

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

May 28, 2009

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, May 28, 2009, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

Members of the public may address the Board of Directors and Standing Committees regarding any matter on these agendas. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under General Discussion and Public Comment.

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

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

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

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

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

Patricia K. Williams
Assistant District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of April 23, 2009 (Regular) and May 7, 2009 (Special).* Board requested to authorize.
- B. Continuation of Agreement with IBM Corporation for Mainframe Operating Software Licensing and Support.* Board requested to authorize.
- C. Continuation of Agreement with INFOR for Maintenance of Licensed Software.* Board requested to authorize.
- D. Fiscal Year 2010 Proposition 4 Appropriations Limit.* Board requested to authorize.

3. BOARD MATTERS

- A. Public Hearing on Fiscal Year 2010 Budget, Including Fares and Parking Fees.* For information.
- B. Fiscal Year 2010 Budget: Adopt New Fare Rates and Modify Parking Rates and Charges.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

RECESS TO STANDING COMMITTEES

Immediately following the Standing Committee Meetings, the Board Meeting will reconvene, at which time the Board may take action on any of the following committee agenda items.

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Murray, Chairperson

- A-1. Fiscal Year 2010 Budget: Capital Budget.* For information.
- A-2. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Award of Contract No. 02ED-110, Warm Springs Extension, Fremont Central Park Subway.* Board requested to authorize.
- B-2. Agreement with Clean Innovation Corporation for Graffiti Removal Services Systemwide (Agreement No. 6M3092).* Board requested to authorize.

- B-3. (CONTINUED from May 14, 2009, Engineering and Operations Committee)
Quarterly Performance Report, Third Quarter Fiscal Year 2009 - Service Performance Review.* For information.

- B-4. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

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

- C-1. Proposed Support for State and Federal Legislation.* Board requested to authorize.

- C-2. General Discussion and Public Comment.

RECONVENE BOARD MEETING

4. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

5. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Fiscal Year 2010 Budget: Capital Budget.* For information.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Award of Contract No. 02ED-110, Warm Springs Extension, Fremont Central Park Subway.* Board requested to authorize.

- B-2. Agreement with Clean Innovation Corporation for Graffiti Removal Services Systemwide (Agreement No. 6M3092).* Board requested to authorize

- B-3. (CONTINUED from May 14, 2009, Engineering and Operations Committee)
Quarterly Performance Report, Third Quarter Fiscal Year 2009 - Service Performance Review.* For information.

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

- C-1. Proposed Support for State and Federal Legislation.* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

- A. Review of the Draft Agenda for the Capitol Corridor Joint Powers Board Meeting of June 10, 2009.* For information.

7. BOARD MATTERS

- A. Report of the BART Police Department Review Committee. For information.
- B. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Johnson et al. vs. BART

Government Code Section: Subdivision (a) of Government Code Section 54956.9

B. CONFERENCE WITH LABOR NEGOTIATORS:

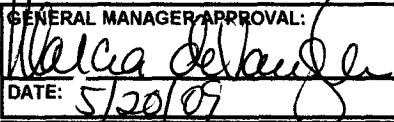
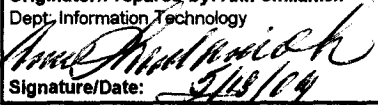
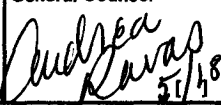
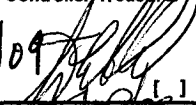
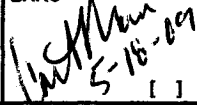
Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy, Assistant General Manager – Administration; M. Carol Stevens, Burke, Williams & Sorensen, LLP

Employee Organizations: (1) Amalgamated Transit Union, Local 1555;
(2) American Federation of State, County and Municipal Employees, Local 3993;
(3) BART Police Officers Association;
(4) BART Police Managers Association;
(5) Service Employees International Union, Local 1021; and
(6) Service Employees International Union, Local 1021, BART Professional Chapter

Government Code Section: 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 5/20/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ann Smilanich Dept. Information Technology  Signature/Date: 5/18/09	General Counsel  5/1/09	Controller/Treasurer  5/18/09	District Secretary []	BARC  5-18-09 []

TITLE:

IBM Mainframe Operating Software Licensing and Support Continuance

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to extend maintenance support with the IBM Corporation for mainframe computer software licenses for up to eighteen (18) months beginning 07/01/2009 (FY10) and ending 12/31/2010 (FY11).

DISCUSSION:

The District has utilized the IBM mainframe equipment and its operating software since the late 1970s. The IBM operating software controls the equipment's hardware environment and allows business applications to access and process District information. Major business applications operating under the IBM operating system include Operation's Maintenance and Reliability Information System (MARIS), the District's Financial accounting system (Accounts Payable, Procurement, Inventory, General Ledger, Capital Programs), and the Labor Budget Costing System (LBCS).

