

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

BOARD MEETING AGENDA

March 10, 2011

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, March 10, 2011. This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20 th Street Mall – Third Floor 344 – 20 th Street Oakland, CA 94612	CJ Lake Offices 525 Ninth St. NW, Suite 800 Washington, DC 20004
---	--

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.

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.

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.

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email or via regular mail upon request. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting. Those interested in being on the mailing list for meeting notices (email or regular mail) can do so by providing the District Secretary with the appropriate address.

Please submit your requests to the District Secretary via email to BoardofDirectors@bart.gov; in person or U.S. mail at 300 Lakeside Drive, 23rd Floor, Oakland, CA 94612; fax 510-464-6011; or telephone 510-464-6083.

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

The purpose of the Board Meeting is to consider and take such action as the Board may desire in connection with:

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of February 24, 2011 (Special), and February 24, 2011 (Regular).* Board requested to authorize.
- B. Permit to Google, Inc. for Use of Parking Spaces at Millbrae Station.* Board requested to authorize.
- C. Award of Contract No. 15LN-110, Escalator/Elevator Remote Monitoring System.* Board requested to authorize

3. BOARD MATTERS

- A. Citizen Review Board Appointments.* Board requested to ratify.

4. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Fiscal Year 2012 Budget: Financial Priorities.* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Award of Contract No. 15PE-110, BART Earthquake Safety Program Aerial Structures – R Line North.* Board requested to authorize.
- B. Agreement with The Allen Group for Community Relations Services for BART Construction Projects (Agreement No. 6M8042).* Board requested to authorize.
- C. Cooperative Agreement with the City of Union City to Implement Phase 2 of the Union City Intermodal Station Project.* Board requested to authorize.
- D. (CONTINUED from February 10, 2011, Board Meeting)
Cooperative Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District for the Central Subway Project.* Board requested to authorize.

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

Director Murray, Chairperson

NO REPORT.

7. GENERAL MANAGER'S REPORT

NO REPORT.

8. BOARD MATTERS

A. Report of the Sustainability/Green Ad Hoc Committee. For information.

B. Roll Call for Introductions.

9. GENERAL DISCUSSION AND PUBLIC COMMENT

10. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL.
ANTICIPATED LITIGATION: one potential case.
Government Code Section: 54956.9

B. (CONTINUED from February 24, 2011, Board Meeting)
CONFERENCE WITH LABOR NEGOTIATORS - PUBLIC EMPLOYEE
PERFORMANCE EVALUATION:
Agency Negotiators: Directors Fang, Franklin, and Blalock
Title: Controller/Treasurer
Gov't Code Sections: 54957 and 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board		
DATE: c <i>3/4/11</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Susan Shaffer Dept: Real Estate, ext 6936 <i>Susan Shaffer</i> Signature/Date: <i>3/3/11</i>	General Counsel <i>[Signature]</i> <i>3/3/11</i>	Controller/Treasurer <i>[Signature]</i> <i>[]</i>	District Secretary <i>[]</i>	BARC <i>[Signature]</i> <i>3-3-11</i> <i>[]</i>

TITLE:

Permit to Google, Inc. for Parking at Millbrae Station

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager or her designee to execute a one-year permit with four (4) one-year options for use of up to sixty (60) parking spaces at the Millbrae Station.

DISCUSSION: The District received a request from Google, Inc. ("Google") to use up to sixty (60) parking spaces in the outer surface parking lot of the Millbrae Station as a satellite parking lot for their employees. The permit will commence with permission to use thirty (30) spaces, with provisions to increase to up to sixty (60) spaces. Google employees would park their vehicles in this area and proceed to a designated bus slot near the station, where a Google shuttle bus would take them and other Google employees who took BART to the station, to the Google campus in Mountain View. The General Manager recently authorized, with notice to the Board, the issuance of a 60-day permit that would allow Google to begin using thirty (30) parking spaces immediately. A one-year permit with four one-year options is conditioned upon the Board approving this action.

