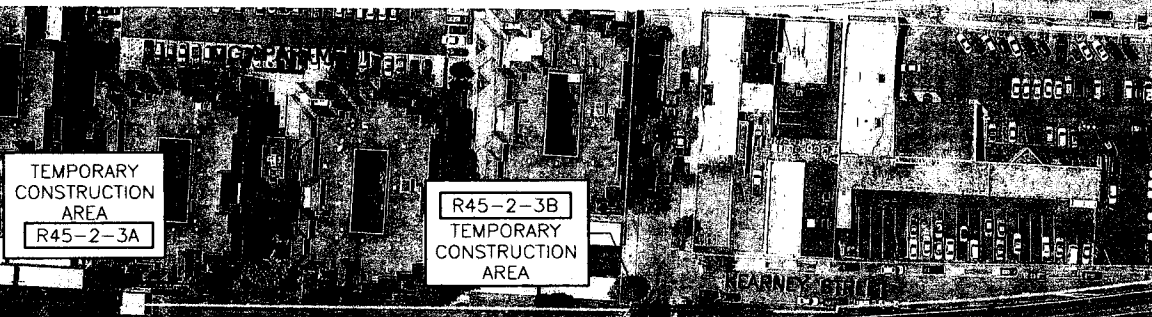
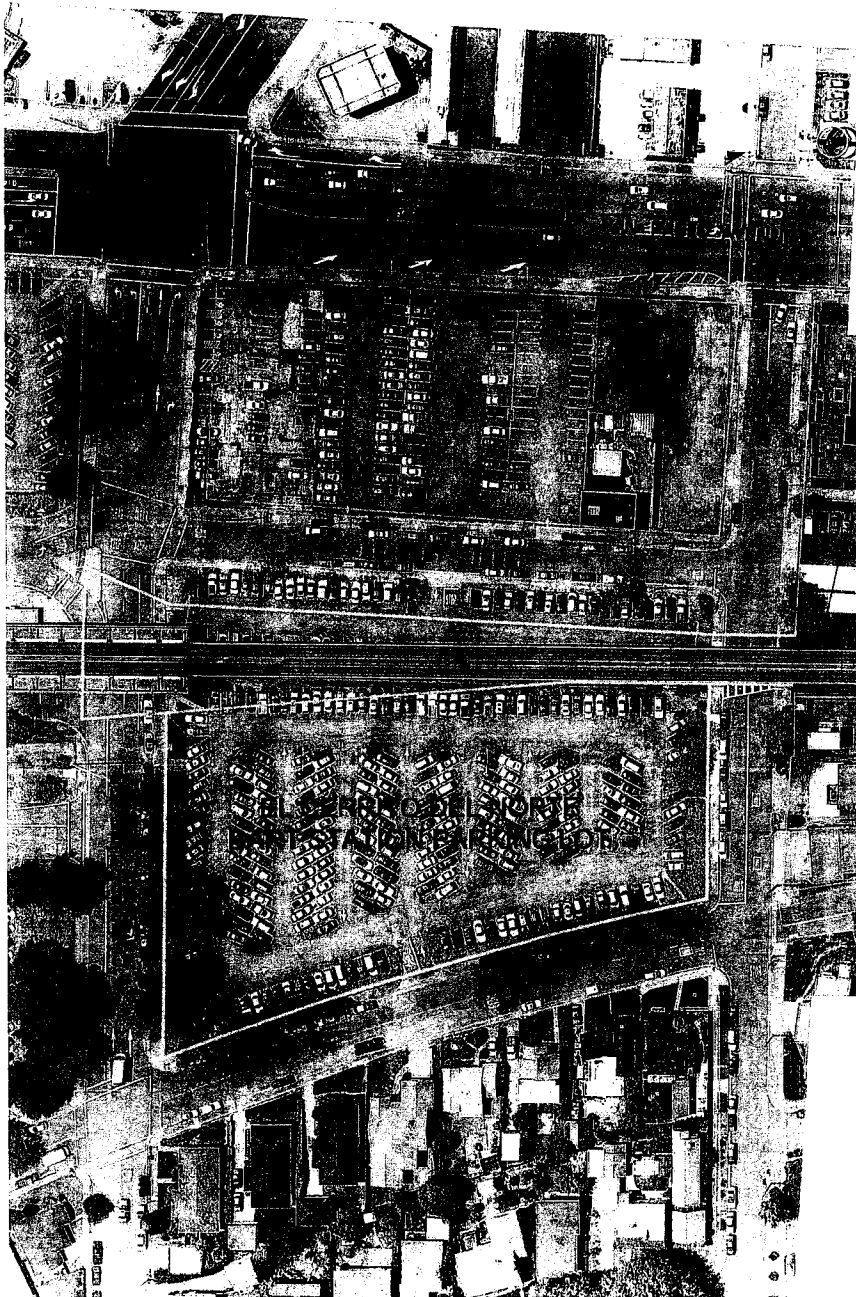
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P:\WORK\13100815\CADD\APPLIC\1\PROJECTS\PLAT LINE CONDENS\PRIVATE PARCELS\R45-2-3B.DWG #DWG 10/7/09 11:36 AM

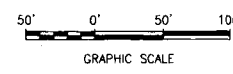
FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 12/31/09	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$226,200,000	
CM	\$61,498,000	\$79,000,000	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$307,398,237	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$76,030,000	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$90,000,000	
Fremont	\$178,224,000	\$117,800,000	
Concord	\$36,500,000	\$45,300,000	
Richmond	\$80,155,000	\$75,800,000	
San Francisco/Daly City	\$36,590,000	\$9,991,645	
Stations (18)	\$126,961,000	\$125,500,000	
Other Structures			
LMA	\$5,529,000	\$5,267,440	
Yds & Shops	\$12,436,000	\$23,300,000	
Parking Structures	\$14,437,000	\$13,500,000	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$617,997,028	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$86,237,129	
TOTAL PROGRAM COSTS	\$191,998,204	\$328,038,892	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING		\$1,253,434,157	



Parcel No.	Grantor	Areas (Square Ft.)				Remarks
		Total Ownership	R/W	Rem.	Excess	
R44-9-3B	MG GARDEN VIEW APTS, ET AL		8,037			Temporary Construction Area
R45-2-3A	MG GARDEN VIEW APTS, ET AL		1,565			Temporary Construction Area
R45-2-3B	MG GARDEN VIEW APTS, ET AL		216			Temporary Construction Area

EXHIBIT
MG APARTMENTS
CITY OF EL CERRITO



GRAPHIC SCALE

JANUARY 5, 2010



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 1/8/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Peter Y. Honikoshi Dept: Human Resources <i>[Signature]</i> Signature Date: 1/6/10	General Counsel <i>[Signature]</i> 1/6/10	Controller/Treasurer <i>[Signature]</i> 1/6/10	District Secretary []	BARC <i>[Signature]</i> 1-6-10 []

TITLE:
Amend Contract between CalPERS and the District to add 4th Level of Survivor Benefits for Safety Employees

NARRATIVE:

The Board is requested to take the second of two steps in the process to amend the District's contract with CalPERS to include the option called "4th Level of Survivor Benefits for Safety Employees," under California Government Code Section 21574. The Board approved and authorized the Board President to sign the Resolution of Intention to amend the contract at its meeting of December 10, 2009 as the first step in the contract amendment process.