The District's mainframe equipment and operating software is still needed through the Business Advancement Program (BAP) Phase II implementation. BAP Phase II will implement the financial modules as well as the supply chain, which includes the maintenance, inventory and procurement.

The Information Technology Department is requesting that the Board authorize the continuation of the existing agreement with IBM for its operating software which provides for certain licenses, software maintenance and emergency consultation services. The spending limits requested are \$286,000 for FY10 and \$158,000 for FY11. This is consistent with Information Technology's current line item in its operating budget.

FISCAL IMPACT:

Funding for FY10 is in the FY10 Preliminary Operating Budget of the Information Technology Department. Funding for FY11 in the amount of \$158,000 will be requested in the FY11 Preliminary Operating Budget for Information Technology.

ALTERNATIVES:

The District could discontinue this support. Staff does not consider this to be a practical alternative since IBM equipment and software is already installed and necessary for the District's mainframe business computing environment which supports financial, maintenance and other critical applications

RECOMMENDATION:

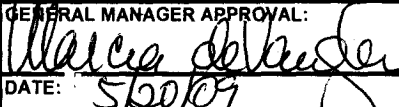
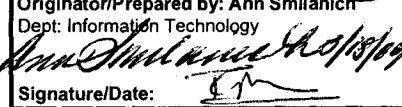
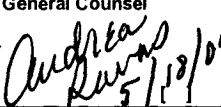
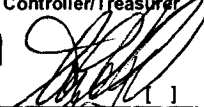
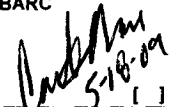
Adoption of the following motion.

MOTION:

The General Manager is authorized to continue an Agreement with the IBM Corporation for mainframe computer software for eighteen (18) months beginning 07/01/2009, in an amount not to exceed \$444,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 5/20/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ann Smilanich Dept: Information Technology  Signature/Date: 5/18/09	General Counsel  5/18/09	Controller/Treasurer  5/18/09	District Secretary []	BARC  5/18/09

TITLE:

INFOR Financial Software Maintenance Agreement

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to extend maintenance support with INFOR (formerly GEAC Enterprise Solutions, Inc.) for maintenance of licensed computer software that is used by the District for Financial Management, Procurement and Inventory.

DISCUSSION:

The District has utilized the INFOR Millennium financial software since 1978. Components include: General Ledger, Accounts Payable, Purchase Order, Inventory Control, Millennium Personal Computer Link and System Development Tools. The maintenance agreement enables the District to obtain immediate assistance from INFOR technical support for assistance with resolving program failures and provides for software upgrades and updates as released by INFOR. Without maintenance support for this software, if the programs should fail, critical services may be disrupted for departments throughout the District.

From 1979 through 1998, the District renewed its maintenance agreement with INFOR on an annual basis with terms that included a fee increase of approximately 10% - 12% per year, the standard list pricing. In 1997 IT was successful in negotiating a five (5) year agreement at an annual increase rate of 6.5% (slightly more than half of the customary retail price increase) for the fiscal years 1999 - 2003. In December of 2002 IT again began negotiations for a multi-year agreement, this time for a three year period to be in line with the District's Business Advancement Program, or BAP. At that time it was unknown when the financial portions of the BAP would be converted; therefore staff took a conservative approach to the length of the agreement so as not to lock the District into annual payments that would not be refundable. Again in 2004, the agreement was renegotiated through December of 2007, and in 2008, renegotiated again through June 30, 2009.

BAP Phase II began in August 2007 and the schedule now calls for the financial portions to be operational in late 2010. Based on this information, staff has negotiated for services as follows: 1.) extend existing support on a quarterly basis for as long as the support is necessary, and 2.) the escalation for the support shall be six (6) percent annually. This will ensure the District uninterrupted maintenance and service for its financial software through the completion of the BAP project.

FISCAL IMPACT:

The cost of these services is for an amount not to exceed \$469,500 as follows:

07/01/2009 – 06/30/2010	\$371,000	Funding Source FY 2010 Information Technology
Operating Budget		

INFOR Financial Software Maintenance Agreement

07/01/2010 – 09/30/2010	<u>\$ 98,500</u>	Funding Source FY 2011 Information Technology
Operating Budget		
Total	\$469,500	

ALTERNATIVES:

INFOR is the sole authorized supplier of maintenance for the financial software used by the District. Therefore, no other provider alternative is available. INFOR does not provide a month-to-month service agreement. Annual maintenance is prepaid and would not be refundable if the District ceases use of the software before the end of annual maintenance period.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

That the General Manager is authorized to execute a fifteen (15) month extension (paid quarterly) to the current maintenance agreement for the District's financial management software systems with INFOR through September 30, 2010, at a cost not to exceed \$469,500.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DelBene</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/20/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kimberly White Dept. <i>Operating Budgets</i> Signature/Date: <i>Kimberly White</i> 5/20/09	General Counsel <i>MB</i> 5/20/09	Controller/Treasurer <i>[Signature]</i> 5/20/09	District Secretary []	BARC <i>[Signature]</i> 5-20-09 []
Status: Routed		Date Created: 05/12/2009		

TITLE:

FY10 Proposition 4 Appropriations Limit

NARRATIVE:

Purpose: To approve the District's fiscal year 2010 appropriations limit, which is required by state law as a result of the Gann Initiative (Proposition 4, passed by the voters in 1979).