Staff has determined that the parking spaces are available for Google, as the proposed parking area is seldom used by BART patrons, and the overall weekday patron parking usage at the Millbrae Station is approximately 80%. The proposed permit will allow either party to terminate the permit at any time for any reason upon thirty (30) days prior written notice. Should patron usage of the Millbrae Station increase to a level that does not warrant continuation of the permit to Google, staff would terminate the permit.

Staff will mark the designated parking spaces to indicate that they are for Google employee use.

Google has agreed to pay a fair and reasonable fee for the permit at \$4,500 per month for the thirty (30) parking spaces. The permit will allow for Google to request additional spaces, for a total not to exceed sixty (60) spaces, with notice and a commensurate increase in the permit fees. The permit will also provide for annual increases in the fee to reflect Consumer Price Index (CPI) increases. The revenue from the permitting of a portion of the parking lot will be put back into BART operating costs. Finalizing the permit is conditioned upon obtaining FTA concurrence, as the station parking facilities were constructed with FTA funds.

The Office of the General Counsel will review the permit as to form.

FISCAL IMPACT: Assuming that thirty (30) spaces will be made available to Google, BART would receive \$4500 per month during the term of the permit, a total of \$54,000 for one year in revenue. If Google executes any of the four one-year options, an additional \$54,000 (plus CPI increases) per year would ensue, for a total of \$270,000 (plus CPI increases) for five years. These amounts will increase if the number of spaces requested by Google increases.

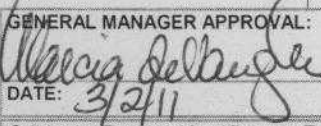
ALTERNATIVES: To deny Google's request for a permit and forgo the revenue.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager or her designee is authorized to execute a one-year permit with four one-year options to Google, Inc., to allow use of thirty (30) parking spaces, with provisions to increase use to up to sixty (60) spaces, at the BART Millbrae Station, for a beginning monthly permit fee of \$4500, subject to increases for additional parking spaces, and annual CPI increases.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  DATE: 3/2/11		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board	
BOARD INITIATED ITEM: No			
Originator/Prepared by: Khawaja Zubair Dept: M&E- Engineering Signature/Date:  2/28/11	General Counsel  2/28/11	Controller/Treasurer  2/28/11	District Secretary  3/2/11
Status: Routed		Date Created: 01/27/2011	

TITLE:

AWARD OF CONTRACT NO. 15LN-110, ESCALATOR/ELEVATOR REMOTE MONITORING SYSTEM

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15LN-110 for installation of wiring and conduit for an Escalator/Elevator Remote Monitoring System (RMS) at three downtown stations (Embarcadero, Montgomery and Civic Center Stations) to LINC Lighting & Electrical in the amount of \$278,675.00.

DISCUSSION:

Most of the original station elevators and escalators are currently monitored by a Remote Monitoring System (RMS) which reports real time operational status and any failures. The RMS allows maintenance personnel to respond to an escalator/elevator failure more quickly and effectively. This Contract will upgrade the wiring and conduit for the installation of an RMS to the remaining escalators/elevators at Embarcadero, Montgomery and Civic Center stations. A total of sixteen (16) escalators/elevators are covered in this Contract scope.

The District provided advance notices to forty-four (44) prospective Bidders on December 1, 2010. The Contract was advertised on December 2, 2010. The Contract Books were sent to twenty-three (23) Planrooms including DBE/MBE/WBE Planrooms. The pre-bid meeting for prospective Bidders was conducted on December 8, 2010. Six (6) prospective Bidders attended the meeting, and three (3) firms attended the job walk. Bids were publicly opened on January 4, 2011. The following three Bids were received:

BIDDER

BID PRICE (Lump Sum)

NEMA Construction, Albany, CA	\$276,000.00
LINC Lighting & Electrical, Hayward, CA	\$278,675.00
Harris Electric, Dublin, CA	\$471,856.02

Engineer's Estimate

\$245,000.00

Staff determined that the apparent low Bid from NEMA Construction was non-responsive because it failed to submit the state-required Qualified Certified Conveyance Certificate by the deadline specified in the Instruction to Bidders.

