

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

BOARD MEETING AGENDA

May 23, 2013

6:00 p.m.

A regular meeting of the Board of Directors will be held at 6:00 p.m. on Thursday, May 23, 2013, 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 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.
- D. Public Hearing: Public Hearing on Fiscal Year 2014 Budget.*
For information.

2. CONSENT CALENDAR

- A. Fiscal Year 2014 Proposition 4 Appropriations Limit.* Board requested to adopt.
- B. Award of Contract No. 20HE-120, HVAC Upgrade for the Train Control Rooms at L14, L18, A58, C20 and C76.* Board requested to authorize.
- C. Award of Contract No. 15QH-130, Site Improvements at Various Stations – Phase II.* Board requested to authorize.
- D. Award of Invitation for Bid No. 8922, Cushion and Cover Assemblies.* Board requested to authorize.
- E. Fiscal Year 2013 Third Quarter Financial Report.* For information.

3. ADMINISTRATION ITEMS

Director Murray, Chairperson

- A. Agreement No. 6M6062, Brokerage and Service Provider Services for East Bay Paratransit and Assignment of Lease.* Board requested to authorize.
- B. Concurrence in Exercise by Alameda Contra Costa Transit District of Two Year Option with CGR Management Consultants, LLC to Provide Program Coordinator Office Services for East Bay Paratransit Consortium (Agreement No. 2010-1139).* Board requested to authorize.
- C. District Recruitment Sourcing Services.* Board requested to authorize.
- D. Fiscal Year 2014 Preliminary Budget. (Reference to attachment for Public Hearing on Fiscal Year 2014 Budget) For information.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Amendment No. 2 to the Memorandum of Understanding with the Metropolitan Transportation Commission; Alameda Contra Costa Transit District; Golden Gate Bridge, Highway and Transportation District; and San Francisco Municipal Transportation Agency Regarding Operations and Maintenance of Clipper Fare Collection System.* Board requested to authorize.
- B. (CONTINUED from May 9, 2013 Board Meeting)
Quarterly Performance Report, Third Quarter Fiscal Year 2013 - Service Performance Review.* For information.

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

Director Blalock, Chairperson

- A. Proposed Modifications to the District Bicycle Rules.* Board requested to authorize.
- B. Exclusive Negotiating Agreement with West Oakland Development Group, LLC for Development at West Oakland Station.* Board requested to authorize.
- C. Proposed Late Night Bus Service Update.* For information.

6. GENERAL MANAGER'S REPORT

- A. Review of the Draft Agenda for the Capitol Corridor Joint Powers Board Meeting of June 12, 2013.* For information.

7. BOARD MATTERS

- A. Resolution In the Matter of Directing the General Counsel to Take all Necessary and Appropriate Steps to File an Amicus Curiae Brief in the Matter Schuette v. Coalition to Defend Affirmative Action.* Board requested to adopt. (Director Fang's request)
- B. Board Member Reports. For information.
(Board members provide brief reports on meetings attended at District expense, as required by Government Code Section 53232.3(d).)
- C. Roll Call for Introductions.
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

8. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia delBueno</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>5/15/13</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Kate Jordan Dept: Operating Budgets	General Counsel <i>Audilia Ray</i> <i>5/8/13</i> []	Controller/Treasurer <i>[Signature]</i> <i>4/13</i> []	District Secretary []	BARC <i>Cost Memo</i> <i>5-13-13</i> []
Signature/Date: <i>J/8/13</i> []				

FY14 Proposition 4 Appropriations Limit

NARRATIVE:

Purpose: To approve the District's Fiscal Year 2014 Appropriations Limit, as required by State law pursuant to the Gann Initiative (Proposition 4, passed by the voters in 1979).

Discussion: The Gann Initiative (Proposition 4) provides for limits on appropriations by State and local government entities. California Government Code Section 7910 requires local jurisdictions to annually adopt an appropriations limit by resolution and establishes a 45 day statute of limitations for commencement of any judicial action to challenge the appropriations limit.

Section 7910 requires the Board of Directors to establish by resolution BART's annual appropriations limit "at a regularly scheduled meeting or noticed special meeting." Further, it requires that fifteen days prior to such meeting, documentation used in the determination of the appropriations limit shall be made available to the public. On May 7, 2013 the documentation was made available to the public.

Attachment 1 summarizes the FY14 appropriations limit calculation in accordance with the uniform *Guidelines for Implementation of the Gann Initiative* prepared by the League of California Cities and the information furnished by the State Department of Finance.

Attachment 2 is the calculation for the margin as it relates to the Proposition 4 limit. The margin is the difference between the appropriations limit and the expenditures subject to the limit. Based on the calculations, the District will be below the limit of \$507,268,979.

Fiscal Impact: No fiscal impact. The FY14 appropriations limit is \$507,268,979. Operating and Capital expenditures subject to the appropriations limit total \$416,032,531. As such, the District is \$91,236,448 below the subject FY14 appropriations limit.

Alternatives: None.

Recommendation: Approval of the following motion.

Motion: That the Board adopt the attached resolution which sets the District's FY14 appropriations limit at \$507,268,979.

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

In the Matter of the Establishment
Of the Fiscal Year 2014
Appropriations Limit

Resolution No. _____

WHEREAS, Article XIII B of the California Constitution limits the District's appropriations for Fiscal Year 1981, and subsequent years; and

WHEREAS, Government Code Section 7910 requires the District to establish, by resolution, its appropriations limit pursuant to Article XIII B; and

WHEREAS, documentation used in the determination of the Fiscal Year 2014 appropriations limit has been available to the public for at least fifteen days prior to the date of this resolution;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District that the District's appropriations limit for Fiscal Year 2014 shall be \$507,268,979.

Attachment 1

Fiscal Year 2014 Appropriations Limit: Calculation

Based on the provisions in Article XIII B of the California Constitution as approved by the voters in November 1979, the appropriations limit for each succeeding year through 1987 is determined by the District's 1979 appropriations base times a cumulative composite factor. The base year was later revised to 1987. The cumulative composite factor consists of the product of:

- 1) The lesser of the relative year change in the all urban consumer price index (SF/Oakland/SJ CPI-U) or the California per capita personal income, and
- 2) At the District's discretion, the relative year-to-year change in District wide population, or the population for the District's county that has the highest assessed valuation. Election of the higher of the two growth factors results in a higher appropriations limit.

The District's appropriations limit for Fiscal Year 2014 is calculated on the basis of the urban consumer price index (CPI-U SF/Oakland/SJ) and Alameda County population gains. Steps in the calculations are as follows:

Relevant data, percent change:

- CPI-U SF/Oakland/SJ, 2.4472% (applies this year per option 1 above)
- Population Change, Alameda County, 1.2093% (applies this year per option 2 above)

District Population

	<u>As of 1/1/12</u>	<u>As of 1/1/13</u>	<u>% Change</u>
Alameda	1,530,176	1,548,681	1.2093%
Contra Costa	1,066,602	1,074,702	0.7594%
<u>San Francisco</u>	<u>816,311</u>	<u>825,111</u>	<u>1.0780%</u>
Total	3,413,089	3,448,494	1.0373%

FY14 Cumulative Adjustment Factor:

CPI-U SF/Oakland/SJ	x	Population Factor	=	Current Adjustment Factor
(1 + 2.4472%)	x	(1 + 1.2093%)	=	1.0369
Current Adjustment Factor	x	Prior Year Adjustment	=	Cumulative Adjustment Factor
1.0369	x	2.6945	=	2.7938

FY14 Appropriations Limit:

FY87 Appropriations Base	x	FY14 Cumulative Adj Fctr	=	FY14 Appropriations Limit
181,568,000	x	2.7938	=	<u>\$507,268,979</u>

507,268,979

ATTACHMENT 2
FY14 PROPOSITION 4 APPROPRIATIONS LIMIT

Whole Dollars, as of 05/01/13

LIMIT		NOTES & COMMENTS
CPI-U	2.4472%	CPI-U for SF/OAK 2/13 vs 2/12
Per Capita Personal Income delta FY13>FY14	5.1200%	State DOF Price & Population Information, 5/1/12
District Population Growth	1.2093%	Districtwide growth is based on co (Ala) w highest assessed valuation
Annual Adjustment Factor	1.0369	[1+(CPI-U)]*[1+(Alameda population growth)]
Cumulative Adjustment Factor	2.7938	(Current year factor)*(prior year cumulative factor)
Appropriations Limit	\$507,268,979	(FY87 base appropriations) x (cumulative factor)
APPROPRIATIONS		
Operating Budget		
Operating Expenses	\$567,836,551	FY14 Prelim Operating Budget
Operating Subtotal	\$567,836,551	
Operating Allocations		
Allocation to SOG/Rail Car Phase I	\$46,000,000	FY14 Prelim Operating Budget
Rail Car Fund Swap to MTC Reserve	\$72,000,000	FY14 Prelim Operating Budget
Misc. Capital Allocations	\$5,088,557	FY14 Prelim Operating Budget
Other Capital Allocations	\$47,482,541	FY14 Prelim Operating Budget
Operating Allocations Subtotal	\$170,571,098	
Capital Budget		
Funded	\$737,873,403	FY14 Proposed Capital Budget
Unfunded	\$0	FY14 Proposed Capital Budget
Subtotal	\$737,873,403	FY14 Proposed Capital Budget
Less Funded Pass Through	(\$209,112,444)	FY14 Proposed Capital Budget
Less Unfunded Pass Through	\$0	FY14 Proposed Capital Budget
Subtotal	(\$209,112,444)	FY14 Proposed Capital Budget
Net Capital Expense	\$528,760,959	FY14 Proposed Capital Budget
Debt Service:		
Debt Service	\$53,120,253	FY14 Prelim Operating Budget
Loan from MTC	\$5,150,000	FY14 Prelim Operating Budget
GO Seismic Bonds	\$22,416,998	Per Treasury, Rose Poblete, GO Debt schedule
Debt Service Subtotal	\$80,687,251	
Total Operating & Capital Appropriations	\$1,347,855,859	
EXCLUSIONS		
Allocation from Reserves	\$0	FY14 Prelim Operating Budget
ADA Mandated Service Expense	\$13,504,336	Per FY14 SRTP
Net Operating Revenue:		
Net Passenger Revenue	\$415,881,236	Per FY14 SRTP
Other Operating Revenue	\$39,317,290	Per FY14 SRTP
Subtotal	\$455,198,526	Per FY14 SRTP
Other Allocations (Access Fund)	\$50,000	Per FY14 SRTP
Federal Capital Funds:		
Funded	\$215,968,668	FY14 Proposed Capital Budget
Unfunded	\$0	FY14 Proposed Capital Budget
Subtotal	\$215,968,668	
Debt Service (GO Seismic Bonds)	\$22,416,998	Per Treasury, Rose Poblete, GO Debt schedule
GO Bond Capital Funds	\$80,026,918	FY14 Proposed Capital Budget
BART Capital Funds	\$144,657,883	FY14 Proposed Capital Budget
Total Exclusions	\$931,823,328	
MARGIN		
Appropriations Limit	\$507,268,979	Per above
Expenditures Subject to Limit	\$416,032,531	Appropriations less exclusions, per above
Margin	\$91,236,448	Appropriations less expenditures subject to limit
RESIDENT POPULATION**		
Alameda		
Population	1,548,681	Data received from the Department of Finance 5/1/13
Percent Change	1.2093%	
Contra Costa		
Population	1,074,702	Data received from the Department of Finance 5/1/13
Percent Change	0.7594%	
San Francisco		
Population	825,111	Data received from the Department of Finance 5/1/13
Percent Change	1.0780%	
District Total		
Population	3,448,494	Sum of population for three counties
Percent Change	1.0373%	Percent increase

**Population Estimate as of 1/1/13. Population estimate is Total population and includes military and other temporary residents. Per State Department of Finance, prior year City and County population estimates may be revised.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Abecia DelBuena</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: <i>5/17/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Yalek Ho Dept: M&E <i>Yalek Ho</i> 5/15/13	General Counsel <i>Amelia Kurova</i> 5/17/13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Paulo Chaves</i> 5/17/13 []

Status: Routed	Date Created: 05/06/2013
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TITLE:
Contract No. 20HE-120: HVAC Upgrades for the Train Control Rooms at L14, L18, A58, C20 and C76.