The addition of this benefit was agreed to by the District and both the BART Police Officers' Association (BPOA) and the BART Police Managers' Association (BPMA) in the recently negotiated collective bargaining agreements. This benefit will be available to all safety members (sworn police), including any non-represented employees, on a self-pay basis. These employees are currently eligible for the 3rd Level of Survivor Benefits. The 4th Level offers higher payments to surviving family members of sworn BART police officers. Once the Board has approved and signed both originals of the amended contract, CalPERS will also sign both originals and return the amended contract including this added benefit so that the District can implement it in January, 2010.

This item is appearing before the Board for the second time to satisfy State law requirements. Prior to authorizing certain changes to retirement benefits or other post employment benefits, local legislative bodies, including the District, must have secure[d] the services of an actuary to provide a statement of the actuarial impact upon future annual costs of the changes, and those costs, as determined by the actuary, must be made public at a public meeting. These requirements were satisfied at the December 10, 2009 meeting of the Board. In addition, CalPERS' rules require a 20 day period between the adoption of the Resolution of Intention to Amend the CalPERS contract and the adoption of the Final Resolution amending the CalPERS contract to add this benefit. The 20 day waiting period has been fulfilled and staff now requests approval of the final resolution.

Actuarial Analysis and Cost/Savings

The CalPERS actuarial valuation discusses the costs of amending the CalPERS contract by adding the option of the 4th Level of Survivor's Benefits for safety employees. It estimates that there will be no change in cost over the next five years as compared with the current 3rd level of

Amend Contract between CalPERS and the District to add 4th Level of Survivor Benefits for Safety Employee

Survivor Benefits. CalPERS' actuaries predict that there will likely be an increase in costs after the initial five year period. However, the collective bargaining agreements provide that all costs of this benefit will be borne by the employees so the District will not incur any future liability for adopting this benefit. The actuarial valuation has been made available to the public for today's meeting.

Recommendation: To adopt the following Motion

Motion: The Board approves the attached "Resolution Authorizing an Amendment to the Contract" between the Board of Administration, California Public Employees' Retirement System and the Board of Directors, San Francisco Bay Area Rapid Transit District and authorizes the Board President to sign the resolution and contract amendment, in the form attached, on behalf of the Board.

Attachments

- CalPERS Valuation of 4th Level of Survivor Benefits for Safety Employees
- Resolution Authorizing an Amendment to the Contract
- Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisco Bay Area Rapid Transit District for Safety Members

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
ACTUARIAL AND EMPLOYER SERVICES BRANCH
CONTRACT AMENDMENT COST ANALYSIS
Valuation Basis: June 30, 2008

Employer Name: SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

Employer #: 393

Coverage Group(s): 75001, 75002

Section 21574 -The Fourth Level of 1959 Survivor Benefit Program for Local Members

The table on the following page shows the change in the liabilities and costs for adopting the Fourth Level 1959 Survivor Benefit for the coverage group(s) indicated above. The amounts are determined using the Term Insurance Method. Under this method, the accrued liability is equal to the present value of benefits to survivors currently receiving payments *and* deferred benefits payable to a spouse of a deceased member when the spouse attains age 60. The normal cost is equal to the present value of benefits for expected deaths during the upcoming year.


The assets and liabilities for public agencies in the program are pooled for each Level. When a group contracts for the Fourth Level, the cost to the agency is the unfunded liability *plus* five years of normal cost, both calculated at the Fourth Level. The five-year normal cost requirement is necessary to prevent inequitable depletion of the pool's current surplus by agencies who have not contributed to the surplus. For the Fourth Level 1959 Survivor Benefit, the CalPERS Board of Administration approved a fiscal year 2009-2010 employer normal cost rate of \$5.40 per covered active member, per month. The assets used to determine the unfunded liability are allocated in accordance with a formula based on various factors, including the coverage group's accrued liability and length of time in the current level pool, and the current level pool's total assets and liabilities. Agencies will be allowed to amortize this unfunded liability over a period of five years. If there are excess assets rather than an unfunded liability, the excess will be used to offset the normal cost payments to the extent possible. **Your agency's first-year payment (normal cost plus amortization of unfunded liability/excess assets) is \$0.** Payments for years two through five will be recalculated each year, and will vary according to the number of covered active members and the pool's revised normal cost.

At the end of five years, the group(s) become part of the pool and the employer's cost will be the pool's net cost. Currently the Fourth Level pool has a modest surplus, and the pool's net cost is \$2.10 per member, per month. Please note, however, that the pool's net cost will vary from year to year, depending on actual experience and the rate at which the existing surplus is used to pay ongoing normal costs.

Should you choose to amend and payments are due, annual payments will be in level dollar amounts and will not be expressed as a percentage of your covered payroll. **If payments are due, your agency will be set up on a five-year amortization payment schedule. The first invoice will be sent in June, and your first payment is due by July 15.**

The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law. The valuation has been prepared in accordance with generally accepted actuarial practice.

This valuation is valid until June 30, 2010.



David Du Bois, FSA, MAAA
Senior Pension Actuary, CalPERS

BART
Benefits

AUG 28 2009

Received

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
ACTUARIAL AND EMPLOYER SERVICES BRANCH
CONTRACT AMENDMENT COST ANALYSIS
Valuation Basis: June 30, 2008



Actuarial & Employer Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
Telecommunications Device for the Deaf - (916) 795-3240
FAX (916) 795-3005

CONTRACT AMENDMENT REQUEST

To initiate an amendment to contract, complete and return this form to the address above. The necessary documents will be prepared and mailed to you within 30 days of the date this request is received in our office.

Employer Name: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Employer Number: 393

Coverage Group(s) affected by the Amendment : 75001, 75002

Description of Benefit Provisions and Section(s): Section 21574, 1959 Survivor Allowance – Fourth Level – Local Member

Please initiate the amendment to this employer's contract with CalPERS:

Name and Title: (Please Print): _____

Signature: _____

Date: _____

Mailing Address: _____

Street Address: _____

City/State/Zip: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
 ACTUARIAL AND EMPLOYER SERVICES BRANCH
 CONTRACT AMENDMENT COST ANALYSIS
 Valuation Basis: June 30, 2008

Employer Name: SAN FRANCISCO BAY AREA Employer #: 393 Coverage Group(s): 75001,
 RAPID TRANSIT DISTRICT 75002

Impact of Amendment

The table below shows the impact of an amendment to the Fourth Level 1959 Survivor Benefit for the specified coverage group(s).