Staff has determined that, the apparent second low Bidder, LINC Lighting & Electrical submitted a responsive Bid. Staff has also determined, upon review of the Bidder's business experience and financial capabilities, that the Bidder is responsible and that the Bid price is fair and reasonable based on bid competition.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 23% for MBEs and 12% for WBEs. The Bidder did not commit to subcontract any percentage of the subcontracted amount to MBEs or to WBEs. Therefore, staff requested additional information to determine if the Bidder had discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT:

Funding of \$278,675 for the award of Contract 15LN -110 is included in the total project budget for 15LN - ESCALATOR/ELEVATOR REMOTE MONITORING SYSTEM. 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(s):

F/G 40B – 99 BOND INTEREST

\$278,675

As of month ending 01/30/11, \$1,525,867 is available for commitment from this fund source for this project, and BART has committed \$301,637 to date. There are no pending commitments in BART's financial management system. This action will commit \$278,675 leaving an uncommitted balance of \$945,555 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

Not to install the remote monitoring system to these escalators/elevators in the identified underground stations. However, without the remote monitoring system, return to service of escalator/elevators outages will be slower as mechanics will rely on calls from the station agents or complaints from the public.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15LN -110, Escalator/Elevator Remote Monitoring System, to LINC Lighting & Electrical, for the total Bid price of \$278,675, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: March 4, 2011

FROM: District Secretary

SUBJECT: Citizen Review Board Appointments

The appointment of members to the Citizen Review Board (CRB) is scheduled for the March 10 Regular Board Meeting. The application period for the CRB opened on December 15, 2010 and closed on January 31, 2011. A total of 40 applications were received from eligible candidates.

Each applicant has been invited to attend the Board Meeting and will be afforded up to two minutes to address the Board. Each Director will appoint one applicant to serve on the Citizen Review Board. The BART Police Associations will also indicate their appointee at that time. Each Director will then vote for the public-at-large member by indicating on a ballot their top three choices from the remaining pool, in order of preference. The District Secretary will determine the final tally using a weighted point method. The Board will be asked to ratify the appointments (motion attached).

The initial appointments of the Citizen Review Board will be a combination of one-year and two-year terms. The members representing Districts 1, 3, 5, 7, 9 and the public-at-large seat will be appointed to one-year terms. The members representing Districts 2, 4, 6, 8 and the BART Police Associations seat will be appointed to two-year terms. All subsequent appointments or re-appointments to the Citizen Review Board will be for two-year terms.

The proposed motion ratifying the appointments, a summary sheet of the candidates and a description of the Voting and Selection Procedure are attached.

Should you have questions or comments, please contact the Deputy General Manager or me at your convenience.

Thank you.



Kenneth A. Duron

Attachments

cc: Board Appointed Officers
Deputy General Manager
Office of the District Secretary

RATIFICATION OF CITIZEN REVIEW BOARD APPOINTMENTS

MOTION:

That the Board of Directors ratifies the Citizen Review Board Appointments representing Districts 1, 3, 5, 7, 9 and the citizen-at-large seat to one-year terms and the members representing Districts 2, 4, 6, 8 and the BART Police Associations seat to two-year terms. (Attachment)

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Citizen Review Board Appointments
March 10, 2011

Board of Directors Appointments

District 1

District 2

District 3

District 4

District 5

District 6

District 7

District 8

District 9

Citizen-At- Large

BART Police Managers Association and
BART Police Officers Association Appointment