NARRATIVE:
PURPOSE:

To obtain Board Authorization for the General Manager to award Contract No. 20HE-120, HVAC Upgrades for the Train Control Rooms at L14, L18, A58, C20 and C76, to American Air Conditioning, Plumbing & Heating Co.

DISCUSSION:

Contract No. 20HE-120 is for Heating, Ventilation, and Air Conditioning (HVAC) Upgrades for the Train Control Rooms at L14, L18, A58, C20 and C76 (Castro Valley, Pleasanton, San Leandro, Orinda and Concord, respectively). The existing air conditioning units at those locations have outdated controls, frequently fail, and require excessive maintenance. The Contract also provides for a new office at the Orinda location in conjunction with the HVAC work.

This Contract was advertised on March 15, 2013. Advance Notices were sent to eighty (80) prospective Bidders. Eight (8) Contract books were purchased from the District Secretary. A pre-bid meeting and site visit were held on March 28, 2013, with sixteen (16) prospective Bidders attending. The following five Bids were received and opened on April 30, 2013:

No.	Bidder	Location	Total Bid
1	Energywise Mechanical	Fremont, CA	\$475,000.00
2.	American Air Conditioning, Plumbing & Heating Co.	San Leandro, CA	\$564,600.00
3.	A&B Mechanical, Inc.	Hayward, CA	\$606,862.00
4.	Blocka Construction Inc.	Fremont, CA	\$648,000.00
5.	Rodan Builders, Inc.	Burlingame	\$783,000.00
	<i>Engineer's Estimate</i>		<i>\$492,801.90</i>

Energywise Mechanical is the apparent low Bidder. However, its Bid is non-responsive because it failed to acknowledge the receipt of Addendum No. 1, which was issued by the District on April 15, 2013. Addendum No. 1 specified the duration period for the Bids (120 days from the date of Bid opening), which had been inadvertently omitted from the original solicitation, and clarified the DBE goal.

After review by District staff, the Bid submitted by the apparent second low Bidder, American Air Conditioning, Plumbing & Heating Co., has been deemed to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has also determined that its Bid of \$564,600.00, is fair and reasonable.

This Contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights (OCR) reviewed the Scope of Work and determined that there were subcontracting opportunities; therefore, OCR set a DBE participation goal of 7% for the Contract. In their Bid, American Air Conditioning, Plumbing & Heating Co. committed to subcontracting 7.9% to DBE firms.

FISCAL IMPACT:

Funding of \$564,600 for the award of Contract No. 20HE-120, HVAC Upgrades for the Train Control Rooms at L14, L18, A58, C20, and C76 will come from project budget 20HE200 HVAC Train Control Room – East Bay. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 5/14/13, \$684,542 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
535X	PTMISEA	Prop 1B FY08-09	\$ 114,647
347Z	FTA	CA-05-0216-00 FY07	\$569,895
		Total	\$684,542

BART has expended \$95,198, encumbered \$0, and pre-encumbered \$463,000 for this purchase, to date. This action will encumber an additional \$101,600 of remaining available funds, leaving an available fund balance of \$24,743.

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

ALTERNATIVE:

Reject all bids and re-advertise the Contract. This would not necessarily result in more competitive bids, and would delay improvements to the Train Control Rooms' ambient temperatures.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager or her designee is authorized to award Contract No. 20HE-120, HVAC Upgrades at the Train Control Rooms at L14, L18, A58, C20 and C76, to American Air Conditioning, Plumbing & Heating Co. in the amount of \$564,600.00, including applicable taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedure and FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeVange</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to May 23, 2013 E&O Committee meeting.		
DATE: c <i>5/17/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Hamed T Tafaghodi Dept: Maintenance and Engineering <i>Hamed Tafaghodi</i> Signature/Date: <i>5/13/13</i>	General Counsel <i>Andres...</i> Signature/Date: <i>5/13/13</i> []	Controller/Treasurer []	District Secretary []	BARC <i>Paul...</i> Signature/Date: <i>5/13/13</i> []

TITLE:

Award Contract No. 15QH-130 Site Improvements at Various Stations - Phase II

NARRATIVE

PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 15QH-130, Site Improvements at Various Stations – Phase II, to L C Engineering & Construction, Inc.

DISCUSSION: The work of this Contract consists of providing all labor, equipment, materials, and services required for refurbishing parking lots, roadways, and walkways at the Daly City Station and replacing a portion of sewer pipe at the Millbrae Station. At the Daly City Station, deteriorated asphalt and concrete pavement will be replaced and pavement markings, signage, concrete ramps and curb ramps will be provided to improve access to the Station.

The District provided advance notice to 78 prospective Bidders on March 20, 2013 and Contract Documents were mailed to 24 plan rooms and minority assistance organizations on March 25, 2013. The Contract was advertised on March 22, 2013. A total of 12 firms purchased the Contract Documents. A pre-Bid meeting was conducted on March 29, 2013, with 8 prospective Bidders attending the meeting. The following three Bids were received on April 23, 2013:

BIDDER	LOCATION	TOTAL BID
L C General Engineering & Construction, Inc.	San Francisco, CA	1,314,493.00
West Bay Builders	Novato, CA	1,398,000.00
American Asphalt	Hayward, CA	1,402,000.00
Engineer's Estimate		\$1,140,851.00

After review by District staff, the Bid submitted by L C General Engineering & Construction, Inc. has been deemed to be responsive to the solicitation. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible and that the Bid of \$1,314,493.00, which is approximately 15% above the Engineer's Estimate, is fair and reasonable.

District staff has determined that this work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations, Section 15301, Existing Facilities, because it consists of the repair and minor

alterations of existing facilities involving no expansion of use.

A pre-Bid Matchmaking Session was held on April 4, 2013 and four (4) Prime Bidders and seven (7) Subcontractors participated in this event.

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 committed to 0% MBE and 1.5% WBE. The Bidder did not meet the MBE and WBE percentages therefore, the Bidder was requested to provide to the District the 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.

Pursuant to the District’s Non-Federal Small Business Program, the Office of Civil Rights set a 5% prime preference for small business Bidders for this Contract. None of the three Bidders for this Contract are qualified as a small business, therefore, none of them are eligible for the small business preference.

FISCAL IMPACT: Funding of \$1,314,493.00 for the award of Contract No. 15QH-130 is included in the total project budget for FMS #15QH000 – Repair Sidewalks Systemwide. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of April 25, 2013, \$10,032,753.00 is available for this project from the following sources:

Fund Number	Fund Description	Funded Amount
6219	MTC RM2-Res39667R Bridge Tolls	\$196,077.00
6511	Other Local City of Oakland	40,000.00
Various 85XX	BART Capital Allocations -multi year	9,796,676.00
	Grand Total All Sources	\$10,032,753.00

BART has expended \$3,339,440.84, committed \$112,972.35, and reserved \$987,625.00 to date for other actions. This action will commit \$1,314,493.00 leaving an available balance of \$4,278,222.02 in this project funding.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE: The Board may elect to reject all Bids and authorize the staff to rebid the work of this Contract. There is no assurance that new Bids would be lower than the amount of the current Bids received. The ensuing delay of this refurbishing work if it has to be rebid will potentially result in costlier repairs.

RECOMMENDATION: Adoption of the following motion:

MOTION: The General Manager is authorized to award Contract No. 15QH-130, Site Improvements at Various Stations – Phase II, to L C Engineering & Construction, Inc., of San Francisco for the Bid price of \$1,314,493.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeBenedictis</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>5/16/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kirtland Smith Dept: <i>1586</i>	General Counsel <i>Audrey Racz 5/15/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARG <i>Paul [Signature]</i>
Signature/Date: <i>5-15-13</i>	[]	[]	[]	[]
Status: Approved		Date Created: 05/08/2013		

TITLE:

Award of IFB 8922 Cushion and Cover Assemblies

NARRATIVE:

Purpose: To obtain Board authorization to award Invitation For Bid (IFB) No. 8922 to Sedia Incorporated, of Glendale, WI, in an amount not to exceed \$1,373,462.00, including all applicable sales tax, for the purchase of 115 car sets of cushion and cover assemblies with adaptors for transit vehicles.

Discussion: As part of the District's on-going effort to improve the interior appearance of transit vehicles, the District purchased 300 car sets of vinyl seat cushion and cover assemblies which are being installed in A-/B-cars. Vinyl offered advantages of improved maintainability and germ resistance, as well as lower cost. The current IFB procures vinyl seats for an additional 115 A-/B-Cars. New seat cushions and covers for C-Cars will be procured separately, and installed in conjunction with the C-Car HVAC upgrade program.

This is a twenty-four (24) month estimated quantity contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract, the District is required to purchase from the supplier a minimum amount of 50 percent of the contract Bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract Bid price subject to the availability of funding.

A notice requesting bids was published on April 05, 2013 and bid requests were mailed to four (4) prospective bidders. Bids were opened on April 30, 2013 and four (4) bids were received.

<u>Bidder</u>	<u>Item#1</u> Seats cushions Unit Price <u>115 each</u> (Qty)	<u>Item#2</u> Hardware Unit Price <u>116 each</u> (Qty)	<u>Item #3</u> Hardware Unit Price <u>116 each</u> (Qty)	<u>Grand Total Incl.</u> <u>9.0% Sales Tax</u>
SEDIA, INC. Glendale, WI	\$10,514.00	\$139.20	\$300.00	\$1,373,462.00
KUSTOM SEATING Bellwood, IL	\$10,824.00	\$353.00	\$608.00	\$1,478,297.00

Fell Fab, LLC Atlanta, GA	\$11,998.70	\$384.00	\$552.00	\$1,488,427.00
First State MFG. Milford, DE	\$13,389.71	\$242.00	\$295.00	\$1,746,299.00

Independent cost estimate by BART staff: \$1,300,000.00, including all applicable sales tax.