		Pre-Amendment	Change Due to Plan Amendment	Post-Amendment
1.	Accrued Liability	\$59,830	\$102,565	\$162,395
2.	Plan's Market Value of Assets ⁽¹⁾	\$275,947		\$275,947
3.	Pool's Actuarial Value of Assets as a percentage of Market Value of Assets ⁽²⁾	96.390%	-0.550%	95.840%
4.	Plan's Actuarial Value of Assets (2) x (3)	\$265,985	(\$1,517)	\$264,468
5.	Unfunded Liability / (Excess Assets) (1) - (4)	(\$206,155)	\$104,082	(\$102,073)
6.	Unfunded Liability / (Excess Assets) projected forward to June 30, 2010	(\$235,924)	\$143,828	(\$92,096)
7.	Pool's Funded Ratio ⁽³⁾	363.60%	-223.70%	139.90%
8.	Employer Normal Cost, Per Member, Per Month	\$ 0.70	\$ 4.70	\$ 5.40
9.	Number of Members	189		189
10	First-Year Employer Normal Cost (8) x (9) x 12	N/A	N/A	\$12,247
11	Five -Year Amortization of Unfunded Liability / (Excess Assets)	N/A	N/A	(\$21,266)
12	First-Year Total Employer Cost (10) + (11), not to be less than zero	N/A	N/A	\$0
13	Current Employee Monthly Cost	\$ 2.00	\$ 0.00	\$ 2.00

(1) Assets are allocated as a share of the pool's assets.

(2) This is the AVA/MVA percentage for the entire pool as of the most recent valuation date.

(3) The Funded Ratio, total actuarial value of assets as a percent of total liability, for the entire pool as of the most recent valuation date.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

**RESOLUTION
AUTHORIZING AN AMENDMENT TO THE CONTRACT**

No. _____

WHEREAS, the Board of Administration of the California Public Employees' Retirement System and the Board of Directors of the San Francisco Bay Area Rapid Transit District entered into a contract effective on December 1, 1958 providing for the participation of said public agency in the California Public Employees' Retirement System; and

WHEREAS, it is now desirable to take advantage of certain benefits provided under said Retirement System and not included in said contract;

NOW, THEREFORE, BE IT RESOLVED, that said governing body authorized, and it does hereby authorize, an amendment to said contract, a copy of said amendment attached hereto and by such reference made a part hereof as though herein set out in full; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said amendment for and on behalf of said public agency.

Adopted this _____ day of _____, _____.

Presiding Officer

Attest:

Clerk/Secretary



California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
San Francisco Bay Area Rapid Transit District

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective December 1, 1958, and witnessed November 14, 1958, and as amended effective January 1, 1961, August 26, 1969, January 31, 1972, July 1, 1976, October 1, 1976, July 1, 1978, January 1, 1981, December 11, 1989, August 31, 1992, January 13, 1995, April 26, 1996, July 16, 1998, September 13, 2002, November 22, 2002, July 1, 2004 and October 19, 2009 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective October 19, 2009, and hereby replaced by the following paragraphs numbered 1 through 13 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after December 1, 1958 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
- 4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Police Officers (herein referred to as local safety members);
 - b. Employees other than local safety members (herein referred to as local miscellaneous members).
- 5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **FIRE FIGHTERS.**
- 6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1960, the effective date of Social Security coverage, and prior to December 31, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
- 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
- 8. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 21024 (Military Service Credit as Public Service).

- c. Section 21027 (Military Service Credit for Retired Persons).
 - d. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local safety members.
 - e. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local miscellaneous members in the following group:
 - BART Police Officers' Association
 - BART Police Management Association
 - f. Section 20965 (Credit for Unused Sick Leave).
 - g. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
10. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
11. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

- c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
- 12. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 13. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Oberlin</i>		GENERAL MANAGER ACTION REQ'D: Place on the January 14, 2009 Administration Committee Agenda		
DATE: c 1/8/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept: Operating Budgets & Analysis	General Counsel <i>MB</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>Carl Mue</i> 1-8-10 []
Signature/Date: <i>R.Umbreit 1/8/10</i>				

TITLE:

Fiscal Year 2010 Budget Revision

NARRATIVE:

PURPOSE: To amend the Fiscal Year 2010 (FY10) Annual Budget

DISCUSSION:

Summary

Approval by the Board of Directors is requested for amendments to the FY10 Interim Operating Budget. The revision addresses declines in District operating sources due to the recession and implements budget savings resulting from the recent labor contracts. The revision proposes budget reductions and one-time funding to produce a balanced budget. The revision is summarized below and Attachments 1 and 2 provide greater detail on the line items.

The \$642 million (M) FY10 Interim Annual Operating Budget was adopted on June 11, 2009 with a deficit of \$21.7M. The four-year labor contracts approved after the budget was adopted produced FY10 budget savings of \$11.3M from lower medical and other benefit costs and work rule changes, including the elimination of 36 positions. However, these savings are more than offset by projected declines in revenue, primarily passenger revenue and sales tax, which together are lowered by \$16.2M in this revision. There are other changes, both positive and negative (such as higher advertising revenue, lower parking and interest revenue, and lower than budgeted costs for the 1/1/10 medical rate increase), which together result in a net lowering of the deficit of \$1.4M. These factors lead to a revised FY10 deficit of \$25.2M. Next fiscal year is also projected to have a deficit, so it is clear that ongoing reductions need to be implemented.

To address the projected deficit, staff proposes budget cuts of \$6.0M (\$3.1M in labor and \$2.9M in non-labor) and the use of one-time ARRA grants and federal flexible funds with a net impact of \$19.2M (\$17.8M in grant funds and a reduction of matching funds of \$1.4M in capital allocations). The value of both the contract savings and the proposed budget cuts will increase in FY11 because a full twelve months of labor and benefit savings will be realized.

Each departmental budget was reviewed and the proposed reductions are designed to have as little impact on current operations as possible, although we are proposing slight reductions in elevator/escalator and automated fare collection goals, and there may be a modest impact on system cleanliness. Because of the focus on maintaining service, there is a larger percentage reduction to administrative departments than line operating departments. The proposed cuts are summarized in Attachment 2.

The proposed reductions include the elimination of 69 operating positions and the conversion of

5 positions to capital funding, in addition to the elimination of 100 positions in the Interim Budget and 36 positions as a result of the work rule changes. The total is thus 210 fewer operating positions for FY10 as compared to FY09.

The second measure to address the deficit is use of one-time ARRA stimulus funds and federal "flexible" grants, which are described more fully in Attachment 2. While use of one-time funding is generally not an advisable long-term solution to address an ongoing deficit, we recommend their use this year to minimize impacts on our customers and employees. The District has eliminated a large number of positions in the past seven years to address the prior "dot-com" recession and our staffing is now well below the pre-SFO extension level. Maintaining service with substantially less staff will be difficult, and will require carefully managed cuts in order to focus available resources where they are most needed. Use of the one-time funds helps us manage this process, in order to achieve as much of the staffing reduction through attrition as possible, and, by placing impacted employees in vacant positions not slated for elimination. Also, the use of one-time funds gives the District additional time to better gauge the effect of the recession on revenue sources, and the extent of any ongoing "structural" deficit from the vantage point of the end of this fiscal year.