Associations

**San Francisco Bay Area Rapid Transit District
Citizens Review Board Applicants**

<u>Name</u>	<u>City</u>	<u>District</u>
Alexander, Toni Yvette	Oakland	3
Barnett, Peter D.	Oakland	4
Bergen, Michael M.	Pittsburg	2
Beshears, Sukari	Pittsburg	2
Bowman, Barbara J.	Oakland	4
Buford, Rev. Daniel A.	Oakland	4
Bukowski, Ken	Emeryville	7
Craft, Camille P.	Richmond	7
Curtis, Kerry F.	Fremont	6
DaVega, Clayton W.	Oakland	3
Davis, Freddye M.	Hayward	6
Doty, Lon	Fremont	6
Douglas, Benjamin L.	Lafayette	1
Dyer, Dolores	Oakland	7
Garrett, Cydia	Danville	1
Gillespie, Scott	Richmond	7
Gillivan, James G.	Walnut Creek	1
Hambleton, Douglas N.	Danville	5
Hill, Candace	Oakland	4
Hodges, William B.	Oakland	4
Jennings, Maurice G.	Antioch	2
Jones, Ken	San Francisco	8
Kidd, Sharon Anne	Berkeley	7
Larry, Sharon	Martinez	2
Lewis, Rev. Dr. Audrey Aurea	Oakland	4
Livingston, Chester	Oakland	4
Mensinger, Les	Fremont	6
Najarro, Sal	San Francisco	9
Ochoa, Joseph	Hayward	3
Oliver-Ward, Cora	El Sobrante	7
Patrick, John	Berkeley	3
Perezvelez, George D.	Berkeley	3
Porter, Crystal	Hayward	5
Scaife, Jennifer	Berkeley	7
Trezek, Joan A.	Danville	1
Wallace, Chandra Felisa	Antioch	2
Watkins, Clayton R.	Moraga	1
Wechter, Jayson	San Francisco	9
Weinstein, Kim	Walnut Creek	1
White, William C.	Oakland	3

BART Citizen Review Board Voting and Selection Procedure

The Office of the District Secretary will manage the process for the initial round of Citizen Review Board appointments by the Board of Directors. The Independent Police Auditor will manage the process for subsequent appointments. The Office of the District Secretary will publicize the application acceptance period. Announcement methods may include but not be limited to the following:

- Post notice on the BART website,
- Place classified advertisements in legal and local newspapers,
- Announce at BART Board meetings,
- Send notices to community and professional organizations, and
- Notify persons who have been recommended or have expressed an interest in serving.

Applications received by the District Secretary will be screened for minimum qualifications and forwarded to the Board of Directors. The BART Police Managers Association (BPMA) and BART Police Officers Association (BPOA) will conduct a parallel and independent search for their appointee and will forward the application of their selected candidate to the District Secretary by the due date. Applicants who meet the minimum qualifications will be invited to attend a Board of Directors Meeting to make a brief statement of interest. At the meeting:

- Directors will be provided a numbered list of applicants that indicates the BART election district where each applicant resides.
- Each Director may select one applicant.
- Once each Director has made a selection, the remaining applicants will be considered for the member-at-large appointment.
- Each Director will vote for the member-at-large by selecting their top three choices from the remaining applicant pool in order of preference. Each vote will be tallied using a weighted point method. The applicant with the highest ranking will be selected as member-at-large.

After being selected to serve on the Citizen Review Board, members shall receive training. The training plan will be developed by the Independent Police Auditor. After successful completion of training, Citizen Review Board members will be seated, subject to passing the required background check.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Mara Delbaugh</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board of Directors	
DATE: <i>3/3/11</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: Shirley J Ng Dept: TSD	General Counsel <i>Audrey K...</i> <i>3/2/11</i>	Controller/Treasurer <i>[Signature]</i> <i>3/3/11</i>	District Secretary <i>Paul W...</i> <i>3/3/11</i>
Signature/Date: <i>[Signature]</i> <i>3/2/11</i>			
Status: Routed		Date Created: 01/13/2011	

TITLE:

Award of Contract No. 15PE-110, Earthquake Safety Program, Aerial Structures - R Line North

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15PE-110, BART Earthquake Safety Program, Aerial Structures - R Line North to Alten Construction, Inc.

DISCUSSION:

The BART Earthquake Safety Program determined that the aerial structures on the Richmond line require seismic strengthening. Contract No. 15PE-110 will provide safety level retrofits for the R Line between North Berkeley Station and Richmond Station. The work consists of additional reinforced concrete for pier foundation and pier caps; fiber or steel encasement of pier columns; coordination with the Union Pacific Railroad; and associated utilities and structural work.

Advance Notice to Bidders was mailed on October 27, 2010 to 667 firms and Bid Documents were sent to 22 plan rooms. The Contract was advertised on October 28, 2010. A total of 46 firms purchased copies of the Bid Documents. A pre-Bid meeting was held on November 15, 2010 with 18 potential Bidders attending. A pre-Bid Matchmaking Session was held on November 29, 2010. Nine Bids were received and publicly opened on January 4, 2011.