Staff has determined that the apparent lowest bidder, Sedia Incorporated, submitted a responsive bid, and that the bid pricing is fair and reasonable based on an independent cost estimate by BART staff.

The District's Non-Discrimination in Subcontracting Program does not apply to Emergency Contracts, Sole Source Contracts, and Contracts under \$50,000, or any Invitation for Bid. Pursuant to the Program, the Office of Civil Rights did not set availability percentages for this Contract.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights is utilizing race and gender neutral efforts for Procurement contracts. Therefore, no prime preference was set for this contract.

Fiscal Impact:

Funding of \$1,373,462 for the award of IFB 8922 will come from project budget 93GJ001 FY12 Purchase of Car Seats. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 5/10/13, \$1,373,462 is available for this project from the following source:

Fund No.	Source	Fund Description	Amount
8525	BART	FY13 Operating Capital Allocation	\$ 1,373,462
		Total	\$1,373,462

BART has expended \$0, encumbered \$0, and pre-encumbered \$1,058,000 for this purchase, to date. This action will encumber the remaining available funds, leaving an available fund balance of \$0.

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

Alternatives: An alternative to awarding the Contract would be to reject all bids and re-advertise the Contract, which is not likely to lead to a better price or more competition.

Recommendation: On the basis of analysis by Staff, and certification by the Controller/Treasurer that the funds are available for this purpose, it is recommended that the Board adopt the following motion.

Motion: The Board authorizes the General Manager to award IFB No. 8922, Procurement of Cushion and Cover Assemblies, an estimated quantity contract, to Sedia Incorporated for the Bid price of \$1,373,462.00, including all applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: May 17, 2013

FROM: General Manager

SUBJECT: FY13 Third Quarter Financial Report

The FY13 Third Quarter Financial Report (January – March 2013) is attached. The net operating result was unfavorable to budget by \$3.4M, as expenses were over budget for the quarter, which offset favorable revenue. This brings the year-to-date favorable result to \$5.5M.

Operating Sources

Ridership growth slowed from the rates of the first two quarters of FY13. Weekday ridership was 387,442 for the quarter, up 5.8% compared to one year earlier. The first and second quarters had grown 6.5% and 9.7%, respectively. Passenger revenue was \$3.3M favorable to budget for the quarter.

Sales Tax revenue grew 6.1% from one year earlier but was only about \$0.5M favorable to budget, compared to 3.8% and 11.6% growth in the second and first quarters that led to \$2.5M favorable through December. A portion of the fluctuations in growth rates are linked to the quarterly estimates paid by the state and should even out by year end. Year-to-date, sales tax is up 7.1% from FY12. This is slightly slower growth than last year, which grew 8%.

Operating Uses

Operating Expenses (excluding OPEB) were unfavorable to budget by approximately \$6.7M (5.1%) in the third quarter, with both labor and non labor over budget. Fiscal year to date, the District is approximately \$12.1M (3%) over budget, with \$10.3M of the variance in labor and benefits. Expenses will be easier to track in the future with the monthly closings now on schedule. The unfavorable labor variance was primarily driven by overtime expenses in Operations. Non labor expenses were also over budget for the quarter, with higher material and parts costs for rail cars one of the factors.

In closing, FY13 operating expenditures to date continue to exceed the adopted FY13 budget. Although year to date favorable revenues have exceeded the expense overrun by the \$5.5M positive result, during the third quarter this was not the case. We will continue to control expenses as much as possible, but are very likely to end the year over budget. As mentioned during the budget presentations this spring, the District will need to increase workers compensation reserve funding by approximately \$8M at year-end. If the positive result does not increase by the end of the year, some or all of this funding will need to be supplied by use of the District operating reserve. In addition, as in prior years, we have looked to positive year-end results to fund critical capital projects, and unless things improve dramatically in the fourth quarter, little if any such funding will be available.


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

**Quarterly Financial Report
Third Quarter
Fiscal Year - 2013**

Revenue

- Avg weekday ridership for the quarter was 387,442, 5.8% over the same quarter last year, slightly less growth than the prior two quarters. Core trips were up 5.6% and SFO trips 7.5% compared to 3QFY12. Net passenger revenue was 3.5% over budget for the quarter. Year to date, weekday trips are up 7.3% from FY12 YTD, with passenger revenue 5.6% over budget.
- Parking was \$0.5M under budget for the quarter, but should be close to budget by year end.

Expense

- Labor and benefits were unfavorable by \$4.6M (4.9%), and \$10.3M (3.6%) for the quarter and year to date, respectively, primarily due to overtime.
- Electric Power was favorable for the quarter by \$0.8M (8.3%), and \$0.4M (1.2%) for year to date. Savings in delivery and other expenses more than offset additional energy costs due to delayed start of Lodi Energy Center.
- OPEB unfunded liability is shown as an expense and is offset; there is no bottom line impact.
- Other Non Labor was unfavorable by \$3.0M (12.1%) for the quarter; YTD expense is unfavorable by \$2.2M or (\$3.1%), primarily due to higher costs for materials and car parts. These costs were partially offset by the timing of payment and charges for professional fees.

Operating Deficit

- The operating deficit (revenue minus expense) was \$4.5M unfavorable for the quarter. Over budget expense (\$7.7M) offset the \$3.2M favorable revenue variance.

MTC Rail Car Fund Swap

- The MTC rail car fund swap is a funding exchange program between MTC and BART that does not affect the net operating result.

Taxes and Financial Assistance

- Sales Tax grew 6.1% over 3QFY12 and was \$0.6M over budget. YTD, sales tax is \$3.0M over budget, with 7.1% growth over FY12.
- Property Tax \$1.9M over budget through March due to early Alameda County payment.
- Other Assistance \$2.3M under budget YTD due to timing of M&E's SMP reimbursement.
- STA \$0.7 M under budget due to timing, however, expected to be on budget at year end.
- Debt service was unfavorable in the quarter due to timing, but is on budget year to date.

Net Operating Result

- The Net Operating Result for the quarter was unfavorable to budget by \$3.4M due to unfavorable Operating Expense results. YTD is favorable by \$5.5M as a result of better than budget Passenger Revenue.

Current Quarter			(\$ Millions)	Q3 Year to Date		
Budget	Actual	Var		Budget	Actual	Var
			Revenue			
92.3	95.6	3.5%	Net Passenger Revenue	282.6	298.5	5.6%
4.3	3.8	-12.1%	Parking Revenue	11.6	11.5	-0.2%
4.8	5.3	8.9%	Other Operating Revenue	14.4	14.6	1.3%
101.5	104.7	3.1%	Total Net Operating Revenue	308.6	324.6	5.2%
			Expense			
93.8	98.4	-4.9%	Net Labor	286.0	296.3	-3.6%
0.2	1.2	-450.3%	OPEB Unfunded Liability	0.7	4.7	-609.5%
9.5	8.7	8.3%	Electric Power	27.9	27.5	1.2%
4.0	4.0	-0.2%	Purchased Transportation	12.0	12.0	0.5%
23.9	26.9	-12.1%	Other Non Labor	70.8	73.0	-3.1%
131.5	139.2	-5.8%	Total Operating Expense	397.4	413.5	-4.1%
(30.0)	(34.5)	-15.0%	Operating Surplus (Deficit)	(88.7)	(88.9)	-0.1%
-	(12.0)	-	MTC Rail Fund Car Swap	-	(26.2)	-
			Taxes and Financial Assistance			
52.2	52.8	1.1%	Sales Tax	154.5	157.5	2.0%
2.1	3.5	68.4%	Property Tax, Other Assistance	21.1	20.9	-0.8%
-	12.0	-	MTC Rail Fund Car Swap	-	26.2	-
4.3	5.0	16.3%	State Transit Assistance	8.7	8.0	-7.7%
(6.4)	(9.0)	-40.7%	Debt Service	(46.4)	(46.6)	-0.5%
(1.8)	(1.8)	0.0%	Capital and Other Allocations	(62.7)	(63.1)	-0.6%
0.2	1.2	450.3%	OPEB Unfunded Liability Offset	0.7	4.7	609.5%
50.7	63.8	25.8%	Net Financial Assistance	75.8	107.7	41.9%
20.7	17.3		Net Operating Result	(12.9)	(7.4)	
77.2%	75.2%	-2.0%	System Operating Ratio	77.7%	78.5%	0.8%
0.335 c	0.343 c	-2.2%	Rail Cost / Passenger Mile	0.331 c	0.329	0.7%

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

**The Other Post Employment Benefits (primarily retiree medical) is a non-cash expense to recognize the difference in actual retiree medical funding (per the ramp-up plan) and the full actuarially calculated Annual Required Contribution and does not affect the Net Operating Result.

- No Problem
- Caution: Potential Problem/Problem Being Addressed
- Significant Problem

3. ADMINISTRATION ITEMS

Director Murray, Chairperson

- A. Agreement No. 6M6062, Brokerage and Service Provider Services for East Bay Paratransit and Assignment of Lease.* Board requested to authorize.
- B. Concurrence in Exercise by Alameda Contra Costa Transit District of Two Year Option with CGR Management Consultants, LLC to Provide Program Coordinator Office Services for East Bay Paratransit Consortium (Agreement No. 2010-1139).* Board requested to authorize.
- C. District Recruitment Sourcing Services.* Board requested to authorize.
- D. Fiscal Year 2014 Preliminary Budget. (Reference to attachment for Public Hearing on Fiscal Year 2014 Budget) For information.

**ADMINISTRATION
MATERIAL**

May 23, 2013



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter deVries</i>		GENERAL MANAGER ACTION REQ'D: Forward to Board for 5/23/2013		
DATE: c <i>5/16/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Laura Timothy Dept: Customer Access <i>Laura Timothy 5-15-2013</i>	General Counsel <i>Audrea Rowas 5/15/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>[Signature] 5-16-13</i>
Signature/Date: <i>[Signatures]</i>				

TITLE:

Authority to Execute Agreement No. 6M6062, Brokerage and Service Provider Services for East Bay Paratransit, and Accept Assignment of Lease

NARRATIVE:

Purpose:

To seek Board authorization for the General Manager to execute Agreement No. 6M6062 (AC Transit Agreement 2013-1243) with Veolia Transportation (Veolia) to provide complete Americans with Disabilities Act (ADA) paratransit services, including brokerage and direct service through subcontractors, for the East Bay Paratransit Consortium (EBPC). The initial base contract period is for five (5) years ending June 30, 2018 and there is an Option to extend the Agreement for an additional five years. Board authorization is also sought for the General Manager to agree, in the event that Veolia ceases to be the EBPC broker, to accept assignment of a space lease from Veolia for the purpose of assigning the lease to the then current EBPC broker.

Discussion:

Since the inception of BART's ADA paratransit service in 1996, BART and AC Transit have provided paratransit service in their overlapping service area as the EBPC. Service has been operated by a contracted broker firm which provides a variety of office-based services including eligibility, reservations, and scheduling. The broker in turn subcontracts with private sector service providers operating dedicated lift vans. EBPC carries approximately 2,450 passengers per day. The current EBPC broker is Veolia and its agreement expires on June 30, 2013. Therefore, a new agreement is now needed in order to provide federally mandated ADA paratransit services.