While we are able to mitigate the FY10 deficit and avoid immediate layoffs with the use of one-time funds, it is not anticipated that these funds will be available next year to the same degree. In addition to the proposed reduction, we will continue the selective hiring freeze to help control hiring and expenses. These actions will help address the FY11 projected deficit, but further reductions, including additional staff reductions, will also be needed, particularly if the long-term revenue outlook worsens.

FISCAL IMPACT:

The proposed revision would increase net operating sources and decrease operating expenses to balance the projected deficit and produce a balanced budget for FY10. See Attachment 1 for line item detail.

ALTERNATIVES:

1. Do not revise the FY10 budget.
2. Direct staff to develop other alternatives and return to the Board of Directors.

Failure to implement solutions as soon as possible will result in a larger deficit at fiscal year-end; therefore we recommend approval of the budget revision.

MOTION:

Adoption of the attached resolution.

ATTACHMENT 1
Fiscal Year 2010 District Operating Budget
Sources and Uses Detail

SOURCES	FY10	Increase /	FY10
	ADOPTED	Decrease	REVISED
Rail Passenger Revenue	\$ 334,581,624	\$ (5,785,076)	\$ 328,796,548
ADA Passenger Revenue	667,375	-	667,375
Parking Revenue	14,615,266	(1,462,156)	13,153,110
Other Operating Revenue	17,729,227	5,653,418	23,382,645
Sub-Total Operating Revenue	367,593,492	(1,593,814)	365,999,678
Sales Tax Proceeds	172,901,069	(10,401,069)	162,500,000
Property Tax Proceeds	29,490,048	-	29,490,048
Measure B and Measure J Assistance	1,565,245	70,000	1,635,245
American Recovery & Reinvestment Act Grants	2,800,000	12,200,000	15,000,000
Federal 5307 Preventive Maintenance	1,939,928	2,582,056	4,521,984
ADA Flexible Set-Aside	-	3,007,295	3,007,295
CalTrans Bay Bridge Closure Service Reimbursement	707,861	(660,304)	47,557
MTC Bay Bridge Closure Service Reimbursement	-	125,913	125,913
Millbrae Use, Operating & Maint. Agreement	742,630	-	742,630
San Mateo Co. Financial Assistance - SFO Operations	1,987,084	431,830	2,418,914
Allocation from W. Dublin Project for Debt Service	3,130,964	-	3,130,964
Allocation from Access Fund	25,000	-	25,000
Federal 5307 Grant - Rail Car MTC Fund Swap	22,681,000	-	22,681,000
Federal 5307 Grant for Preventive Maintenance - Hillcrest Park & Ride	-	2,200,000	2,200,000
ARRA Grant for Preventive Maintenance - MTC Feeder Bus Fund Swap	-	5,856,326	5,856,326
Sub-Total Financial Assistance & Allocations	237,970,829	15,412,047	253,382,876
TOTAL SOURCES	605,564,321	13,818,233	619,382,554
USES			
Labor	368,352,198	(13,928,883)	354,423,315
OPEB Unfunded Liability	15,086,143	-	15,086,143
ADA Paratransit	12,394,152	(289,000)	12,105,152
Purchased Transportation	5,356,903	5,755,126	11,112,029
Power	36,132,117	(833,622)	35,298,495
Other Non-Labor	88,089,249	(3,237,349)	84,851,900
Extraordinary Expense - Rail Car Fund Swap	22,681,000	-	22,681,000
Sub-Total Operating Expense	548,091,762	(12,533,728)	535,558,034
Bond Debt Service	59,329,374	-	59,329,374
MTC Loan Debt Service	9,110,000	-	9,110,000
Other Debt Service	-	48,756	48,756
Allocation - Capital Rehabilitation	25,822,119	(3,374,366)	22,447,753
Allocation - SFO Reserve	-	1,977,028	1,977,028
Allocations - Other	-	741,832	741,832
Allocation - Hillcrest Park & Ride Lot	-	2,200,000	2,200,000
Allocation - City of Hercules Land Swap	-	3,055,920	3,055,920
Sub-Total Allocations	94,261,493	4,649,170	98,910,663
TOTAL USES	642,353,255	(7,884,558)	634,468,697
OPEB Unfunded Liability	(15,086,143)	-	(15,086,143)
NET RESULT	\$ (21,702,791)	\$ 21,702,791	\$ -
Operating Ratio	70.0%		71.4%
Rail Farebox Recovery Ratio	65.9%		67.1%
Farebox Recovery Ratio	63.8%		64.2%

Attachment 2: FY10 Budget Revision Detail

OPERATING SOURCES

Ridership and Passenger Revenue

The FY10 Interim Budget projected a ridership loss of -3% compared to FY09. The proposed budget revision increases the estimated annual loss to -6%, with passenger revenue reduced \$5.8M from the Interim Budget. So far in FY10 core system ridership dropped -12% in July, -11% in August and -7% in September, before the rate of decline slowed in October (-3%) and November (-6%), but fell off again in December (-10%). September ridership was helped by the Labor Day Bay Bridge closure, while October was heavily impacted by the emergency Bay Bridge closure. The emergency closure brought in enough trips in a short period to reduce the loss for the month to -3%, when it had been down about -7% prior to the closure.

Assuming December's results are an aberration, trends indicate that ridership loss bottomed out last summer. However, the year is still projected to finish well below the Interim Budget with an average loss of about -5% per month projected for the rest of the year. This leads to a revised FY10 ridership of 334,469 average weekday and 100.8M total annual and \$5.8M less passenger revenue versus the Interim Budget of 345,639 average weekday and 103.2M total annual trips.

The revision includes adjustments for Caltrans and MTC reimbursements for the Labor Day and emergency Bay Bridge closures, budgeted in the financial assistance category. Labor Day ridership exceeded budget to the extent that the reimbursement from Caltrans, budgeted at \$0.7M, will actually be less than \$0.1M. The unbudgeted emergency closure includes the addition of \$1.2M expense, \$1.1M passenger revenue and expected reimbursement from MTC of \$0.1M.

Finally, also associated with the ridership decrease is increasing the assistance from the San Mateo County Financial Assistance – SFO Operations Reserve from \$2.0M to \$2.4M. The lowered ridership and passenger revenue will be offset by increasing the amount brought in from the reserve to cover operating costs.

Sales Tax

Sales tax has declined at record levels over the past calendar year (last half of FY09 and the first half of FY10), with a \$32M loss in receipts compared to the same time period a year prior. The last three quarters have seen the largest percentage declines in the District's history, dropping -19.6%, -19.1% and -14.2% from the same quarter the year before. For the second half of FY10 we expect the rate of decline to slow, both because there is some moderating in economic indicators (housing, job loss, and initial results for holiday retail sales) and because the recession hit so strongly in the second half of FY09 that the rest of FY10 is not expected to decline at the same double-digit rates. The rate of decline should slow when compared to the lower base of the second half of last year. We are projecting -7% and -5% declines in the last two quarters of this year, with a -12% total drop for FY10. The new projection is a decrease of \$9.2M from the Interim Budget and a \$20.6M decline from FY09.