Discussion: The Gann Initiative (Proposition 4) provides for limitations on appropriations by state and local government entities. 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 13, 2009, the documentation was made available to the public.

Documentation of the FY10 appropriations limit calculation is summarized in Attachment 1. The attached documentation of the FY10 appropriations limit is consistent 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 \$465,683,553.

Fiscal Impact: There is no fiscal impact. The FY10 appropriations limit is \$465,683,553, while Operating and Capital expenditures subject to the limit are \$280,011,031. Therefore, the District is well below the limit with a margin of \$185,672,522.

Alternatives: None

Recommendation: Approval of the following motion.

Motion: That the Board adopt the attached resolution which sets the District's FY10 appropriations limit at \$465,683,553.

Attachment 1

Fiscal Year 2010 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:

- a) 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
- b) 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 2010 is calculated on the basis of the Per Capita Income and Alameda County population gains. Steps in the calculations are as follows:

Relevant data, percent change:

Per Capita Income, 0.6200% (applies this year per "a." above)

Population Change, Alameda County, 1.232% (applies this year per "b." above)

District Population

	<u>As of 1/1/08</u>	<u>As of 1/1/09</u>	<u>% Change</u>
Alameda	1,537,719	1,556,657	1.2316%
Contra Costa	1,048,247	1,060,435	1.1627%
San Francisco	835,364	845,559	1.2204%
Total	3,421,330	3,462,651	1.2077%

2) FY10 Cumulative Adjustment Factor:

(Per capita income) x (Population Factor) = Current Adjustment Factor

(Current Adjustment Factor) x (Prior Year Adjustment) = Cumulative Adjustment Factor

$$(1 + 0.6200\%) \times (1 + 1.2316\%) = 1.0186$$

$$1.0186 \times 2.5180 = 2.5648$$

3) FY10 Appropriations Limit:

(FY 87 Appropriations Base) x (FY 10 Cumulative Adjustment Factor)

$$\begin{array}{rcll} \$181,568,000 & \times & 2.5648 & = & \$465,683,553 \end{array}$$

ATTACHMENT 2 **FY10 PROPOSITION 4 APPROPRIATIONS LIMIT**

Whole Dollars, revised 05/19/09

LIMIT		NOTES & COMMENTS
CPI-U Per Capita Personal Income District Population Growth Annual Adjustment Factor Cumulative Adjustment Factor Appropriations Limit	1.1840% 0.6200% 1.232% 1.0186 2.5648 \$465,683,553	CPI-U for SF/OAK 2/09 vs 2/08 State DOF data. John Malson (916-323-4086) Districtwide growth < The county with the highest (Alameda) AV in the District [1+(Per Capital Income)]*[1+(Alameda County population growth)] (Current year factor)*(prior year cumulative factor) (FY 87 base appropriations) x (cumulative factor)
APPROPRIATIONS		
Operating Budget	\$548,787,994	Per FY10 Preliminary operating budget
Allocation to SFO	\$433,637	Per FY10 Preliminary operating budget
Improvement Allowance		
Other Capital Allocations:		
Capital Rehabilitation	\$23,822,119	Per FY10 Preliminary operating budget
Miscellaneous		Note: Access amount for FY09; nothing for FY10
Subtotal	\$23,822,119	Per FY10 Preliminary operating budget
Capital Allocation To Operating		
Capital Expense:		
Funded	\$584,665,796	Per FY10 Proposed capital budget
Unfunded	\$0	Per FY10 Proposed capital budget
Subtotal	\$584,665,796	Per FY10 Proposed capital budget
Less Funded Pass Through	(\$164,735,341)	Per FY10 Proposed capital budget
Less Unfunded Pass Through	\$0	Per FY10 Proposed capital budget
Subtotal	(\$164,735,341)	Per FY10 Proposed capital budget
Net Capital Expense	\$419,930,455	Per FY10 Proposed capital budget
Debt Service:		
Sales Tax Revenue Bonds	\$55,813,886	Per retirement schedule
Sales Tax Anticipation Notes	\$0	
Loan from MTC	\$9,110,000	
GO Seismic Bonds	\$41,772,000	Per Treasury, Roberta Collier
Subtotal	\$106,695,886	
Total Appropriations	\$1,099,670,091	
EXCLUSIONS		
Allocation from Reserves		Per FY 10 Operating Budget
ADA Mandated Service Expense	\$17,751,055	Per FY 10 Operating Budget
Net Operating Revenue:		
Net Passenger Revenue	\$336,648,050	Per FY 10 Operating Budget
Other Operating Revenue	\$35,066,259	Per FY 10 Operating Budget
Subtotal	\$371,714,309	Per FY 10 Operating Budget
Federal Operating Funds (SMP/Rail Car)	\$24,620,928	Per FY 10 Operating Budget
Federal Capital Funds:		
Funded	\$106,555,324	Per FY10 Proposed capital budget
Unfunded	\$0	Per FY10 Proposed capital budget
Subtotal	\$106,555,324	Per FY10 Proposed capital budget
Debt Service (GO Seismic Bonds)	\$41,772,000	Per retirement schedule
GO Bond Capital Funds	\$224,441,386	Per FY10 Proposed capital budget
BART Capital Funds	\$32,804,058	Per FY10 Proposed capital budget
Total Exclusions	\$819,659,060	
MARGIN		
Appropriations Limit	\$465,683,553	Per above
Expenditures Subject to Limit	\$280,011,031	Appropriations less exclusions, per above
Margin	\$185,672,522	Appropriations less expenditures subject to limit
RESIDENT POPULATION		Population is less exclusions for military and other non-residents
Alameda		
Population	1,556,657	Data received from the Department of Finance 5/1/2009
Percent Change	1.2316%	
Contra Costa		
Population	1,060,435	Data received from the Department of Finance 5/1/2009
Percent Change	1.1627%	
San Francisco		
Population	845,559	Data received from the Department of Finance 5/1/2009
Percent Change	1.2204%	
District Total		
Population	3,462,651	Sum of population for three counties
Percent Change	1.2077%	Percent increase, 1/1/09 over 1/1/08
REVISED PRIOR YEAR POPULATION		
As of 1/1/08		
Alameda		
Population	1,537,719	Data received from the Department of Finance 5/1/2009
Contra Costa		
Population	1,048,247	Data received from the Department of Finance 5/1/2009
San Francisco		
Population	835,364	Data received from the Department of Finance 5/1/2009
District Total		
Population	3,421,330	Sum of three counties