Review of the Bids by District staff revealed no arithmetical errors. Tabulation of the Bids including the Engineer's Estimate, is as follows:

1. Ghilotti Construction Company, Inc., Pleasanton, CA	\$14,707,088.30
2. West Bay Builders, Inc., Novato, CA	\$16,597,506.75
3. Robert A. Bothman, Inc., San Jose, CA	\$18,356,688.00
4. Alten Construction, Inc., Richmond, CA	\$18,418,052.16
5. R & L Brosamer, Inc., Walnut Creek, CA	\$18,782,394.50
6. Disney Construction, Inc., Burlingame, CA	\$19,127,061.00
7. Proven Management, Inc., San Francisco, CA	\$19,439,506.00
8. S.J. Amoroso Construction Company, Inc., Redwood Shores, CA	\$20,357,205.61
9. California Engineering Contractors, Inc., Pleasanton, CA	\$20,747,351.30

Engineer's Estimate

\$19,380,000.00

The apparent low Bidder, Ghilotti Construction requested to be relieved of its Bid due to a mistake in its entering prices for Allowances. Staff found that Ghilotti's request met the Contract and Public Contract Code requirements related to relief of bid due to mistake and approved the request. After review by staff, the Bids by West Bay Builders, Inc. and Robert A. Bothman, Inc. were deemed to be non-responsive. The apparent low Bid submitted by Alten Construction, Inc. was determined to be fair and reasonable and was 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 be counted towards meeting the race and gender conscious UDBE 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 8% was set for this Contract. Alten Construction, Inc. committed to subcontracting 13.7% to UDBEs.

Funding this \$18,418,052 is estimated to support 438 job years as estimated using the Capital Spending job impact assessment outlined in the April 2009 report by Economic Development Research Group, Inc. for the American Public Transportation Association. The estimate includes the total of all direct, indirect, and induced job years resulting from this award.

FISCAL IMPACT:

Funding of \$18,418,052 for award of Contract No. 15PE-110 is included in the total project budget for the FMS #15PE, ESP-Aerial R Line North. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$18,418,052 will be funded by Federal, State and local funds.

As of month ending January 30, 2011 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	\$ 5,429,545	\$ 32,277	\$ 453,418	\$ 2,788,493	\$ 2,155,357
55U-State	\$ 703,455	\$ 4,182	\$ 58,699	\$ 360,994	\$ 279,580
01F-Local	\$31,407,983	\$ 252,851	\$ 447,600	\$15,268,565	\$15,438,967
Total	\$37,540,983	\$ 289,310	\$ 959,717	<u>\$18,418,052</u>	\$17,873,904

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic retrofit of the R Line North aerial structures at this time. The Board may elect to reject all Bids and authorize staff to readvertise. Under this alternative, staff would have to reissue the Contract and obtain new bids. This would result in additional cost and time to execute the required retrofits.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15PE-110, Earthquake Safety Program, Aerial Structures - R Line North to Alten Construction, Inc. for the Bid amount of \$18,418,052.16, 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.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DelBundio</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board of Directors		
DATE: c <i>3/3/11</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Debra Grivois Dept: Molly McArthur <i>Molly McArthur</i> Signature/Date:	General Counsel <i>Andrew Pava</i> <i>3/3/11</i>	Controller/Treasurer <i>[Signature]</i> <i>3/3/11</i>	District Secretary <i>[Signature]</i> <i>[]</i>	BARC <i>Paul Cyrese</i> <i>3/3/11</i>

TITLE:

AUTHORITY TO EXECUTE AGREEMENT NO. 6M8042 COMMUNITY RELATIONS SERVICES FOR BART CONSTRUCTION PROJECTS

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Agreement No. 6M8042 to The Allen Group, LLC to provide Community Relations Services for BART Construction Projects.

DISCUSSION: The purpose of this Agreement is to provide the District with a comprehensive program of community relations services in support of BART construction projects, including, but not necessarily limited to, the Warm Springs Extension, the Oakland Airport Connector, the Earthquake Safety Program, the San Francisco Security Barrier and the 480 Volt Switchgear Replacement Project. The Agreement will be for a five-year term.