On March 1, 2013, acting as lead on the procurement of services, AC Transit issued Request for Proposals (RFP) No. 2013-1243 on behalf of the EBPC. The announcement of the RFP was posted on the AC Transit procurement website, noticed in Passenger Transport and the Oakland Tribune, and sent to 28 firms identified as having expertise in the field of paratransit brokerage or paratransit direct services. A pre-proposal meeting for this RFP was held on March 14, 2013. Representatives of 7 firms were in attendance.

As with the existing paratransit broker contract, the RFP requires the following:

- Broker with two or more subcontracted service providers,
- Broker to be compensated on a cost reimbursement basis,
- Service providers to be compensated through the broker according to fixed hourly rates,
- Direct reimbursement of fuel for service providers--not to be included in their hourly rate.

Changes in the RFP from the current paratransit broker contract include:

- Conversion to an all van fleet consisting of 50% Type I and 50% Type II lift vans to provide greater service flexibility for scheduling rides for wheelchair users,
- Broker to provide centralized dispatch at the broker offices,
- An Option for the development of an Emergency Plan in the first 12 months of the contract.

The Agreement provides for a base term of five years from July 1, 2013 to June 30, 2018. It also includes an Option to extend the term of the Agreement for an additional five years to June 30, 2023. Although Proposers were required to submit prices for the Option years, these prices will be reviewed for reasonableness prior to exercise of the Option. For award purposes, Proposers were informed that prices for both the base five year period and additional five year Option period would be assessed. The Agreement also includes an additional Option for development of an Emergency Plan.

On April 2, 2013 the District received only one proposal in response to the RFP, which was from Veolia. Veolia proposed functioning as the paratransit broker in partnership with the following service providers: A-Paratransit, First Transit, and MV Transportation.

The proposal was reviewed and evaluated by a Technical Selection Committee and a separate Price Evaluation Committee. BART's Manager of Paratransit Programs participated in both committees. BART's Internal Audit staff participated on the Price Evaluation Committee and reviewed the provisional rate agreement. The Technical Selection Committee also included staff from AC Transit, from MUNI's Accessible Services Department, from the City of Fremont's city-based paratransit program, and from the EBPC rider advisory committee. In addition to the BART staff, the Price Evaluation Committee included AC Transit staff and the EBPC Program Coordinator Office.

The proposal was judged to meet the minimum criteria established in the RFP. The technical proposal was evaluated and scored on the basis of the criteria contained in the RFP. The overall quality of the proposal was high. It showed evidence that Veolia has the extensive background and deep understanding of paratransit necessary to deliver paratransit service in the East Bay.

The price proposal was evaluated and found to be within the staff estimate developed prior to the receipt of proposals. However, in order to achieve the highest possible quality at the lowest possible cost, negotiations were opened and Veolia was asked to submit a Best and Final Offer,

which was received on May 7, 2013. The Best and Final Offer was approximately \$10.8 M lower than the original proposal over the full ten year base plus Option period. The major cost reductions were in service provider costs per billable hours.

Based on the evaluation scoring and the Best and Final Offer, the Selection and Evaluation Committees recommend an award to Veolia. The base five year period of the Agreement, including the Option for the Emergency Plan, will be in an amount not to exceed \$194,130,939. The base five year amount includes the Option for the Emergency Plan to be executed in FY13/14 in an amount not to exceed \$200,000. The Option to extend the Agreement for an additional five years will be in an amount not to exceed \$236,252,886. BART's share of these costs will be 31%, or a total amount not to exceed \$133,418,986, for the base five year period and both Options.

The total Agreement amount includes several items:

- Veolia's broker services,
- Expected direct reimbursement to Service Providers for a total of 5,123,878 hours of service,
- Estimated costs for direct reimbursement of fuel,
- Estimated Incentives which will only be awarded based on measured success in productivity, on-time performance, and service quality,
- The Option to extend the Agreement from July 1, 2018 to June 20, 2023, and
- The Option for an emergency plan.

In addition, under the Agreement terms, each agency may request the broker to provide special services directly to the agency. For example, BART currently requests special services related to provision of a Regional Trip Coordinator to assist in scheduling trips for riders that connect to other paratransit providers and elevator mitigation trips which provide paratransit trips to BART riders on an as-needed basis. Each agency will be responsible for one hundred percent of the costs of any special services it requests. These costs will be in addition the above total Agreement amount for joint brokerage and service provider services. Special services for BART under this Agreement will be in an amount not to exceed \$100,000 per year. The costs for these special services are outside the joint responsibilities of the EBPC but are needed to support BART in meeting its ADA obligations and such costs will be budgeted in the annual operating budget for BART's Paratransit program.

This Agreement award is scheduled to go to the AC Transit Board for approval on May 22, 2013.

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

If Veolia is awarded the Agreement, it will be required to operate out of a main office, which will be open to the public, at a location approved by both BART and AC Transit. It is intended that Veolia will be the lessee of such space. Under the Agreement, the EBPC will be responsible for reimbursing Veolia for the costs of the lease during the term of the Agreement. If Veolia ceases to be the EBPC broker either because the Option to extend the Agreement is not exercised or for

some other reason, it would be beneficial for the new EBPC paratransit broker to occupy the leased space. This will help ensure continuity of services to EBPC riders and will likely result in lower rental rates since Veolia will be able to execute a lease for a term longer than the initial five year base term of the Agreement with confidence that it can assign the lease if it ceases to be the EBPC broker. Accordingly, Staff requests authorization for BART, either by itself or as part of the EBPC, to agree to accept assignment of a lease from Veolia in the event that Veolia ceases to be the EBPC broker so that the lease may then be re-assigned to the then current EBPC paratransit broker, provided that the costs required under such lease do not exceed \$400,000 per year and the lease term does not exceed 11 years.

Fiscal Impact:

The maximum obligation for BART under the Agreement for EBPC joint brokerage and service provider services will not exceed \$133,418, 986 over the full 10-year period. The cost is as follows:

BART Share of EBPC Costs including Emergency Plan and Incentives:

BASE Period

Year 1: FY 14	\$11,171,013
Year 2: FY 15	\$11,580,172
Year 3: FY 16	\$11,929,891
Year 4: FY 17	\$12,472,081
Year 5: FY 18	\$13,027,435
Total	\$60,180,591

OPTION Period

Year 1: FY 19	\$13,571,450
Year 2: FY 20	\$14,173,673
Year 3: FY 21	\$14,738,146
Year 4: FY 22	\$15,184,930
Year 5: FY 23	\$15,570,195
Total	\$73,238,395

10Yr. BART share	\$133,418, 986
-------------------------	-----------------------

The annual contract amounts above reflect an assumption of annually increasing ridership at a rate of 1.25%, in addition to some contractual increases, particularly in broker wages and service provider hourly rates. BART staff anticipates that the full amount of the increase in paratransit costs can be absorbed into the planned accessible services budget.

Because this is a cost reimbursement contract, actual expenses may be less than the contract amount and budgets will be adjusted accordingly. The Agreement will be subject to the availability of fiscal year funding.

In addition, BART will be responsible for 100% of the costs of any special services requested by BART, which will be in an amount not to exceed \$100,000 per year, or an additional \$1,000,000 over the full ten year base plus Option period.

Alternatives:

The District could reject the proposal, ask for a contract extension from Veolia, and re-solicit new proposals. However, this is not likely to result in additional proposals or better prices and could adversely impact BART's ability to provide federally mandated paratransit service.

Recommendation:

It is recommended that the Board adopt the following motion:

Motion:

The General Manager is authorized to execute, jointly with AC Transit, Agreement No 6M6062 (AC Transit Agreement 2013-1243) for Broker and Service Provider Services for the East Bay Paratransit Consortium with Veolia, and to exercise the Options, for an amount not to exceed \$430,383,825 (including the Options). BART's share of the cost of the Agreement for such services shall be 31% or not to exceed \$133,418,986. In addition, the General Manager, or her designee, is authorized to request special services for BART under the Agreement in the amount of up to \$100,000 per year during for the life of the Agreement, for a total additional not to exceed amount of \$1,000,000. The General Manager is also authorized to agree to accept assignment of a space lease from Veolia in the event that Veolia ceases to be the EBPC broker for the purpose of re-assigning the lease to the then current East Bay Paratransit Consortium broker provided that the costs required under such lease do not exceed \$400,000 per year and that the lease term does not exceed 11 years.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Alberca Delkuden</i>		GENERAL MANAGER ACTION REQ'D: Forward to Board for 5/23/2013		
DATE: c <i>5/16/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Laura Timothy Dept: Customer Access <i>Laura Timothy</i> Signature/Date: <i>5/14/2013</i>	General Counsel <i>Andrea Rowan</i> <i>5/14/13</i> []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> <i>5-15-13</i> []

TITLE:

Authority to Concur in Exercise of Option to Extend CGR Management Consultants LLC's Agreement to Provide Program Coordinator Office Services for the East Bay Paratransit Consortium (EBPC) for Two Years

NARRATIVE:

Purpose:

To seek Board authorization for the General Manager to concur in AC Transit's exercise of an Option that will extend CGR Management Consultants LLC's Agreement to provide Program Coordination Office (PCO) services for the East Bay Paratransit Consortium (EBPC) for an additional two years.

Discussion:

The EBPC is a partnership of BART and AC Transit to provide paratransit service, as required under the Americans with Disabilities Act (ADA), in the overlapping service areas of the two agencies. When the EBPC was formed, the PCO was established to serve as a neutral, central point of contact between AC Transit and BART and to fulfill certain administrative and contract monitoring activities jointly for the two member agencies.

The PCO coordinates the activities of both agencies, prepares financial and detailed operating data and oversees the activities of the paratransit broker. The PCO also provides information and serves as a single point of contact for consumers, the Service Review Advisory Committee and other interested parties. As an independent office, the PCO provides an additional layer of review and oversight which supports both internal and external data analysis, operation review and audits for both agencies.

AC Transit is the lead agency on all EBPC procurements for services. Currently, PCO services are being provided to the EBPC by CGR Management Consultants LLC under AC Transit Agreement No. 2010-1139. This Agreement was awarded pursuant to a competitive Request for Proposal process that was led by AC Transit. BART concurred in this Agreement since BART contributes towards the cost of these services.

Although this Agreement expires on June 30, 2013 it contains an Option to extend the Agreement for an additional two years to June 30, 2015 for an amount not to exceed \$580,617. Staff from BART and AC Transit recommend exercise of this Option as they have found the

services provided by CGR Management Consultants LLC, which have been performed by a team led by Mary Rowlands, to be exemplary in both technical and cost aspects.

On May 8, 2013, AC Transit's Board approved exercise of this Option. BART staff now seeks authority for BART's General Manager to concur in AC Transit's exercise of this Option.