Other Operating Revenue

Parking revenues are estimated to be \$1.5M lower than budgeted, offset by a net increase of \$5.7M in other non-fare revenue. The parking revenue budget is lowered from \$14.6M to \$13.1M, with the most significant reductions in reserved core system parking and the Daly City and West Bay daily paid parking programs, generally because of the economy and lower ridership. Interest revenue has continued to decline, primarily due to low rates, resulting in a budget reduction of \$0.6M. The recently

authorized advertising contract amendment provides an additional \$2.3M in gross revenue, less Muni's share of \$0.4M per the joint station use agreement. A \$1.3M deposit is also part of the authorized amendment and will help secure future-year revenues, although it will not be recognized in FY10 as revenue. The exchange of an existing BART Park-and-Ride parcel for a comparable parcel owned by the City of Hercules Redevelopment Agency provided a one time funding for FY10 equivalent to the amount of cash received from this transaction. The District recognized a gain of \$4M from the property swap; \$950,000 in cash which provided the one time funds for FY10 and the remainder in increased property value of \$3M which has to be allocated back to capital. The net impact of this transaction is the \$950,000 received in cash. Other non-fare revenue adjustments include an increase of \$0.8M to recognize joint development revenue (which does not affect the net result as it is offset by matching allocations) and a \$0.4M decrease to fiberoptic revenue, primarily because Phase II of the license agreement with WiFi Rail, Inc. will not be completed in FY10.

Other Financial Assistance & Allocations

One-Time and Flexible Federal Funding

The revision proposes two types of grant funding to help balance the FY10 operating budget. American Recovery & Reinvestment Act (ARRA) grants are Federal stimulus grants available on a one-time basis for FY10 only. The District received \$10M in the Preventive Maintenance category of these grants, and \$2.8M was used in the Interim Budget to fund parking equipment needed for the expansion of the paid parking program. The budget revision proposes to use the remaining \$7.2M to fund operating costs. In addition, there are \$5.0M in ARRA grant funds left over from savings in the capital 480V switch gear project, which can be re-allocated to the Preventive Maintenance category, thus allowing the District to use this money for operating purposes. In addition to the stimulus grants, the District is scheduled to receive two types of federal "flexible" funding. These grants are typically used in the capital budget, but are proposed to be used in operating for FY10. First, there is a FY10 grant of \$5.2M in Federal 5307 Preventive Maintenance Grant funds, also referred to as the "10% Flexible Set-Aside" which has been used the past three years to fund the Strategic Maintenance Program (SMP) in Rolling Stock and Shops, but was budgeted to be used in capital for FY10. The revision proposes to use \$2.6M of this grant in the operating budget, which also frees up \$0.6M in matching funds that were part of the allocation to capital rehabilitation. Another "flexible" grant is the ADA Set-Aside of \$3.0M, which typically funds capital access projects, but is proposed to help fund the ADA Paratransit expense of \$12.1M for FY10, which also frees up \$0.8M in matching funds that were part of the allocation to capital rehabilitation.

These grant funds would otherwise be used in the capital program. The impact of using the funds instead in the operating budgets means that funding will not go to the projects which were under consideration for use of these grants. Some of the candidates for funding included a new wheel truing machine, replacement of shop truck lifts, capacity planning, elevator ticket processing, extend the paid area at Bay Fair and South Hayward to incorporate existing elevators, beginning a Strategic Maintenance Program similar to Rolling Stock & Shops in Maintenance & Engineering, Infrastructure Study Phase 2, Operations Facilities Study, parking revenue equipment and a second elevator at both Civic Center and Berkeley stations. Although the capital program has a significant shortfall, the severity of the collapse of the economy necessitates that we use these funds in the operating budget for FY10.

Other Financial Assistance

There are several operating source increases that do not affect the FY10 net result, as they are generally processing transactions or "swaps" of grant funds with matching allocations of the funds for various purposes. One such transaction that does not affect the net result is \$5.9M in federal grant

funding, which is part of MTC's FY10 funding plan to partially make up lost State Transit Assistance funds for the Feeder Bus operators. BART is assisting MTC's process by receiving the preventive maintenance grant and then returning the funds to MTC for allocation to the bus operators. This is a partial, one-time solution for FY10 and FY11 is still unresolved. Similar "fund swap" grants and allocations include \$2.2M in FTA 5307 Funds for preventive maintenance, which MTC will reprogram to the District from the Eastern Contra Costa Transit Authority (otherwise known as Tri Delta Transit) for the Hillcrest Park & Ride improvements, and the \$22.6M Rail Car Fund Swap (already in the FY10 Interim Budget) that is part of MTC's funding for the rail car capital program.

OPERATING USES

Operating Expense

Labor Contract Savings

The labor contracts provide \$11.3M in budget savings for FY10, consisting of approximately \$7.4M in savings from the medical insurance premium cap, elimination of a portion of the Money Purchase Pension Plan, reduction of vacation days and/or floating holidays, and other changes to employee benefits in the new contracts. In addition, the budget revision incorporates approximately \$3.9M in savings related to work rules, including anticipated reductions of 36 operating positions and reductions in overtime. The position reductions will be realized through attrition now that the District has the flexibility to realize savings by implementing broadened classifications which allow the District to perform work more efficiently, by changing requirements for scheduling and staffing, and other efficiencies. The projected FY10 reductions occur in the Rolling Stock and Shops (14 positions), Transportation (7), and Maintenance & Engineering (15) departments. The work rule savings will increase in future fiscal years for several reasons. The District will achieve the position reductions through attrition, which will take time to be fully realized. In addition, some of the changes entail challenging implementation strategies, the details of which are still being discussed with the District's unions. In some other cases staffing scheduling can only be modified in the future to achieve anticipated savings. The savings will grow in future years as attrition occurs and the implementation details are finalized. The achievements from the labor contracts will pay dividends in operational efficiencies down the road in addition to the more immediate savings available through reduced employee benefit costs.

Other Expense Adjustments

In addition to the labor contract savings there are a small number of other operating expense adjustments included in the revision. The unbudgeted service that was run for the emergency Bay Bridge closure adds \$1.2M in labor, power and other non-labor expenses to the budget, covered by the additional passenger revenue and anticipated payment from MTC. PERS medical rates for the second half of the year are lower than originally budgeted and produce \$0.9M in savings. Other expense reductions include \$1M for electric power due to a reduction in PG&E public purpose program rates, \$0.3M in projected ADA Paratransit savings and savings of \$0.1M in Other Purchased Transportation. In addition, Purchased Transportation is increased by the \$5.9M for the disbursement of the federal grant funds back to MTC to fund the Feeder Bus program for FY10 as discussed previously.