The Community Relations Liaison Team provides BART construction projects with a comprehensive, flexible and responsive program of services to communicate with and respond to the needs of those directly affected by interaction with each construction project. The team members are cross trained for service on multiple projects.

Community relations for construction programs such as BART currently has underway demands personnel with capabilities that are beyond the scope of traditional public relations/event planning work. Construction community relations liaisons participate full time on each project as part of the construction team, attending weekly construction meetings, working with contractors and BART construction staff to identify activities likely to cause concern in neighboring areas. They prepare advance construction notifications to communicate upcoming activities and respond to questions and concerns. They interact personally with residents, business owners, and others about the impacts of construction and work closely with the Resident Engineer and with BART's Manager of Government and Community Relations to ascertain sources of impacts and work to minimize those impacts. They also serve as the eyes and ears of BART within the communities, identifying and heading off issues before they arise, as well as serving as the face of BART to community members and the general public.

Advertisements soliciting interest in the Request For Proposal (RFP) were placed on November 22, 2010 in a number of publications, including minority, non-English and DBE/MBE/WBE publications. RFPs were also sent to a list of 86 firms that previously expressed interest in

community relations services for BART. A pre-proposal meeting was held on December 14, 2010 at 300 Lakeside Drive, 16th Floor, to explain in detail the specific services being requested and review the source selection process as outlined in the RFP. The pre-proposal meeting was attended by 28 prospective proposer firms. One addendum was issued to the RFP, to extend the proposal submission date to allow proposers additional time to prepare proposals.

On January 25, 2011, four proposals were received from the following firms:

The Allen Group, LLC	San Francisco, CA
Circlepoint	San Francisco, CA
Mason Tillman Associates, Ltd.	Oakland, CA
David Perry & Associates, Inc.	San Francisco, CA

The proposals were reviewed and evaluated by a Selection Committee (Committee) consisting of BART staff from Transit System Development, Government and Community Relations, the Office of Civil Rights and Contract Administration, and a Public Information staff member from the MTC. Proposals were first reviewed to determine if the proposers were considered responsive to the requirements of the RFP. Next, proposals were reviewed and scored on the basis of criteria put forth in the RFP for qualifications of the proposing firms, qualifications of the key personnel on the proposed team and previous community relations experience with major construction projects. As a result of the written scoring, and in accordance with the evaluation procedures established in the RFP, three proposers were ranked as being within the competitive range and were invited to participate in the oral interview phase of the selection process.

Oral interviews were conducted on February 17 and 22, 2011. After the oral interviews were scored, the written and oral evaluation scores were combined. The Committee then conducted a best value analysis, in which the cost data for the proposer with the highest combined score was evaluated to determine if they provided the best value to the District. The Allen Group, LLC was determined to have highest overall score and was also the proposer with the lowest price, therefore providing the best value to the District.

After making this determination, Contract Administration, with support from Internal Audit and Transit System Development, finalized the terms and conditions for a cost-plus-fixed-fee Agreement, which resulted in terms favorable to both parties.

Accordingly, the Committee recommends award of RFP No. 6M8042 to The Allen Group, LLC. The award will be in an amount not to exceed \$6,000,000. for a five year period of performance. Annual Work Plans (AWP) under the Agreement will define the work program, subject to funding availability. Each AWP will include a detailed work scope, schedule and budget.

Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for professional services agreements. Therefore, no DBE participation goal was set for this Agreement. Although no DBE goal was set for this Agreement, The Allen Group, LLC committed to a 17% DBE participation goal.

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

FISCAL IMPACT: The Agreement will be established at a not-to-exceed limit of \$6,000,000 for a five-year term. District obligations will be subject to a series of AWP's. Each AWP will have a defined scope of services, schedule and budget. Any AWP assigned for funding under a State or Federal grant will include State or Federal requirements. Capital Development and Control will certify the eligibility of identified funding sources and the Controller/Treasurer will certify availability of such funding prior to incurring project costs against the Agreement and the execution of each AWP.

ALTERNATIVES: The District could reject all proposals and solicit new proposals. Re-issuing the RFP would delay and adversely impact the implementation of community relations support required by BART for construction projects currently underway.