Since July 2010, AC Transit and BART having been sharing equally in the costs of the EBPC PCO services with a 50/50 split. This was agreed to by both BART and AC Transit because each agency derives equal benefit from the services provided by the PCO. Pursuant to this agreement, BART will be responsible for 50% of the costs of the Option if it is exercised. BART's share will not exceed \$290,308.

Fiscal Impact:

The cost of services for the Option, extending the Agreement for two (2) additional years to June 30, 2015, is an amount not to exceed \$580,617.

BART's share of the obligation will be \$145,154 in FY14 and FY15. Funding for FY14 in the amount of \$145,154 is included in the Operating Budget of the Customer Access Department. The remaining amount not to exceed \$145,154 will be requested in the FY15 preliminary operating budget cycle.

Alternatives:

Previous analysis has shown that these contracted PCO services are being provided in a more cost-effective manner than if the work were to be brought in-house.

The District could refuse to concur in the exercise of the Option and request AC Transit to instead issue a new RFP and solicit new proposals. The time required to award a new contract would leave the agencies without PCO services which could adversely impact the agencies' ability to monitor and provide oversight to the EBPC and meet federally mandated paratransit service requirements.

Recommendation:

It is recommended that the Board adopt the following motion:

Motion:

The General Manager is authorized to concur in AC Transit's exercise of an Option to extend Agreement No 2010-1139 for Program Coordinator Office services for the East Bay Paratransit Consortium with CGR Management Consultants LLC for an additional two years for an amount not to exceed \$580,617, with BART's share of the cost of the Option to be 50%, not to exceed \$290,308.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Patrice McElroy</i>		GENERAL MANAGER ACTION REQ'D: Board Approval and Authorization		
DATE: c <i>5/17/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Patrice McElroy Dept. Human Resources	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>Patrice McElroy</i>	<i>MB</i> 5/17/13	<i>[Signature]</i> []	[]	<i>Christina</i> 5-16-13 []

TITLE:

DISTRICT RECRUITMENT SOURCING SERVICES

NARRATIVE:

PURPOSE:

The purpose of this item is to obtain Board authorization to allow the General Manager to enter into an agreement with one or more agencies for the purpose of recruiting for specialized technical positions as further discussed below.

DISCUSSION:

On March 11, 1993, the Board adopted Resolution 4487, requiring Board approval prior to any recruiting activity to employ a person who is not a current District employee for an annual salary of \$50,000 or more. The resolution also states that the District should confine its recruiting to the State of California. Accordingly, staff has sought approval prior to engaging a third party recruiter for any position.

Historically, the District has generally confined its third party recruiting to senior management and executive positions, relying on staff resources to publicize most District vacancies. However, staff has found certain highly technical positions in the areas of engineering and information technology to be difficult to fill. The positions require skills, experience and knowledge that are relatively scarce in the local labor pool; some are even in short supply nationally. These include in particular engineering specialization in track maintenance, traction power, train control and other transit-specific areas.

Similarly, the District's information technology has reached a level of sophistication such that it requires in-house expertise in cutting edge technologies and strategies that are in short supply despite the District's proximity to Silicon Valley. Needs in this area include development, design and maintenance of the District's Enterprise Management Systems such as PeopleSoft, Oracle Business Intelligence Enterprise Edition (OBIEE) and Maximo, as well as advanced security systems.

District staff is interested in experimenting with the use of specialized sourcing firms that work in the areas that have been a challenge to fill. These firms, unlike the executive search firms more typically used, charge a fixed fee for each candidate hired. Staff's preliminary discussions suggest that the fee will be about \$10,000 - \$15,000 for each hire, which is less than a third of the

DISTRICT RECRUITMENT SOURCING SERVICES

amount typically charged for executive searches. Although these costs have not been specifically budgeted, the departments with the vacancies have agreed to absorb the cost of recruiting from their own budgets.

By adopting this motion, the Board will authorize staff to engage the services of one or more specialized sourcing firms with experience and expertise in hard to fill engineering, technology or other similar positions in a pilot program involving no more than fifteen positions. This will allow the District to assess the value of these firms' access to the candidate pools needed to appropriately fill its technically specialized positions. The District will conduct one or more informal requests for proposal from sourcing firms with appropriate credentials, and will evaluate their experience, proposed strategies, and their record of prior success in providing candidates for the identified specialized positions. The services selected will be procured in accordance with the District's policies and procedures. The sourcing consultant(s) will be required to focus their efforts on individuals within California, specifically the San Francisco Bay Area. However, the recruitments will not be confined to California.

Proposals will be solicited from sourcing agencies that have:

Expertise in sourcing engineering, information technology, and/or other specialized technical positions supporting District needs.

Expertise in transit and/or public sector sourcing services

Acceptable business references

The ability to meet the terms of the District's agreement

Acceptable price and fee structure

The selected sourcing firm(s) will be required to provide the District with a minimum number of qualified candidates for each position requested within acceptable timeframes. The candidates will be subject to the District's selection procedures including but not limited to testing procedures such as written exams, practical assessments, and panel interviews, and payment will be made only for those referrals that are ultimately selected and complete probation. The cost for each placement is estimated at \$10,000 to \$15,000. The maximum expenditure under this authorization is \$225,000.

The District will conduct an assessment no later than the conclusion of this initial authorization to determine the desirability of continuing this approach to staffing technical positions and will return to the Board for authorization should it recommend to continue.

The Office of the General Counsel will approve any and all solicitation documents and agreements as to form.

FISCAL IMPACT:

The costs for the sourcing services are estimated not to exceed \$225,000; with a cost range of \$10,000 to \$15,000 for each successful placement. The recruiting department would be responsible for the costs associated with the outsourcing. Funding for the recruitment sourcing

DISTRICT RECRUITMENT SOURCING SERVICES

services will come from the FY13/FY14 operating budget of the hiring department. Funding, if necessary, in out years would be requested in future preliminary operating budget cycles.

ALTERNATIVE:

Continue to identify candidates for these specialized technical positions using the District's in-house recruitment resources with or without relocation assistance. This approach may delay filling key positions, which in turn delays project completion.

RECOMMENDATION:

Adopt the following motion:

MOTION:

That the General Manager or her designee is authorized, in conformance with established District procedures governing the procurement of professional services, to obtain District recruitment sourcing services, to identify qualified candidates for positions identified by the Human Resources Department. The cost of the sourcing services will not exceed an aggregate amount of \$225,000.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Amendment No. 2 to the Memorandum of Understanding with the Metropolitan Transportation Commission; Alameda Contra Costa Transit District; Golden Gate Bridge, Highway and Transportation District; and San Francisco Municipal Transportation Agency Regarding Operations and Maintenance of Clipper Fare Collection System.* Board requested to authorize.
- B. (CONTINUED from May 9, 2013 Board Meeting)
Quarterly Performance Report, Third Quarter Fiscal Year 2013 - Service Performance Review.* For information.

**ENGINEERING
AND
OPERATIONS
MATERIAL**

May 23, 2013



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Larcia DelBando</i>		GENERAL MANAGER ACTION REQ'D: Execute Amendment No. 2 to the Clipper Memorandum of Understanding		
DATE: c <i>5/16/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Kozimor Dept: Planning and Development <i>Larry Kozimor</i>	General Counsel <i>Audrea Peeps</i> <i>5/16/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul Chenoweth</i> <i>5/15/13</i>
Signature/Date: <i>5/16/13</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TITLE:

Amendment No. 2 to the Memorandum of Understanding Regarding Operations and Maintenance of Clipper Fare Collection System

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to execute Amendment No. 2 to the Memorandum of Understanding Regarding Operations and Maintenance of Clipper Fare Collection System.

DISCUSSION: In October 2011, the Board authorized the General Manager to execute the Memorandum of Understanding (MOU) Regarding Operations and Maintenance of Clipper Fare Collection System, and authorized the General Manager to execute Amendment No. 1 to the MOU. The MOU defines high level responsibilities of the Operators and MTC, cost and revenue allocation formulae, operating rules, dispute resolution and amendment procedures, and the MOU term. Amendment No. 1 to the MOU implemented a two-year pilot program that requires Operator payment of a 1% Employer Program Commission to transit benefit administrators such as Wageworks and Commuter Check to maintain the customer option to automatically receive transit benefit value on their Clipper cards. This commission is conceptually equivalent to that previously paid by Operators for sale of paper fare media, and the cost is shared among Operators under the existing Clipper cost allocation formula. A copy of the original MOU is provided as Attachment A, and Amendment No. 1 is provided as Attachment B.

Amendment No. 2, provided as Attachment C, includes three items. The first item is removal of the provisions requiring MTC to transfer, and Operators to accept, ownership of Clipper equipment, as such transfer has been determined to be complex and contrary to federal property management standards and Generally Accepted Accounting Principles (GAAP). The second item is the removal of the June 30, 2013 expiration date for the 1% commission paid to transit benefit administrators. The pilot program implemented in Amendment No. 1 was successful in offering customers convenient access to their transit benefits through automatic loads on their Clipper cards. The Operators and MTC have agreed that continuing this customer benefit is desirable, and continuing the 1% commission is warranted. The third item is the transfer of responsibility for Regional Transit Connection (RTC) discount Clipper card distribution and printing from Cordoba Associates (Cordoba), the contractor currently performing this service under contract to BART, to Cubic Transportation Systems (Cubic), under contract with MTC. This change will improve customer service for RTC customers by establishing a single point of contact for questions regarding the Clipper features of RTC discount cards. Medical verification for RTC

cardholders and maintenance of the RTC database will continue to be performed by Cordoba. Responsibility for continuing management of Cordoba's services will be transferred to AC Transit starting July 1, 2013.

The Office of General Council has approved the MOU Amendment No. 2 as to form.

FISCAL IMPACT: Approval of MOU Amendment No. 2 alters the District's financial obligations in that the Employer Program Commissions paid to transit benefit administrators will continue beyond June 30, 2013. Total commissions paid by all Operators during FY12 totaled \$215,562, of which BART's annual share is estimated to be \$80,491. Total commissions paid by all Operators in FY13 is estimated to be \$320,000, of which BART's annual share is estimated to be \$119,488. Since customer participation in transit benefit programs processed by Cubic has matured, it is expected that future annual commissions paid may be comparable with that for FY13. If the 1% commission now paid to transit benefit administrators is terminated, it is likely that the transit benefit administrators would revert to issuing paper vouchers and debit cards, which would be less convenient for both customers and third party retailers.

Approval of MOU Amendment No. 2 also alters the District's financial obligations for its share of Cubic and MTC's operating costs for the printing and distribution of RTC cards, and for the new Cordoba contract with AC Transit. Under the current Cordoba contract, BART's annual cost is estimated at \$60,508. Under the new Cordoba contract with AC Transit, BART's annual cost is estimated to be \$62,656, and under the revised MOU, BART's share of annual MTC and Cubic RTC-related expenses is estimated at \$5,740. The total of these estimated amounts is \$68,396 per year. This is an estimated annual increase of \$7,888.

MTC's retention of ownership of Clipper equipment does not alter the District's financial obligations.

The termination date for the MOU is November 2, 2019, matching the termination date of the Clipper contract between MTC and Cubic. At that time, a new MOU will have to be entered into among MTC and the Operators, the fiscal impact of which is unknown at this time.