Proposed Expense Reductions

The proposed reductions of 69 positions and 5 conversions to capital, totaling \$3.1M in labor and benefits and \$2.9M in non-labor, are spread across all departments in the District. Most position reductions occur in the largest departments, with multiple reductions in Treasury (7 positions), Controllershship (3), Human Resources (4), Procurement (4), Information Technology (4), Maintenance & Engineering (12.5), Rolling Stock and Shops (13), and Transportation (14). The other 12.5 position

reductions are spread across smaller departments with no more than one position each. There are no proposed reductions in the Police Department. The cuts in Operations reflect the established priorities (from highest to lowest) of Safety, Reliability, Customer Convenience and Cleanliness. There will be some impact, probably noticeable to some customers, on station and car cleanliness due to reductions in staffing in these areas. Under the new Passenger Environment Survey system, the reduction in cleaning performance cannot be quantified in terms of the old rating system. Rather, the reduced staffing levels will impact the baseline being established this year under the new, customer survey-based rating system. Escalator/Elevator performance has historically been close to goal so these proposed staffing cuts warrant an adjustment to the goal. The goal for Elevator Availability will be lowered from 98% to 95% and the goal for Escalator Availability will go from 97% to 94%. In the case of AFC, the cumulative impact of previous relatively small cuts to staffing levels plus this year's additional proposed cuts will also have an impact. The Ticket Vendor Availability goal will be reduced from 93% to 90.5% and Faregate Availability goal will be reduced from 97% to 94.5%. Historically the two AFC goals have been exceeded; a situation which we will endeavor to continue in spite of these staffing adjustments.

Overall, because of the focus on maintaining service, there is a larger percentage reduction in administrative and support departments than in Operations. The Operations Executive Office makes up 76% of the District's total positions, but the proposed reduction of 40.5 positions is only 55% of the total of 74. Comparatively, positions in administrative and support departments make up 24% of the District total but the 33.5 proposed reductions constitute 45% of the proposed reduction. This is also illustrated by the composition by bargaining unit, with AFSCME and Non-Rep positions making up 16% of total positions, but a higher percentage (27%) of the proposed reduction. Position reductions in Operations include 7 car cleaning and 14 system service workers, and a variety of other positions including AFC technicians, power mechanical workers, track equipment operators, section managers, and foreworkers. The 33.5 administrative and support positions consist of a wide variety, with generally a small number of reductions in each type, including analysts, clerks, technicians, foreworkers, buyers, and others.

Of the 69 positions proposed to be eliminated, at least 30 are currently vacant. Because the District wishes to avoid or minimize layoffs, we plan to aggressively seek to place individuals in impacted positions into other vacant positions. Of the roughly 40 filled positions to be affected, we have identified roughly 10-15 likely placement opportunities, leaving 25-30 additional placements needed before the close of the fiscal year. We are confident that attrition will provide solutions to many of these situations, and are hopeful that involuntary terminations can be avoided. Layoff notices will have an effective date of June 30, 2010, which gives employees time to make contingency plans, and for the District to avoid layoffs to the greatest extent practicable.

The following table shows the District total operating positions by bargaining unit, and includes the position reductions incorporated into the FY10 Interim Budget, the currently anticipated FY10 Work Rule savings and the proposed additional FY10 reductions.

FY10 Operating Position Reductions by Bargaining Unit

	ATU	SEIU	BPOA	BPMA	AFSCME	NREP	Cost Alloc. Plan*	TOTAL
FY10 Interim	819.0	1,415.0	237.0	48.0	192.1	257.0	(48.0)	2,920.1
% of Total	28%	48%	8%	2%	7%	9%	-2%	100%
Work Rule Savings	(7.0)	(29.0)						(36.0)
% of Total	19%	81%						100%
Proposed Reduction		(54.0)			(10.5)	(9.5)		(74.0)
% of Total		73%			14%	13%		100%
FY10 Total - Proposed	812.0	1,332.0	237.0	48.0	181.6	247.5	(48.0)	2,810.1
% of Total	29%	47%	8%	2%	6%	9%	-2%	100%

* Cost Allocation Plan: Capital "overhead" funds 48 operating positions

The proposed non-labor budget reduction of \$2.9M is also spread across nearly all District departments. The reductions occur in the "Other Non-Labor" category on the income statement, which totaled \$88.1M in the Interim Budget. The largest reductions occur in the departments of Marketing (\$0.3M), Information Technology (\$0.2M), Operating Budgets (\$0.2M), Maintenance & Engineering (\$0.7M) and Rolling Stock & Shops (\$0.8M). The other \$0.7M is spread in smaller amounts amongst the remaining departments. The reduction includes a wide variety of line-items, including \$0.5M in professional fees, \$0.2M in outside energy counsel, \$0.4M in material usage, \$1.1M in maintenance & repair contracts, and \$0.7M in other expense categories. Like the position reductions, the non-labor reductions have been designed to maximize budget savings but avoid severe impacts. However, in recent years we have not increased the department non-labor budgets for inflation, and combined with prior-year reductions, this makes the District non-labor budget very tight. In addition to the \$2.8M in reductions, Other Non-Labor is also reduced by \$0.5M; however that is the result of transferring \$0.5M in insurance to labor and benefits that was previously budgeted in non-labor.

Debt Service & Allocations

The revision includes a \$2.0M reduction of the planned capital allocation and offsetting allocation to the SFO reserve to help SamTrans transfer Prop 1B funds to BART as part of the SFO operating agreement. The capital program will receive the 1B funds in place of the planned allocation from the operating budget, and there is no impact to capital funding. In addition, as discussed in the section on grant funding, there is a \$1.4M reduction in the capital allocation as a result of lower matching funds needed because of the proposal to use the 10% Flexible Set-Aside and the ADA Set-Aside grants in the operating budget.

There are several items in the Other Allocation category that also do not affect the net result as they are covered by matching revenue, grant funding or are non-cash revenues. First is \$0.7M associated with the joint development for West Dublin, Pleasant Hill and Westfield (Powell St.), and also included in this category is an addition of less than \$0.1M to Other Debt Service for Fruitvale. Others are allocations of \$2.2M for the Hillcrest Park and Ride project and a \$3.1M allocation associated with the Hercules land swap.

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

In the matter of amending Resolution No. 5084 regarding Fiscal Year
2010 Annual Budget

Resolution No. _____

RESOLVED, that Resolution No. 5084 is amended by changing the following line items in Exhibit A thereof:

	<u>Current Amount</u>	<u>Increase/ (Decrease) In This Resolution</u>	<u>Amended Amount</u>
<u>Fund Source Line Item:</u>			
Operating Revenue	\$ 367,593,492	\$ (1,593,814)	\$ 365,999,678
1/2 ¢ Sales Tax	\$ 172,901,069	\$ (10,401,069)	\$ 162,500,000
Measures B & J Paratransit Assistance	\$ 1,565,245	\$ 70,000	\$ 1,635,245
San Mateo Co. Financial Assistance - SFO Operations	\$ 1,987,084	\$ 431,830	\$ 2,418,914
Federal 5307/5308 Preventive Maintenance Grants	\$ 24,620,928	\$ 2,582,056	\$ 27,202,984
ADA Flexible Set-Aside	\$ -	\$ 3,007,295	\$ 3,007,295
American Recovery and Reinvestment Act of 2009 Transit Grant	\$ 2,800,000	\$ 12,200,000	\$ 15,000,000
CalTrans Bay Bridge Closure Service Reimbursement	\$ 707,861	\$ (660,304)	\$ 47,557
MTC Bay Bridge Closure Service Reimbursement	\$ -	\$ 125,913	\$ 125,913
Federal 5307 Grant for Preventive Maintenance - Hillcrest Park & Ride	\$ -	\$ 2,200,000	\$ 2,200,000
ARRA Grant for Preventive Maintenance - Feeder Bus Fund Swap	\$ -	\$ 5,856,326	\$ 5,856,326
<u>Fund Use Line Item:</u>			
Net Labor Expense	\$ 383,438,341	\$ (13,928,883)	\$ 369,509,458
Non Labor Expense	\$ 141,972,421	\$ 1,395,155	\$ 143,367,576
Allocations to Capital - Rehabilitation	\$ 25,822,119	\$ (3,374,366)	\$ 22,447,753
Allocation to SFO Operating Reserve	\$ -	\$ 1,977,028	\$ 1,977,028
Other Capital Allocations	\$ -	\$ 741,832	\$ 741,832
Other Debt Service	\$ -	\$ 48,756	\$ 48,756
Allocation - Hillcrest Park & Ride Lot	\$ -	\$ 2,200,000	\$ 2,200,000
Allocation - City of Hercules Land Swap	\$ -	\$ 3,055,920	\$ 3,055,920



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia de la Cruz</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors	
DATE: 1/8/10		BOARD INITIATED ITEM: No	
Originator/Prepared by: Thomas Horton Dept: TSD <i>Thomas Horton</i> Signature/Date: 12/31/09	General Counsel <i>Andrea Rawns</i> Signature/Date: 12/31/09	Controller/Treasurer <i>[Signature]</i> Signature/Date: 1/4/10	District Secretary BART <i>Paul O'Brien</i> Signature/Date: 1/4/10
Status: Approved		Date Created: 12/16/2009	

TITLE: Award of Contract 15PA-110, Earthquake Safety Program Aerial Structures - M Line

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No. 15PA-110, Earthquake Safety Program Aerial Structures - M Line to R & L Brosamer, Inc.

DISCUSSION:

The BART Earthquake Safety Program determined that the aerial structures along the M Line in San Francisco and Daly City require seismic strengthening and produced contract documents for the work. The work consists of additional reinforced concrete and piles for pier foundations; additional reinforced concrete for pier caps; fiber encasement of pier columns; and associated excavation, utilities and structural work. Advance Notice to Bidders was mailed on October 22, 2009 to 71 firms. The Contract was advertised on October 22, 2009 and Contract Books were sent to 21 plan rooms. A total of 49 firms purchased copies of the Bid Documents. A Pre-Bid Meeting and Site Tour were held on November 17, 2009 with 38 potential Bidders attending. Twelve Bids were received. Bids were opened publicly on December 15, 2009.

After review by the District staff, two of the Bids were determined to have arithmetical errors in Bid Item totals and in the Total Bid Price. Article 15.B, Evaluation, of the Instructions to Bidders in the Contract clearly states that item totals are provided by the Bidder for the convenience of the District, and that the District will independently calculate such prices based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations govern. Tabulation of the Bids, with the arithmetical corrections and including the Engineer's Estimate, is as follows:

1. R & L Brosamer, Inc., Walnut Creek, CA	\$ 8,688,387.00
2. William P. Young Construction Inc., San Leandro, CA	\$10,513,084.00
3. Joseph J. Albanese, Inc., Santa Clara, CA	\$10,831,665.00
4. Disney Construction, Inc., Pacifica, CA	\$11,294,289.00
5. S.J. Amoroso Construction Co., Inc., Redwood Shores, CA	\$11,417,000.00
6. Proven Management, Inc., San Francisco, CA	\$12,582,938.50

7. California Engineering Contractors, Inc., Pleasanton, CA	\$12,957,569.00
8. Diablo Contractors, Inc., San Ramon, CA	\$12,991,239.00
9. Condon Johnson & Associates, Inc., Oakland, CA	\$13,290,238.00
10. Golden State Bridge, Inc., Martinez, CA	\$13,996,263.00
11. Cal Pacific Construction Inc., Pacifica, CA	\$14,963,972.00
12. Roebelen Contracting, Inc., El Dorado Hills, CA	\$15,879,197.00
Engineer's Estimate	\$19,800,000.00

The apparent low Bid submitted by R & L Brosamer, Inc. (also the low Bidder before the arithmetical corrections) has been determined to be fair and reasonable and deemed to be responsive to the solicitation. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

This contract was advertised pursuant to the California Department of Transportation (Caltrans) DBE Program requirements for Federal Highway Administration funded contracts. Under the Caltrans DBE Program requirements, only Underutilized DBEs (UDBE) can participate under the race and gender conscious DBE goal. The Office of Civil Rights reviewed the scope of work for this contract and determined that there were subcontracting opportunities; therefore, a UDBE participation goal of 4% was set for this contract. R & L Brosamer, Inc. committed to subcontracting 13% to UDBEs.

FISCAL IMPACT:

Funding for \$8,688,387 for award of Contract No. 15PA-110 is included in the total project budget for the FMS #15PA, ESP Aerial Structure to Daly City. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$8,688,387 will be funded as follows:

Federal	\$1,699,449
State	\$ 219,816
Local	<u>\$6,769,122</u>
Total	<u>\$8,688,387</u>

As of month ending November 29, 2009 the following funding is available for commitment from these sources:

Fund Grant	Funds Available	Committed	Pending Commitments	Funds Allocated to this EDD	Funds Remaining
49S-Federal	\$8,668,858	\$ 0	\$ 0	\$ 1,699,449	\$6,969,409
55U-State	\$1,123,142	\$ 0	\$ 0	\$ 219,816	\$ 903,326

01F-Local	\$30,950,000	\$ 0	\$ 10,000	\$6,769,122	\$24,170,878
Total	\$40,742,000	\$ 0	\$ 10,000	<u>\$8,688,387</u>	\$32,043,613

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The alternative is to decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic retrofit of the M Line aerial structures.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15PA-110, Earthquake Safety Program, Aerial Structures - M Line to R & L Brosamer, Inc. for the Bid amount of \$8,688,387.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and the Federal Highway Administration's requirements related to protest procedures.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 12/31/09	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$226,200,000	
CM	\$61,498,000	\$79,000,000	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$307,398,237	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$76,030,000	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$90,000,000	
Fremont	\$178,224,000	\$117,800,000	
Concord	\$36,500,000	\$45,300,000	
Richmond	\$80,155,000	\$75,800,000	
San Francisco/Daly City	\$36,590,000	\$9,991,645	
Stations (18)	\$126,961,000	\$125,500,000	
Other Structures			
LMA	\$5,529,000	\$5,267,440	
Yds & Shops	\$12,436,000	\$23,300,000	
Parking Structures	\$14,437,000	\$13,500,000	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$617,997,028	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$86,237,129	
TOTAL PROGRAM COSTS	\$191,998,204	\$328,038,892	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING		\$1,253,434,157	

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** January 8, 2010
FROM: President James Fang
SUBJECT: 2010 Standing Committee and Special Appointments

Attached for your consideration are my proposed Standing Committee and Special Appointments for 2010.