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

MOTION: The General Manager is authorized to award Agreement No. 6M8042 to provide Community Relations Services for BART Construction Projects to The Allen Group, LLC in an amount not to exceed \$6,000,000, pursuant to notification to be issued by the General Manager. The award is subject to the District's protest procedures and the FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the March 10, 2011 E & O Committee Meeting	
DATE: 3/3/11		BOARD INITIATED ITEM: No	
Originator/Prepared by: Melena Gallagher Dept:  3/3/11	General Counsel  3/3/11	Controller/Treasurer  []	District Secretary [] BARC  3/3/11
Signature/Date:		Date Created: 02/25/2011	
Status: Approved			
TITLE:			

Cooperative Agreement with the City of Union City to Implement Phase 2 of the Union City Intermodal Station Project

NARRATIVE:

PURPOSE

To obtain Board authorization to enter into a Cooperative Agreement - Phase 2 with the City of Union City and the Community Redevelopment Agency of the City of Union City for the implementation of Phase 2 of the Union City Station Intermodal Improvements.

DISCUSSION

BART entered into a Cooperative Agreement, dated March 24, 2004, with the City of Union City("City") and the Community Redevelopment Agency of the City of Union City ("Agency") to implement an intermodal station design at the Union City BART Station. The Union City Intermodal Station District was created by the City of Union City to provide a unique opportunity to advance "Smart Growth" planning for transit-oriented development at and around the Union City BART Station. The Parties have worked with BART to coordinate a multi-agency planning process, perform necessary environmental review, organize funding, acquire critical properties and define a process for implementation.

The City, Agency, and BART desire to enhance and develop the Station District in a manner generally consistent with the concepts laid forth in the Union City Intermodal Station District and Transit Facility Plan and the BART Comprehensive Station Plan. These concepts include improvements meant to facilitate access to and from the BART Station to enhance transit ridership while creating a framework for transit-oriented development. The City adopted an Updated Concept Plan approved by City and BART staff and incorporating these concepts. The Phase 2 Project consists of creation of an east side entrance to the BART Station, relocation of elevators, expansion of the east platform, and improvements to pedestrian circulation in and around the BART Station and construction of a pedestrian overpass, if required by the California Public Utilities Commission. Concurrently with, and in addition to the Phase 2 Project, additional improvements to the Agency TOD Site will be undertaken by Agency,

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

FISCAL IMPACT

The City is still the sponsor and has committed to obtaining all funds, approximately \$20,123,100 million, needed for construction costs and reimbursement of BART staff and consultant costs.

Nothing in this agreement obligates BART to expend any District funds for the Project. There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES

Not entering into this Cooperative Agreement with the Parties, and therefore delaying the completion of the Intermodal Station.

MOTION

The General Manager or her designee is hereby authorized to enter into a Cooperative Agreement - Phase 2 for the Implementation of the Union City Intermodal Station Phase 2 Project



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board		
DATE: c 3/3/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Pepe Vallenias Dept: M&E <i>P. Vallenias</i>	General Counsel <i>Andrea Karp</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul Vallenias</i>
Signature/Date: 3/2/11	3/3/11	[]	[]	[]

TITLE:

**Cooperative Agreement
between the
City and County of San Francisco and the
San Francisco Bay Area Rapid Transit District**

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute the "Cooperative Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District" (Agreement) as described below.

DISCUSSION:

The City and County of San Francisco acting by and through its Municipal Transportation Agency (SFMTA) is performing the Central Subway Project (CSP).

The CSP includes construction of a tunnel crossing Market Street in San Francisco just east of the Powell Street BART Station. CSP is proposing to tunnel within as little as five feet under the Market Street BART tunnels in San Francisco utilizing a tunnel boring machine (TBM). Tunneling in such a congested urban area presents risks that BART needs to ensure are adequately addressed.

The CSP also includes a new SFMTA Muni Metro subway station under Stockton Street between Union Square and Market Street. The station design includes proposed direct concourse to concourse connectivity and interface with BART's Powell Street Station. Connecting the CSP Station to the Powell Street BART Station creates many potential impacts including those related to ventilation, pedestrian circulation, capacity, construction access and emergency egress, that BART needs to have resolved during the final design process.