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

In the Matter of the Establishment
Of the Fiscal Year 2010
Appropriations Limit _____ /

Resolution No. _____

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


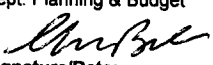
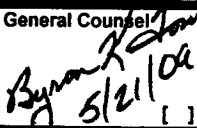

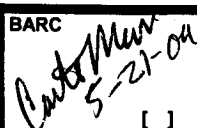
WHEREAS, Government Code Section 7910 requires the District to establish, by resolution, its appropriations limit pursuant to Article XIIIB; and

WHEREAS, documentation used in the determination of the Fiscal Year 2010 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 2010 shall be \$465,683,553.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Planning & Budget  5/21/09	General Counsel  5/21/09	Controller/Treasurer  5/21/09	District Secretary	BARC  5-21-09
Signature/Date: [] [] [] [] []				

TITLE:

Fiscal Year 2010 Budget Revenue Enhancements

NARRATIVE:

57772v1

PURPOSE

To help reduce the operating budget shortfall for Fiscal Year 2010, adopt a resolution modifying daily parking fee criteria and increasing fares as of July 1, 2009 as follows: increase the minimum fare to \$1.75; implement the 6.1% productivity-adjusted CPI-based fare increase; and increase the SFO Premium Fare to \$3.50.

DISCUSSION

Background

Initial projections for the Fiscal Year 2010 (FY10) Operating Budget resulted in a deficit of \$54 million (M) and ongoing annual deficits of similar levels over the next four years. The projected deficit is due, in part, to the impacts of the recession on District revenue sources, but also due to cost increases, particularly in the area of employee benefits. Revenues are projected to be down substantially from FY09. Particularly impacted are sales tax, passenger revenue, and State Transit Assistance (eliminated by the State through FY13).

The FY10 Preliminary Budget released on March 31, 2009 contained the following recommendations to address the deficit: proposed expense reductions, service adjustments, cuts in certain allocations, a 10% fare increase, and changes to the parking program. These proposed actions reduced the deficit to \$23M, but did not entirely solve the problem. At the April 23, 2009 Board meeting, the Board of Directors requested staff to develop alternatives to the 10% fare increase, which staff then presented at the May 14, 2009 Board meeting.

Based on feedback from the Board and the desire to implement fare modifications in July 2009, staff noticed a May 28, 2009 hearing in order to consider the following:

Fares. The proposal to increase fare(s), on or after July 1, 2009, could include some or all of the following options: (1) a \$0.25 increase to the minimum fare from \$1.50 to \$1.75, plus an average increase to all other fare components of 6.1%; (2) a \$0.25 increase to the

base fares, plus an average increase to all other fare components of 6.1%; (3) a new fare surcharge of at least \$0.05, plus an average increase to all other fare components of 6.1%; and/or (4) an increase to the San Francisco International Airport (SFO) Station Premium Fare that is charged for trips to or from the SFO Station, plus an average increase to all other fare components of 6.1%. The current SFO Premium Fare is \$1.50; an increase of up to \$3.50 or more is under consideration.