ALTERNATIVES: Do not approve execution of Clipper MOU Amendment No. 2, which would result in a problematic transfer of Clipper equipment ownership to Operators, reduce customer convenience for those now receiving transit benefits automatically, and preclude improvements to customer service for RTC cardholders.

RECOMMENDATION: Adoption of the following motion:

MOTION: The General Manager is authorized to execute Amendment No. 2 to the Memorandum of Understanding Regarding Operations and Maintenance of Clipper Fare Collection System.

5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS
Director Blalock, Chairperson

- A. Proposed Modifications to the District Bicycle Rules.* Board requested to authorize.
- B. Exclusive Negotiating Agreement with West Oakland Development Group, LLC for Development at West Oakland Station.* Board requested to authorize.
- C. Proposed Late Night Bus Service Update.* For information.

**PLANNING,
PUBLIC AFFAIRS,
ACCESS, AND
LEGISLATION
MATERIAL**

May 23, 2013



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter J. DeBevoise</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/16/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Steve Beroldo Dept: Customer Access <i>SB</i>	General Counsel <i>Audrea Kovacs 5/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>Pat Hunt 5-16-13</i>
Signature/Date: <i>SB 5-15-2013</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[]</i>	<i>[]</i>
Status: Routed		Date Created: 05/10/2013		

TITLE:

BART Bike Rule Modifications

NARRATIVE:

PURPOSE

To request Board adoption of modifications to BART Bike Rules.

DISCUSSION

Current BART Bike Rules restrict bicycle access during peak commute times. These rules were last updated or modified more than a decade ago, in 1999. As described below, prior to that last change, BART had gradually modified its Bike Rules to expand bicycle access on the system:

- 1972: bikes are banned entirely from the BART system
- 1974: bikes allowed with a permit, only in the last car during non-commute hours
- 1988: bikes allowed, in the reverse commute direction during commute hours
- 1997: permit requirement removed, and bikes allowed in all but first car
- 1998: time restrictions narrowed to specific trains, bikes allowed at all times on the Richmond/Fremont line
- 1999: bicyclists no longer required to use the rear door of a car

Two commute period bike pilots have been conducted in the past eight months. In August 2012 on Fridays, bikes were allowed on all trains and in and out of all stations at all times. In March 2013 for a full work week, bikes were allowed on all trains and in all stations at all times.

The pilots were evaluated through customer surveys and by soliciting feedback from BART staff. Based on this evaluation, staff concluded that the majority of riders support allowing bikes on BART during commute periods.

Survey results from the March pilot show that most riders support allowing bikes on BART during commute periods. 76% of respondents favored lifting the bike restrictions during commute periods. In addition, staff did not observe any consistent negative impacts of allowing bikes on all trains during the commute period. Staff feedback described the August 2012 and March 2013 pilots as "non-events" and observed that the presence of bicyclists did not impede or delay service. Staff also did not observe any increase in reported incidents or customer complaints associated with bikes during the pilots. Customer surveys corroborated staff observations. 75% of respondents indicated that bikes on BART had little or no effect on their trip. While two small contingents of respondents had strong opinions on both sides of the issue, a majority of respondents had no objections to bikes on BART during commute times.

Most respondents feel unaffected by Bikes on BART during peak commute times

- 84% = no impact on decision to ride
- 75% = little or no effect on their trip

Some concerns with bikes onboard during commute periods

- 13% reported problems during pilot mainly related to crowding

Supportive of bikes onboard during commute periods

- 20% much more likely to ride BART during commute period
- 9% accommodating bikes made my trip better

With more use, fewer opposed to bikes onboard

- August 2012 = 37% in favor of keeping current restrictions
- March 2013 = 23% in favor of keeping current restrictions

The pilot programs also provided valuable lessons on how to better accommodate bikes during peak commute periods and to help improve the onboard experience for all riders, cyclists and non cyclists. As a result of observations and customer comments during the pilots, staff implemented the following service improvements:

- Reconfiguration of car interiors to improve circulation and add space
- Making train crowding information available on www.bart.gov, to encourage customers to avoid crowded trains
- Installing bicycle waiting zone and customer queuing decals on platforms at 12th and 19th Street stations to facilitate boarding for all customers (effective 7/1/13)
- Installation of new, bolder signage installed on escalators to ensure bicyclists are aware of safety restrictions
- Deployment of bike etiquette education car cards on trains

In addition, the following improvements are planned:

- Expanded, secure bike parking programs being implemented as a longer-term strategy to keep the number of bikes on trains at a reasonable level, and
- Bike sharing programs to be studied/implemented at a future date

The proposed bike rule change will simplify and streamline the existing Bike Rules. Staff recommend that all commute period restrictions for bicycle access be replaced with the following: *"Bikes are allowed on all trains but never in the first car. During commute hours (7:00 to 9:00 am & 4:30 to 6:30 pm) bikes are not allowed in the first three cars of any train."* The new rules will apply system-wide including the Richmond/Fremont line which currently has no time-based restrictions.

Staff recommend adopting the proposed modifications to the bike rules effective July 1, 2013.

ALTERNATIVES

Alternatives to adopting the proposed modifications include the following:

Alternative 1: No Rule Change. Commute period restrictions remain in place prohibiting bikes onboard during the peak period on peak direction trains. This alternative may limit the number of bicycle commuters who choose to use BART. Or, potential bike commuters may only be able to access BART by car. With parking and transit access options constrained, bicycle access represents an option that will help keep BART ridership growing in an environmentally sustainable manner.

Alternative 2: Five Month Extended Trial. Adopt the rule change for a five month trial period starting July 1, 2013 and ending November 30, 2013. The trial would be evaluated in a manner similar to the two pilot programs. At the first Board meeting in November, staff would provide evaluation results to the Board of the trial through October. The evaluation will include: observation by staff and BART Accessibility Task Force & the Bicycle Bicycle Task Advisory Force members, trend analysis of customer comments and a random sample passenger survey. At that time, the Board may adopt the pilot rules as permanent or may choose to end the pilot and revert to the Bike Rules that restrict commute period access. Implementation costs for a trial program, which includes stickers for all schedule and map displays and an updated Bike Rules card (in multiple languages) are estimated at \$19,000.

FISCAL IMPACT

For the recommended action, total implementation costs are estimated at \$195,000 for the design, production, and deployment of customer information materials including brochures, schedule displays and website reprogramming. Funds for the recommended action are included in the FY 14 operating budget.

RECOMMENDATION

Adopt the following motion effective July 1, 2013.

MOTION

The General Manager is authorized to modify the bike rules, as attached, effective July 1, 2013 to allow bikes on all trains, except for the first three cars, and in all stations during commute periods.

EDD Attachment, May 23, 2013 Board Meeting
BART Bike Rule Modifications

~~Bikes are allowed on all trains except those trains shown in highlighted areas of the BART Fares and Schedules brochure. It is the rider's responsibility to refer to BART schedules.~~

Bikes are allowed on all trains but never in the first car. During commute hours (7:00 to 9:00 am and 4:30 to 6:30 pm.) bikes are not allowed in the first three cars of any train.

Regardless of any other rule, bikes are never allowed on crowded cars. Use your good judgment and only board cars that can comfortably accommodate you and your bicycle. Hold your bike while on the trains.

~~Bikes are allowed in any car but the first car of a train.~~

Bicyclists must use elevator or stairs, not escalators, and always walk bikes.

Bicyclists must yield priority seating to seniors and people with disabilities, yield to other passengers, and not block aisles or doors or soil seats.

In case of an evacuation, leave your bike on the train and do not let it block aisles or doors.
Bicyclists under 14 years old must be accompanied by an adult.

Gas powered vehicles are never permitted.

Bikes must be parked in racks and lockers. Call (510) 464-7133 for locker availability. Bikes parked against poles, fences or railings will be removed.

COMMUTE HOURS

~~(Weekdays approximately 7:05 to 8:50 am and 4:25 to 6:45 pm.)~~

~~During morning commute hours, bikes are allowed in the Embarcadero Station only for trips to the East Bay (as indicated by the Fares and Schedules brochure).~~

~~During evening commute hours, bicyclists traveling from the East Bay must exit at the Embarcadero Station (as indicated by the Fares and Schedules brochure).~~

~~Bikes cannot enter or exit 12th and 19th Street Oakland Stations on weekdays between 6:56—8:50 am and 4:35—6:40 pm. (as indicated by the Fares and Schedules brochure).~~

Folded bikes are allowed on the trains at all times.

~~During commute hours, folding bikes must be folded before entering the paid area at the Embarcadero, Montgomery, Powell, and Civic Center San Francisco Stations, and the 12th and 19th Street Oakland Stations. At all other stations, they may be folded on the platform, but must be folded before boarding a train.~~

Violation of the above rules subject to citation under CA Vehicle Code Sec. 21113 and Sec. 42001.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcelo de la Riva</i>		GENERAL MANAGER ACTION REQ'D: Sign Exclusive Negotiating Agreement		
DATE: <i>5/16/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Yvette McCoy Dept: Real Estate and Property Development <i>Yvette McCoy</i> Signature/Date: <i>5/15/13</i>	General Counsel <i>Andrew Ray</i> <i>5/15/13</i> []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Robert Ross</i> <i>15 MAY 2013</i> []
Status: Approved		Date Created: 04/25/2013		

TITLE:

West Oakland BART Station - Exclusive Negotiating Agreement

NARRATIVE:

PURPOSE: To request Board approval for the General Manager or her designee to enter into an Exclusive Negotiating Agreement (ENA) with West Oakland Development Group, LLC, for development at the West Oakland BART station.

DISCUSSION: In 2003 the Board authorized staff to issue Request for Proposals for the West Oakland BART station. In 2005 the Board authorized staff to begin exclusive negotiations with Mandela Transit Village Partners (MTV) for development of 150 residential units, 49,000 sq. ft. of flex space, 24,800 sq. ft. of retail, and replacement parking. MTV consisted of Alliance for West Oakland and De Anza/Scott Companies as co-developers. The ENA was executed in 2006 and extended once through 2009; thereafter, it expired due to declining market conditions, unrealistic development strategy and, lack of financial backing.

The City of Oakland, in partnership with BART and the West Oakland community, began a Specific Plan process in 2011. After working closely with stakeholders over 18 months, the City initiated environmental review in late 2012. Consistent with the direction of the emerging plan, in March 2013, West Oakland Development Group, LLC (WODG) submitted an unsolicited proposal for a transit village development at and adjacent to the West Oakland BART station. WODG is a partnership of four key organizations in West Oakland:

- Alliance for West Oakland, the team leader for the previous proposer, MTV, a 501(c)3 nonprofit corporation. Jabari Herbert, key personnel for WODG, formerly served as Founder and Director for the Alliance for West Oakland. He established a parking management enterprise as well as a real estate portfolio of development projects valued at \$400 million.
- DCSI, Inc., a privately held corporation owned by Keith Kim, has developed over 500 housing units in Northern California, redeveloped a 123-room hotel in San Francisco, and participated in a joint venture to develop more than 1,000 units of affordable housing in Oakland.
- House of Change, a West Oakland 501(c)3 community organization.
- Tomorrow's Answer Youth Development Program, a community organization.