BART staff is providing support to SFMTA and the Central Subway Project. BART staff and BART consultants have been working closely with SFMTA staff in order to ensure that the BART CSP interface is optimized, and that BART's safety and operability are not compromised. The Agreement formalizes BART's involvement in the Central Subway Project, facilitates exchange of information, and provides for reimbursement of BART staff and consultants' time and expenses in reviewing the CSP design. The Agreement will be followed by agreements or amendments related to construction (including coordination, permitting and cost obligations) and operations and maintenance.

BART's involvement in support of CSP engineering and design efforts officially started on December 1, 2008. The term of the Agreement is from December 1, 2008 through November 30, 2018. The amount of the reimbursement under the Agreement is not to exceed \$5,000,000, including reimbursement for BART's prior costs to date.

The Agreement establishes a mechanism for the issuance of Work Authorizations and monthly billings. The Agreement also includes insurance, indemnification, termination and dispute resolution clauses. In addition to cross-indemnification provisions, the City shall be responsible for tenant claims incurred by BART, and shall hold BART harmless for loss of rental or lease revenue to the extent such losses are a result of physical damage or obstruction to the BART Facilities caused by the CSP.

The Agreement requires the City to require its prime construction contractors for the CSP to comply with specified minimum insurance requirements with respect to losses arising out of the Project. For example, SFMTA's prime construction contractors for the CSP must provide Commercial General Liability insurance with limits not less than \$100,000,000 per occurrence. Additionally, the City agrees to provide or require its prime consultant architects and engineers working on the CSP to provide Professional Liability Insurance with limits of at least \$20,000,000 per claim.

The Agreement provides that SFMTA will obtain permits for Project work within the BART Facilities (defined as the BART Market Street tunnels and Powell Street Station). The Agreement also requires SFMTA to provide BART with all designs, specifications, documents, and information regarding construction activities in and around the BART Facilities, including any plans or proposed construction activities which may adversely affect BART in any manner, and provides for a procedure for BART to submit comments to SFMTA regarding its designs and specifications.

The Agreement establishes a dispute resolution process in the event BART does not approve a permit for work within the BART Facilities, or if BART believes that the City's plans or proposed work in the vicinity of the BART Facilities may adversely affect the BART Facilities. In such cases, the parties shall meet to resolve the dispute and, if the dispute cannot be resolved, will submit the dispute to a mediator.

Finally, the Agreement provides for BART and SFMTA, through the American Public Transit Association (APTA), to convene and maintain an Independent Review Panel (IRP) comprised of three experts in tunnel engineering and construction to review and monitor the design and construction of the tunnel crossing. The cost of the IRP will be shared equally by BART and SFMTA. The IRP will advise BART and SFMTA on the adequacy, safety and advisability of proceeding with tunneling at several intermediate steps preceding and during construction of the tunnel crossing. The IRP may make recommendations as to changes in construction means and methods, but the SFMTA shall have sole power to order its contractor to stop work. SFMTA agrees to require its construction contractor to meet, confer, share information, and respond to comments, questions, concerns, and requests for information of BART and the IRP.

The parties agree to amend the Agreement as needed in the future to add provisions related to construction, which amendment might also increase the amount to be reimbursed to BART under the Agreement. It is also foreseeable that there will be follow-on agreements or amendments related to operations and maintenance issues.

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

FISCAL IMPACT:

Per the Agreement, BART is to be reimbursed an amount not to exceed \$5,000,000 for all reasonable project costs including costs attributable to BART staff time, outside counsel, third-party consultants and direct expenses. The amount to be reimbursed includes BART's prior project expenditures.

The Agreement establishes billing rates inclusive of base hourly BART staff rates and administrative overhead costs. There is neither profit nor mark-up for outside costs.

ALTERNATIVES:

The Board may reject the Agreement. Rejecting the Agreement will compromise the ability of BART staff to support the project and adequately ensure that BART's safety and operations are fully maintained.

Alternatively, lacking a Cooperative Agreement, BART could proceed and pay for its own staff and consultant time in order to ensure BART's interests are protected.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to execute the "Cooperative Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District".