Parking. The modification(s) to parking fees that could become effective in FY10 could include some or all of the following: Modification to criteria for implementing daily parking fees. The current criteria are as follows: (1) that the station's parking lots become full three or more times a week; and (2) a minimum of 15% of the station's parking spaces are sold for monthly reserved parking. The proposed modification is to only use criterion (1), above—that the station's parking lots become full three or more times a week—in making the determination whether daily parking fees are to be implemented at a station.

Modifications to parking charges. Maximum dollar figure increases for systemwide parking charges to be discussed are as follows: (1) parking charges of up to \$7 per day for daily parking; (2) parking charges of up to \$147 per month for monthly reserved parking; (3) parking charges of up to \$8 per day for single-day reserved parking; and/or (4) parking charges of up to \$10 per day for airport long-term permit parking.

Staff recommends the revenue enhancement strategies set forth in this Executive Decision Document (EDD) for Board approval. Other elements of the FY10 Budget, including significant expense reduction strategies, will be brought to the Board for approval at the June 11, 2009 meeting. Even with those expense reductions and the revenue enhancement strategies set forth in this EDD, staff anticipates the interim adopted FY10 Budget will still have an approximately \$23M deficit. Additional cost savings from ongoing labor negotiations are expected to reduce the remaining deficit.

Revenue Enhancements

FARES

The FY10 Preliminary Budget included a fare proposal for a 10% increase effective July 1, 2009 that was estimated to generate \$23M, as compared to the \$7M projected to be generated by the 6.1% increase scheduled for January 2010 pursuant to the 2003 Board-approved biennial CPI-based fare increase program.

Based on Board comments at the April 23, 2009 Board meeting, staff evaluated additional fare options. Information about the fare options was presented at the May 14, 2009 Board meeting as follows:

- Increase the minimum fare from \$1.50 to \$1.75
- Add \$0.25 to the base fares for short, medium, and long trips
- Add a \$0.05 surcharge to all fares
- Increase the SFO Premium fare from \$1.50 to either:
 - \$3.50 or \$4.50

The Board has also expressed interest in reverse commute incentives/variable pricing, which are already being studied as part of the ongoing Demand Management Study.

Staff recommends increasing the minimum fare to \$1.75 and increasing the SFO Premium Fare to \$3.50, along with the CPI-based 6.1% fare increase - all to be implemented on July 1, 2009 instead of January 1, 2010. Each additional month is estimated to generate about \$1.3M of fare revenue. Attachment A describes the options analyzed and the basis for staff's recommendation. The table below shows sample fares that would result from implementing the recommended fare increases:

Sample Fares & % Change from Current Fares				
EC Plaza- Berkeley	San Bruno- San Francisco	Dublin/Pleasanton- San Francisco	Powell- SFO	Pittsburg/Bay Pt- Millbrae
\$1.75	\$3.90	\$5.55	\$7.60	\$7.05
16.7%	6.8%	5.7%	42.1%	6.8%

The next table shows the estimated revenue the recommended fare increases would generate. Combined, the three fare increase components would be approximately equal to the revenue generated by the 10% fare increase proposed in the Preliminary Budget.

Fare Increase Component	Revenue Generated (\$M)
• \$1.75 minimum fare	\$3.6
• An additional six months of the 6.1% CPI-based fare increase, achieved by moving up the increase by six months from January 1, 2010 to July 1, 2009	\$7.3
• \$3.50 SFO Premium Fare	\$4.9-5.8
TOTAL	\$15.8-16.7

PARKING

In May 2005 the Board approved criteria by which daily parking fees would be implemented at East Bay BART stations. Under those criteria, daily parking fees would be implemented where:

- The station's parking facilities were fully utilized on three or more weekdays a week--and at least 15% of all the parking spaces at the station were utilized for monthly reserved paid parking; or
- The city or county jurisdiction in which the station was located requested the imposition of a daily parking fee and the General Manager agreed after providing the Board ten (10) days notice.

The daily fee to be charged was \$1.00, except at the West Oakland Station where a \$5.00 fee would be charged.

Staff evaluates the daily utilization and the number of monthly reserved spaces sold for each station twice a year. If the station meets the criteria, daily fees are implemented. If a station at which daily paid parking charges have been implemented fails to meet the utilization criteria above for two consecutive evaluation periods, the daily parking fees are revoked. Presently 15 East Bay stations have daily parking fees.

Staff recommends modifying the Daily Paid Parking criteria to eliminate the requirement that at least 15% of all the parking spaces at a station be utilized for monthly reserved paid parking prior to implementing daily paid parking. As a result of the modified criteria, daily parking fees would be charged at all East Bay stations which are fully utilized three or more weekdays a week.