WODG's proposed Project includes an approximately 17- acre assemblage of property bounded

by 7th Street, Union Street, 5th Street and Wood Street in West Oakland, adjacent to and including property at the West Oakland BART station (see attached Exhibit 1).

The portion of Phase 1 development proposed for BART property will be comprised of approximately 532 housing units in a mixed-use building consisting of residential over ground floor retail space. The 5th Street site, known as the B of A site, is currently controlled by WODG. A 1348 parking garage to replace BART parking as well as provide parking for the adjoining uses will be developed on this site in Phase 1. Adjoining the parking garage, mid-rise residential and/or an office building with retail will be developed in Phase 3 of the Project.

In April 2013 the City of Oakland approved an ENA with WODG to negotiate conditions for WODG's purchase of surplus Caltrans property bounded by 5th, 7th, Kirkham Street and Union Street. The property would ultimately be used for WODG's development of 563 residential units in Phase 2 of their Project. The total development program being proposed by WODG, both on and off BART land is as follows:

- Phase 1- Alliance property - 1,348 parking space garage
- Phase 1- BART property - 532 residential units + retail
- Phase 2 - Caltrans property - 563 residential units
- Phase 3 - Alliance property - 542 residential units + retail

Negotiating with WODG is recommended by staff rather than issuance of a competitive Request for Proposals because WODG is the only developer who is expected to have control of over seven acres of property adjacent to the West Oakland BART station. Also, WODG is proposing a development plan which is consistent with the West Oakland Specific Plan. Consistent with the District's TOD Policy adopted by the Board in 2005, BART will be maximizing the value of its assets by allowing its property to be combined with adjacent property.

WODG will be performing a market analysis of its proposed Project. The District will strongly encourage the maximum consideration of office and retail uses in addition to residential uses as this would promote reverse commutes on BART and contribute to the vibrancy of the area.

The proposed ENA with WODG would be for 12 months, with an option to extend for an additional 12 months. The Office of General Counsel will approve the ENA as to form. Staff would return to the Board with recommended transactions for approval.

FISCAL IMPACT: There will be no fiscal impact associated with conducting negotiations other than the costs for staff and consultant time. Exclusive negotiating fees of \$25,000 per year would be received by BART to defray such costs.

ALTERNATIVES: Do not enter into an ENA with WODG, and issue a solicitation for development at the West Oakland BART Station. This would limit BART's development to BART land only.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager or her designee is authorized to execute an Exclusive

Negotiating Agreement with the West Oakland Development Group, LLC, for development at the West Oakland BART station, for a 12-month term, with an option to extend for 12 months.

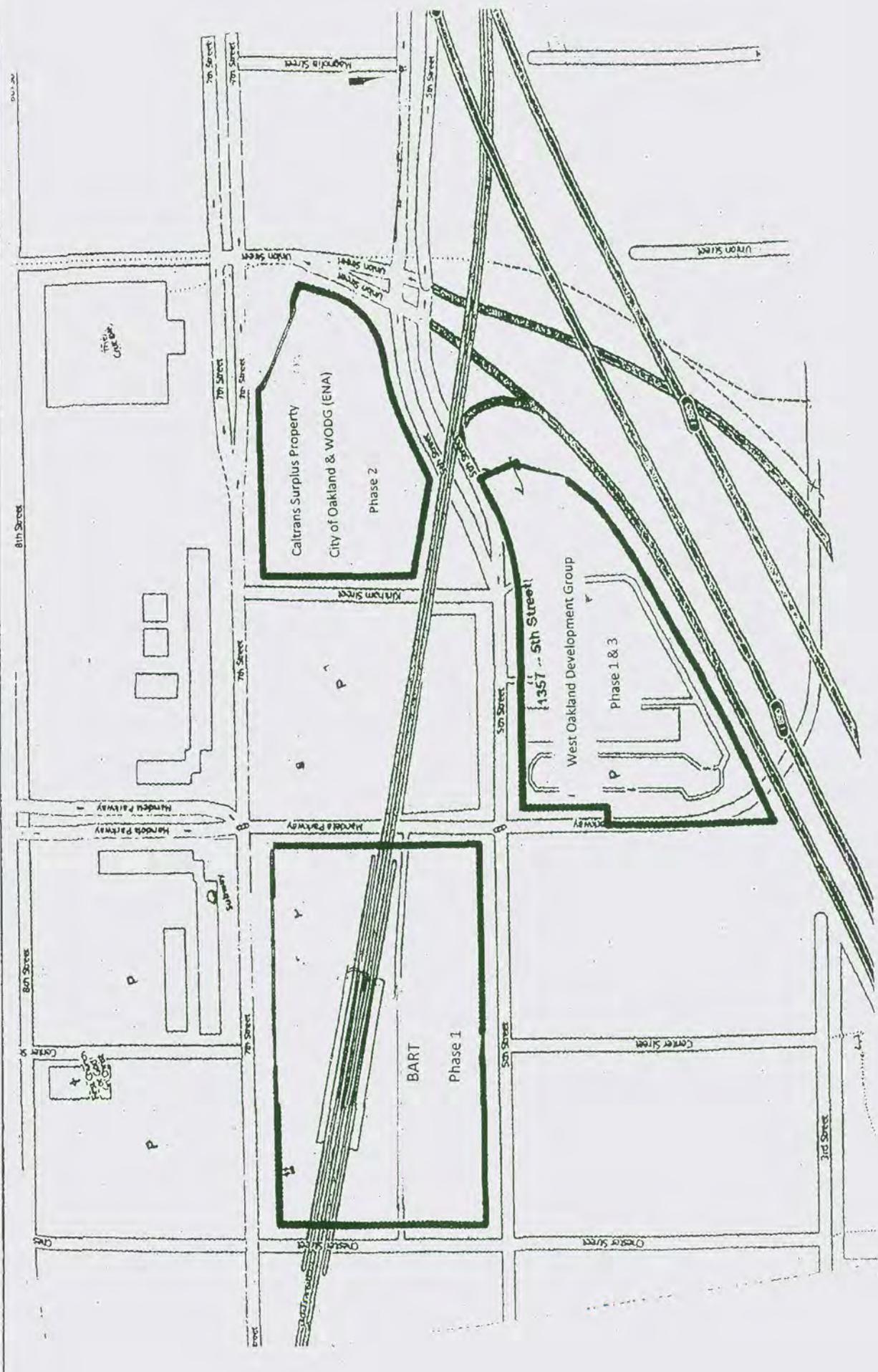


Exhibit 1

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: May 17, 2013

FROM: General Manager

SUBJECT: PPAAL Agenda Item #5.C: Proposed Late Night Bus Service Update

At the May 23, 2013 BART Board of Directors meeting, an informational item is scheduled for the Planning, Public Affairs, Access, and Legislation Committee to discuss various proposals for late night bus service that would directly serve BART stations after BART trains stop revenue service on Friday and Saturday nights.

Attached to this memo is a map of the proposed service as it was originally conceived, as well as a chart outlining three late night bus options for consideration.

Background:

There is approximately \$800,000 available for this one year pilot from the following sources:

\$ 500,000	State Transit Assistance: Welfare to Work / Lifeline grant
	Alameda County: \$298,000
	Contra Costa County: \$202,000

200,000 BART Operating Budget from FY12-13

100,000 Estimated Farebox Revenues (based on an estimate of \$4.20 per trip)

\$ 800,000 Total 1 Year Pilot Funding

Proposed Service Description:

The late night bus service proposal would begin about 20-30 minutes after the last BART train departs San Francisco and operate for about 2 hours. Buses would stop at the following AC Transit Line 800 All Nighter San Francisco bus stops and include a 24th Street/Mission stop:

- Van Ness & Market
- McAllister & Market
- Powell & Market
- Kearny & Market
- Sutter & Market
- Beale & Howard

The buses would also serve the following East Bay areas:

“Yellow Line” service would continue from San Francisco directly to Rockridge, Walnut Creek, Pleasant Hill and Pittsburg/Bay Point.

"Green Line" service would continue from San Francisco to Lake Merritt, Fruitvale, Bay Fair, Hayward, Union City and Fremont.

This would be in addition to the AC Transit 800 All Nighter service, which currently operates with half-hour headways between 12:30AM to 6:00AM on weekends. This service is bi-directional, servicing many BART stations between San Francisco, Oakland, Berkeley and Richmond.

There are various options to provide the service. Following discussion, staff will seek to establish an Agreement for the Board's future consideration.

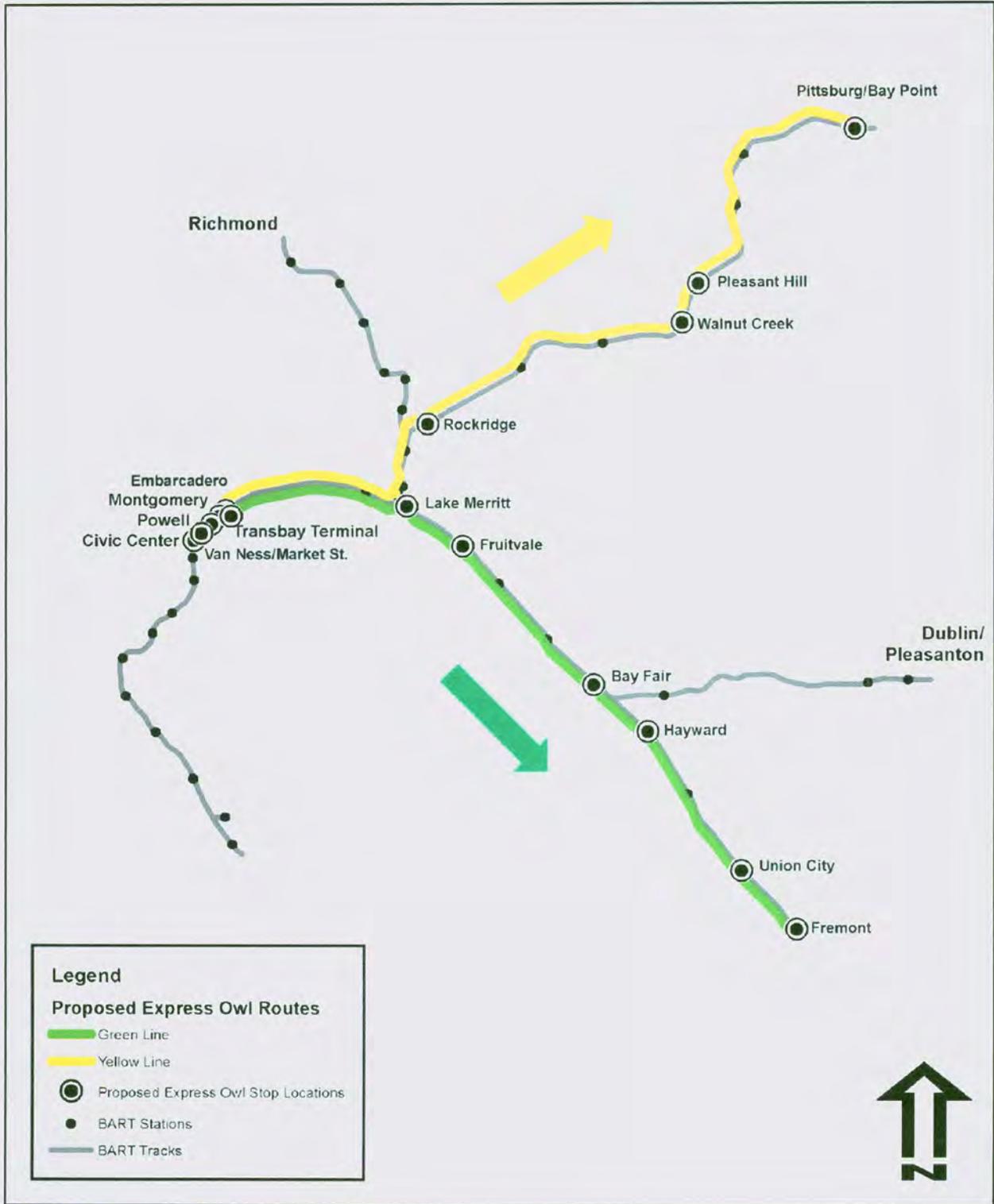
If you have any questions about this item, please feel free to call Carter Mau at 510-464-6194 (cmau@bart.gov) or Bob Franklin at 510-464-6133 (bfrankl@bart.gov).