It is clear to many of us that staff, while performing admirably, particularly with respect to the operation of our internationally respected transit system, often faces the complex issue of trying to incorporate the thinking of its governing body, the Board of Directors, into policy directives. It is my sincere and humble hope that through serving on the newly created ad hoc committees, which are targeted for a specific area of interest, Board Members will be able to take a more active role in bringing policy initiatives to the Board meetings; thus not only alleviating staff difficulties in trying to guess which policies should come forward, but also allowing Directors to play a much more interactive leadership role in the process. I apologize, for I know I am asking for even more of a sacrifice from my fellow Directors, but I think the time has come to unleash the full potential of our District and staff.

Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board.

In accordance with Board Rule 3-3.2, I am bringing the 2010 Standing Committee and Special Appointments before the Board of Directors for ratification on January 14, 2010.

Should you have any questions, please contact me at your convenience.


James Fang

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

Item No. 7-B.

RATIFICATION OF 2010 STANDING COMMITTEE AND SPECIAL APPOINTMENTS

MOTION:

That the Board of Directors ratifies the proposed Standing Committee and Special Appointments for 2010 (attached).

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

STANDING COMMITTEES

ADMINISTRATION COMMITTEE */**

Thomas M. Blalock, Chairperson
John McPartland, Vice Chairperson

**ENGINEERING AND
OPERATIONS COMMITTEE */****

Joel Keller, Chairperson
Gail Murraray, Vice Chairperson

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

Carole Ward Allen, Chairperson
Lynette Sweet, Vice Chairperson

SPECIAL APPOINTMENTS - DISTRICT

**ACCESS AND TRANSIT ORIENTED
DEVELOPMENT COMMITTEE**

Bob Franklin, Chairperson Tom Radulovich
Gail Murray Lynette Sweet

AC TRANSIT LIAISON

Bob Franklin, Chairperson Carole Ward Allen

**ALAMEDA COUNTY CONGESTION
MANAGEMENT AGENCY LIAISON**

Thomas M. Blalock Bob Franklin, Alternate

**AMERICANS WITH DISABILITIES ACT
(ADA) LIAISON**

Bob Franklin, Chairperson John McPartland

BART POLICE DEPARTMENT REVIEW COMMITTEE

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

**CONTRA COSTA TRANSPORTATION
AUTHORITY LIAISON**

Joel Keller Gail Murray, Alternate

eBART POLICY ADVISORY COMMITTEE

Joel Keller Gail Murray

**FINANCE, BUDGET, AND
INTERNAL AUDIT COMMITTEE**

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

**METROPOLITAN TRANSPORTATION
COMMISSION LIAISON COMMITTEE ¹**

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

**OAKLAND AIRPORT CONNECTOR - COLISEUM
STATION AREA DEVELOPMENT LIAISON**

Carole Ward Allen, Chairperson Thomas M. Blalock

**PLEASANT HILL BART STATION
COMMUNITY LIAISON**

Gail Murray

REGIONAL LATE NIGHT SERVICE LIAISON

Bob Franklin Tom Radulovich

REGIONAL RAIL COMMITTEE

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

**SAN FRANCISCO TRANSPORTATION
AUTHORITY LIAISON COMMITTEE**

James Fang, Chairperson Tom Radulovich
John McPartland Lynette Sweet

**WEST CONTRA COSTA TRANSPORTATION
ADVISORY COMMITTEE LIAISON (WCCTAC)**

Bob Franklin
Joel Keller

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

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

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

¹ The President may appoint an Alternate to serve on this committee on an as-needed basis.

NOTE: BART Directors discharging liaison functions do not serve as members of either a committee of BART or the other Organization, nor as members of a joint committee. Any action on behalf of BART must be taken by the full Board.

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

SPECIAL APPOINTMENTS – AD HOC COMMITTEES

ALTERNATIVE AND MOBILE FARE PAYMENTS

James Fang, Chairperson
Thomas M. Blalock, Vice Chairperson
Bob Franklin

BUSINESS ADVANCEMENT PROGRAM (BAP)

Bob Franklin, Chairperson
Joel Keller
James Fang

**DISTRICT EXECUTIVE
MANAGEMENT DIVERSITY**

Carole Ward Allen, Chairperson
Gail Murray
Lynette Sweet

**DISTRICT SECURITY AND
SEISMIC SAFETY COMMITTEE**

John McPartland, Chairperson
Joel Keller, Vice Chairperson
Bob Franklin

DISTRICT STRATEGIC REPRESENTATION

Gail Murray, Chairperson
Bob Franklin, Vice Chairperson
James Fang

**EXPANSION OF DISTRICT PRESENCE
IN THE DISTRICT**

Joel Keller, Chairperson
Thomas M. Blalock, Vice Chairperson
James Fang

RAIL CAR PROCUREMENT FUNDING COMMITTEE

Thomas M. Blalock, Chairperson
James Fang
Joel Keller

**SMALL/MINORITY/WOMEN-OWNED
BUSINESS & BONDING COMMITTEE**

Carole Ward Allen, Chairperson
Thomas M. Blalock
Lynette Sweet

SUSTAINABILITY/GREEN COMMITTEE

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

WEST DUBLIN/PLEASANTON STATION

John McPartland, Chairperson
Bob Franklin, Vice Chairperson
James Fang

SPECIAL APPOINTMENTS – EXTERNAL

**ALAMEDA COUNTY TRANSPORTATION
IMPROVEMENT AUTHORITY CONSUMER
POLICY ADVISORY COMMITTEE LIAISON**

Carole Ward Allen

**ALTERNATE REPRESENTATIVE TO THE
AMERICAN PUBLIC TRANSPORTATION
ASSOCIATION BOARD OF DIRECTORS**

Thomas M. Blalock

**BAY FAIR TRANSIT ORIENTED
DEVELOPMENT AND ACCESS PLAN
POLICY ADVISORY COMMITTEE LIAISON**

Bob Franklin
John McPartland

CAPITOL CORRIDOR JOINT POWERS BOARD ***

Thomas M. Blalock
James Fang
Bob Franklin
John McPartland, Alternate
Joel Keller
Gail Murray
Lynette Sweet

FRUITVALE POLICY COMMITTEE **

Carole Ward Allen, Chairperson

**PLEASANT HILL BART STATION LEASING
AUTHORITY BOARD OF DIRECTORS**

Joel Keller
Gail Murray

**SILICON VALLEY RAPID TRANSIT
CORRIDOR/WARM SPRINGS BART
EXTENSION POLICY ADVISORY BOARD**

Bob Franklin
John McPartland
Thomas M. Blalock, appointed by Alameda County
Congestion Management Agency

**TRI-VALLEY REGIONAL RAIL
POLICY WORKING GROUP**

John McPartland
Gail Murray