East Bay stations which would likely be eligible sometime during FY10 for implementation of the \$1.00 daily parking fee are Pittsburg/Bay Point, Concord, Pleasant Hill, Richmond, El Cerrito del Norte, San Leandro, Bay Fair, and South Hayward. Staff intends to heavily promote the use of the EZ Rider card for parking fee payment and, towards this end, seeks Board authorization for the General Manager to suspend the previously approved EZ Rider card and hang-tag fees from September 1, 2009 through March 30, 2010. New parking revenue generated from these stations during six months in FY10 is expected to be \$1.4M. Thereafter the annual revenue generated at these stations is estimated to be \$2.8M. The one-time capital costs related to the expansion of the daily paid parking program, estimated at \$2.8M, include relocation and installation of parking equipment and manufacture and installation of signage.

Attachment A reflects other parking options considered by staff.

FISCAL IMPACT

FARES

The recommended fare increases are estimated to generate from \$15.8M to \$16.7M for FY10.

PARKING

The change in the daily parking fee criteria and the resulting addition of eight stations is expected to generate \$1.4M in FY2010 and \$2.8M annually thereafter. The one-time capital costs associated with implementing daily parking fees at these additional stations are \$2.8M. Federal American Recovery and Reinvestment Act (economic stimulus) funds can be used for preventive maintenance activities in the FY10 operating budget, creating capacity to fund a \$2.8M capital allocation for the parking capital costs.

ALTERNATIVES

1. The Board could adopt some or all of the other fare increase alternatives and/or daily parking fee criteria noticed in the Public Hearing Notice, within the parameters of said Notice.
2. The Board could direct staff to evaluate other alternatives not noticed in the Public Hearing Notice and report back to the Board at a future date.
3. The Board could elect to not implement the recommended fare increases and modifications to daily parking fee criteria at this time, which could delay implementation of a

fare increase on July 1, 2009 and result in a loss of revenue.

Depending on the alternative(s) selected, the reduction to the FY10 deficit could be more or less than the reduction resulting from the staff recommendation contained in this EDD.

RECOMMENDATION

Adoption of the following motion:

MOTION

Adopt the attached resolution, "In the Matter of Adopting Modified Fare and Parking Rates and Charges: Increase the Minimum Fare to \$1.75 and Increase the SFO Premium Fare to \$3.50, together with a CPI-Based 6.1% Fare Increase; Modify Daily Paid Parking Criteria, and Approve Suspension of EZ Rider Card and Hang-tag Fees." Two-thirds vote required.

Fiscal Year 2010 Budget Revenue Enhancements EDD Attachment A

This attachment describes the different revenue enhancement options considered by staff and the basis for selecting the recommended options.

Fare Options

\$1.75 Minimum Fare. Increasing the minimum fare affects fewer BART trips than the option to increase each base fare by \$0.25. The minimum fare is charged for short trips of six miles or less, which make up 26% of total trips taken (33% are medium length trips, and 40% are long trips). A \$1.75 minimum fare is also equal to or less than the minimum cash fares of other Bay Area operators, e.g., AC Transit: \$2, SF Muni: proposed \$2, and SamTrans: \$1.75. San Francisco Municipal Transportation Authority (SFMTA) staff have indicated that SFMTA is concerned that BART's cash fare remain close to Muni's minimum cash fare in order to minimize lost fare revenue due to riders switching to BART blue tickets.

6.1% CPI-based fare increase effective July 1, 2009. The Board has approved implementing productivity-adjusted CPI-based fare increases every two years, and the next scheduled increase would be January 1, 2010. However, with the steep decline in revenues being forecast, staff recommends this increase be moved up by six months to maximize the amount of revenue available for FY10. Following implementation in 2006 and 2008 of CPI-based fare increases, ridership was not adversely affected, as the fare increases were less than inflation. Moving the 6.1% CPI-based fare increase forward by six months should also not adversely affect ridership.

\$3.50 SFO Premium Fare. The SFO Premium Fare is charged for trips to or from SFO Station. The following points describe SFO Station tripmakers:

- 40% of SFO Station trips are to/from San Francisco, 40% East Bay, 20% San Mateo County
- Bay Area residents make 50% of trips to/from SFO
- 71% are air traveler trips, with 54% of this group making vacation/family trips and 31% traveling for business
- 6% of trips are made by airport employees, 5% by airline employees

Although the proposed increase to the SFO Premium Fare is significant, it is possible that the impact will be minimized because about 70% of trips to/from SFO Station are made by air travelers. Thus, the increase to the SFO Premium Fare will affect mostly riders who take BART occasionally to or from SFO for air travel purposes, 50% of whom do not reside in the Bay Area. In addition, a \$3.50 SFO Premium Fare would still keep BART fares competitive with most other modes used by air travelers going to SFO. BART staff has begun discussion with SFO staff regarding options to address the possible effects of an increase on airport workers.

Because the trips to/from SFO Station are unlike other BART trips, it is difficult to predict the response of the SFO patron group to a fare increase. Therefore, the estimated revenue has been presented as a range, with the higher revenue figure assuming no loss of ridership from the increase. The lower figure includes application of an elasticity factor of -0.22 to current trips, which means that for every 10% increase in the fare between SFO Station and the other station, there would be 2.2% fewer trips taken. This is the same elasticity factor BART uses in its other revenue planning.