Thank you.


Grace Crunican

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



Geographic Coordinate System Name GCS North American 1983

Projected Coordinate System Name NAD 1983 State Plane California III FIPS 0403 Feet

EGIS Data Provided by the BART Information Technology Department 300 Lakeside Dr. 11th Floor, Oakland, CA 94612



Option	Annual Cost	Head-way	Additional Runs	Transfer	Advantages	Disadvantages
1: Local Operators	\$562k (Doesn't include fare revenue)	30 min 20 min	4 to P/BP 5 to Frmnt	No No	<i>Compared to 2:</i> Lower cost, no transfers required. <i>Compared to 3:</i> Lower cost, buses more recognizable, interagency coordination provides benefits.	<ul style="list-style-type: none"> •Fewer runs than 2 and 3. •No additions to Richmond line.
2: Enhanced Local Operators	\$728k (Doesn't include fare revenue)	20 min 30 min 20 min 40 min	3 to Rich 4 to P/BP 4 to Bay Fr 2 to Frmnt	No No Yes Yes	<p><i>Compared to 1 and 3:</i> More service, part of larger network, more stops, enhanced service to Richmond.</p> <ul style="list-style-type: none"> •Current service to Richmond extended from Van Ness to 24th Street/Mission. •Current frequency to Richmond increased from 30 to 20 minute headway until 2:46am. (15 total night runs to Richmond.) •Increased frequency to Bay Fair from 30 to 20 minutes and to Fremont from 60 to 40 minutes for 2+ hours, and then 30min/60min service for remainder of night. •Extra Stops in San Leandro and S. Hayward. •Easier to market. 	<ul style="list-style-type: none"> •Bay Fair and Fremont lines require a transfer in downtown Oakland. •More expensive.
3: Private Operators	\$600k	20 min 20 min	6 to P/BP 6 to Frmnt	No No	<p><i>Compared to 1:</i> More service with greater frequency. <i>Compared to 2:</i> No transfers needed to Fremont.</p> <ul style="list-style-type: none"> •Free fares •Opportunity to increase frequency on P/BP line. 	<ul style="list-style-type: none"> •Less recognizable buses. •More marketing needed. •More logistics to obtain/identify stops. •Longer procurement.

Travel Times from 24th Street Mission by bus to the following locations:

To 14th/Broadway: 0:37
 To Richmond: 1:22
 To Pittsburg/Bay Point: 1:37
 To Bay Fair: 1:22
 To Fremont: 2:03



CAPITOL CORRIDOR JOINT POWERS AUTHORITY

MEETING OF THE BOARD OF DIRECTORS

Wednesday June 12, 2013

10 a.m.

BART Boardroom
 Kaiser Center 20th Street Mall
 344-20th Street, 3rd Floor
 Oakland, CA 94612
 (see attached map)

Simultaneous teleconference calls will take place at:

San Jose City Hall – Tower Building 200 E. Santa Clara Street, Room #T1853 San Jose, CA
Placer County Transportation Planning Agency 299 Nevada Street, 2 nd Floor Conference Room Auburn, CA
Fairfield City Hall 1000 Webster Street Fairfield, CA

DRAFT AGENDA

- I. Call to Order
- II. Roll Call and Pledge of Allegiance
- III. Report of the Chair
- IV. Minutes of the February 20, 2013 Meeting *Action*
- V. Consent Calendar *Action*
 - 1. Budget Update: Proposition 1B – FY 10-11 Transit Safety/Security Passenger Rail Projects
 - 2. Proposition 1B – FY 12-13 Transit Safety/Security Intercity Passenger/Commuter Rail Projects
 - 3. Program Update: FY 11-12 Security/Safety Fence Projects
- VI. Action and Discussion Items
 - 1. Legislative Matters/Governor’s May Revise State FY 13-14 Budget *Action*
 - 2. Overview of FY14 Marketing Plan *Action*
 - 3. Overview of Draft FY 13-14 CCJPA Budget [Operations, Administration, Marketing] *Info*
 - 4. Impact of Rising Tides on Current Capitol Corridor Route [Presentation by BCDC] *Info*
 - 5. Vision Plan [inclusion of CA HST Blended Service Plan] *Action*
 - 6. Managing Director’s Report *Info*
 - 7. Work Completed *Info*
 - a. Business Plan Update (FY 2013-14 – FY 2014-15)
 - b. Yolo Causeway West Crossover Project
 - c. Marketing Activities (February – May 2013)
 - 8. Work in Progress *Info*
 - a. Sacramento-Roseville 3rd Track Environmental Review/Preliminary Engineering
 - b. Oakland-San Jose Phase 2 Project Environmental Review/Preliminary Engineering
 - c. CCJPA Bike Access Program
 - d. Positive Train Control Update
 - e. Proposed Extension of Capitol Corridor Trains to Salinas
 - f. Proposition 1B Transit Safety/Security Improvement Projects
 - g. Upcoming Marketing Activities
- VII. Board Member Reports
- VIII. Public Comments
- IX. Adjournment. Next Meeting Date: 10:00 a.m., September 19, 2012, at City Council Chambers, Suisun City Hall, 701 Civic Center Blvd., City of Suisun City, CA

Notes:

Members of the public may address the Board regarding any item on this agenda. Please complete a "Request to Address the Board" form (available at the entrance of the Boardroom and at a teleconference location, if applicable) and hand it to the Secretary or designated staff member before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment. Speakers are limited to three (3) minutes for any item or matter. The CCJPA Board reserves the right to take action on any agenda item.

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

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

7. BOARD MATTERS

- A. Resolution In the Matter of Directing the General Counsel to Take all Necessary and Appropriate Steps to File an Amicus Curiae Brief in the Matter Schuette v. Coalition to Defend Affirmative Action.* Board requested to adopt. (Director Fang's request)

**BOARD
MATERIAL**

May 23, 2013

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** May 17, 2013
FROM: General Counsel *MB*
SUBJECT: Matter of the Filing of an Amicus Curiae brief with U.S. Supreme Court

At the request of Director Fang, I have drafted the attached Resolution for the Board's consideration. It directs me to file an Amicus Curiae brief with the United States Supreme Court on behalf of the District in support of the position that part of Michigan's Proposal 2 is unconstitutional. The case is Schuette vs. Coalition to Defend Affirmative Action.

In 2006, Michigan voters passed Proposal 2, a measure very similar to California's Proposition 209, that generally prohibits granting preferences based on race, ethnicity or gender in public employment, education and contracting. The Michigan Proposal 2 has been challenged on equal protection grounds as it has been applied to higher education admissions.

Although the public contracting portion of Proposal 2 is not subject to this challenge, Director Fang is correct in his position that a decision by the United States Supreme that finds Michigan's Proposal 2 to be unconstitutional could serve to make California's Proposition 209 subject to similar and additional challenge.

Upon approval by the Board, in order to file an Amicus Curiae brief in this matter, I must get permission from all parties to the case, or in the alternative the Supreme Court itself. The current briefing schedule would have a brief due in late August.

MOTION:

That the Board approves the attached Resolution.

Attachment

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

In the Matter of Directing the General
Counsel to Take all Necessary and Appropriate
Steps to File an Amicus Curiae Brief in the Matter
Schuette vs. Coalition to Defend Affirmative Action /

Resolution No. _____

WHEREAS, in November 1996, California voters passed Proposition 209, prohibiting public entities from discriminating against or granting preferential treatment to any individual on the basis of race, ethnicity or gender in public contracting, public employment or public education, unless so required by a federal program.

WHEREAS, following the passage of Proposition 209, the Board of Directors adopted a Non-Discrimination in Subcontracting Program, designed to ensure that bidders do not discriminate in contracting with the District.

WHEREAS, the most recent District commissioned study shows that prime construction contractors doing business with the District, in the District's geographic market, continue to subcontract with minority and women owned businesses at a rate demonstrably below the availability of qualified minority and women owned businesses present to do the work.

WHEREAS, the Board of Directors remains committed to ensuring that public contracting opportunities with the District are available equally to all aspects of the qualified and available population.

WHEREAS, in 2006, Michigan voters passed Proposal 2, a measure quite similar to, and based upon, California's Proposition 209, prohibiting the state of Michigan or its subdivisions from granting preferential treatment on the basis of race, sex, color or ethnicity in public contracting, public employment or public education.

WHEREAS, the United States 6th Circuit Court of Appeals recently struck down Michigan's Proposal 2 as being unconstitutional in its application to the use of race in admissions to institutions of higher education and the matter is now scheduled to be considered by the United States Supreme Court in the Fall of 2013, in the matter entitled *Schuetz vs. Coalition to Defend Affirmative Action*.

WHEREAS, should the United States Supreme Court uphold the 6th Circuit's decision and affirm that Michigan's Proposal 2 is unconstitutional, such decision would raise doubts about the constitutionality of California's Proposition 209.

WHEREAS, individuals and organizations not party to the pending case, may, with permission of all parties to the case, or the Supreme Court itself, file legal briefs on matters pending before the Court as amicus curiae (friend of the court).

WHEREAS, the Board of Directors seeks to have its General Counsel file an amicus curiae brief with the Supreme Court, arguing in favor of the Supreme Court upholding the 6th Circuit's decision that Michigan's Proposal 2 is unconstitutional.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby directs its General Counsel to take all necessary and appropriate steps to seek leave from the Supreme Court to file an amicus brief in support of the respondent Coalition to Defend Affirmative Action, and if such leave is granted, to file such a brief on behalf of the District.

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Adopted _____, 2013