The \$3.50 SFO Premium Fare is recommended instead of a \$4.50 SFO Premium Fare because the lower \$3.50 fare, in combination with the other increases is anticipated to generate sufficient revenue to meet the FY10 Preliminary Budget revenue projections.

The following two options are not recommended for implementation.

\$0.25 Added to Each Base Fare. This option would modify the existing relative difference between fares for the three trip types—short, medium, and long—each of which has its own base fare. A flat \$0.25 increase to each base fare would result in an 18% increase to the short trip base fare, and a 9% increase to the long trip base fare, making the long trips relatively cheaper.

In addition, BART patrons may find it difficult to understand that the total increase to their fares would be a combination of a flat increase of \$0.25 to a base fare, plus a 6.1% increase to all of the other fare components.

The \$0.25 increase is estimated to generate \$9.1M for FY10

\$0.05 Surcharge. This option has a minimum fare of \$1.60, which is sufficiently beneath the cash fare of other Bay Area operators, most notably Muni, to be of concern. In addition, it is worth noting that BART's fare structure already has five surcharges, which is an unusually high number compared to other peer operators.

Adding \$0.05 to all trips is estimated to generate about \$4M annually.

Parking Options

Market Based Parking – Currently no mechanism exists at East Bay Stations to adjust daily fees to market demand. Staff has studied a proposal that would increase fees at stations with parking fees that fill three or more weekdays a week. Parking demand at daily fee stations would be assessed every six months and if the parking occupancy exceeded 98%, the parking fees would be increased by

another dollar. If the occupancy fell below 90% the parking fees would decrease by \$1.00.

If such a program was implemented for FY10, this program is estimated to generate \$3M dollars in additional parking revenues based upon current parking usage at stations with parking. These revenues include new revenues from existing stations with daily parking fees, as well eight stations which would qualify for daily parking fees as a result of the proposed change in daily fee parking criteria. Thereafter this program is estimated to generate \$6-\$7M dollars in annual revenue. The capital costs required for implementation of this option is estimated at \$3M.

\$0.50 increase in Daily Fees - Under this scenario, parking fees at all stations with daily fees would be increased by \$0.50. This program would affect 20 stations and result in additional revenue of \$2.3M for FY10 (\$1.6M from East Bay stations, \$0.2M from Daly City Station and \$0.5M for West Bay stations

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

In the Matter of Adopting
Modified Fare Rates and Parking Charges:
Increase the Minimum Fare
to \$1.75 and Increase the SFO Premium
Fare to \$3.50, together with a
CPI-Based 6.1% Fare Increase; Modify Daily
Paid Parking Criteria, and Approve Suspension of
EZ Rider Card and Hang-tag Fees

Resolution No. _____

WHEREAS, pursuant to Public Utilities Code Section 29038, it is the duty and responsibility of the Board of Directors of the San Francisco Bay Area Rapid Transit District ("District") to fix the rates and charges for rapid transit service to be furnished by the District; and

WHEREAS, initial projections for the Fiscal Year 2010 Operating Budget resulted in a deficit of \$54 million and ongoing annual deficits of similar levels over the next four years. The projected deficit is due in part to the impacts of the recession on District revenue sources, but also to cost increases, particularly in the area of employee benefits. Revenues are projected to be down substantially from FY09. Particularly impacted are sales tax, passenger revenue, and State Transit Assistance (eliminated by the state through FY13); and

WHEREAS, the District staff has studied and made proposals to this Board concerning possible modifications to the existing rates and charges and parking fees to help address the FY10 Operating Budget deficit; and

WHEREAS, a combination of the three fare increase elements to be implemented on July 1, 2009, along with the modified criteria for implementation of daily paid parking fees, generate sufficient revenue to contribute to addressing the FY10 Operating Budget deficit; and

WHEREAS, the first fare increase element is to increase the minimum fare from \$1.50 to \$1.75, which makes BART's minimum fare equal to or less than the minimum cash fares of other Bay Area transit operators; and

WHEREAS, the second fare increase element is to increase the SFO Premium Fare, which is charged for trips to or from SFO Station, from \$1.50 to \$3.50. Survey data indicate that air travelers, of whom half are not Bay Area residents, make about 70 percent of trips to/from SFO Station, and for them this service will remain competitively priced; and

WHEREAS, the third fare increase element will accelerate the Board-approved productivity-adjusted CPI-based fare increase, valued at 6.1%, from implementation on January 1, 2010 to implementation on July 1, 2009. Since it has been the District's experience that fare increases valued at less than

inflation do not adversely affect ridership, implementing the 6.1% increase six months earlier than scheduled is not expected to adversely affect ridership; and

WHEREAS, the modified criteria for implementation of daily paid parking would eliminate the requirement that at least 15% of the parking spaces at a station be utilized for monthly reserved paid parking prior to implementing daily paid parking. This modification would result in implementation of daily parking fees at additional East Bay stations, currently estimated at eight (8) in number.

WHEREAS, the recommended modifications related to fare rates and charges for BART service are set forth in the attached Exhibit A entitled "Modified Fare Rates and Charges;" and

WHEREAS, the recommended modifications related to daily parking criteria are set forth in the attached Exhibit B entitled "Modified Parking Rates and Charges;" and

WHEREAS, the District wishes to promote the use of the EZ Rider card as a daily parking fee payment method and recognizes that temporary suspension of the previously approved EZ Rider card and hang-tag fees for a period from September 1, 2009 through March 30, 2010 will further that objective; and

WHEREAS, a public hearing has been held at a regularly scheduled meeting of the Board to consider fare surcharges and changes in daily parking criteria; and

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

- (1) After careful study of staff recommendations, public comment, and due deliberations, the Board determines, as required by Public Utilities Code Section 29038, that the rates and charges for service, as modified by this Resolution, are reasonable; and that insofar as practicable, these rates and charges are calculated to result in revenue which will:
 - (a) Pay for the operating expenses of the District;
 - (b) Provide repairs, maintenance and depreciation of works owned and operated by the District;
 - (c) Provide for purchases, lease, or acquisition of rolling stock, including provisions for the interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the District for the acquisition of rolling stock; and
 - (d) After making any current allocation of funds for the foregoing purposes and by the terms of any indebtedness incurred under Public Utilities Code Articles 6 (commencing with Section 29240) and 7, (commencing with Section 29250) of Chapter 8, provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of Part 2 of Division 10 of the Public Utilities Code.

- (2) The modification to the rates and charges set forth in Exhibits A and B are for the purposes of:
 - (a) Meeting operating expenses such as employee wage rates and fringe benefits;
 - (b) Purchasing or leasing supplies, equipment or materials;
 - (c) Meeting financial reserve needs and requirements; and
 - (d) Obtaining funds for capital projects, necessary to maintain service within existing service areas.

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

- (1) The modifications to the rates and charges for BART service set forth in Exhibit A are hereby adopted.
- (2) The modifications related to daily parking fee criteria set forth in Exhibit B are hereby adopted. Exhibit A of Resolution No. 4948 is superseded.
- (3) The General Manager is authorized to suspend the previously approved EZ Rider card and hang-tag fees from September 1, 2009 through March 30, 2010.
- (4) The modifications to the rates and charges for service set forth in Exhibits A and B are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines, 14 Cal. Code Regs. § 15273 and that Notices of Exemption shall be filed in the four affected counties.

#

EXHIBIT A—MODIFIED FARE RATES AND CHARGES: Increase the Minimum Fare to \$1.75 and Increase the SFO Premium Fare to \$3.50, together with a CPI-Based 6.1% Fare Increase

The new fare rates and charges for BART service shall be as follows:

- Effective July 1, 2009, or as soon thereafter as the fare schedule can be implemented, an across-the-board increase of 6.1% to rail interstation fares (except the SFO Premium Fare); an increase to the minimum fare for BART service to \$1.75 by adding \$0.18 to the base fare for trips six miles or less; and an increase of \$2.00 to the SFO Premium Fare. Actual percentage increases may vary slightly due to rounding to the nearest nickel. The basic fare schedule is shown in Attachment 1.

**EXHIBIT B—MODIFIED PARKING RATES AND CHARGES: Daily Paid Parking
(criteria based)**

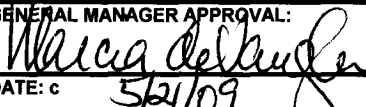

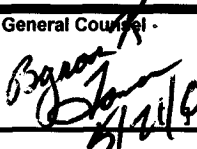


Daily paid parking fees would be implemented at East Bay stations that meet one of following criteria

- 1) The station's parking facilities are fully utilized three or more days a week; or
- 2) The city or county jurisdiction in which the station is located has requested the imposition of a daily parking fee and the General Manager agrees after providing the Board ten days' notice.

A \$1.00 daily parking fee would be charged at all East Bay stations that meet one of the criteria, with the exception of the West Oakland Station where a \$5.00 daily fee would be charged.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to E&O Committee	
DATE: c 5/21/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Paul Medved Dept: Transit System Development  5/20/09	General Counsel:  5/21/09	Controller/Treasurer:  5/21/09	District Secretary & BARC:  5/20/09
TITLE: Award of Contract 02ED-110, Warm Springs Extension, Fremont Central Park Subway			

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No. 02ED-110, Warm Springs Extension (WSX), Fremont Central Park Subway, to Shimmick Construction Co. Inc./ Skanska USA Civil West California District Inc. Joint Venture ("Shimmick/Skanska").

DISCUSSION:

The environmental phase of the WSX Project was successfully completed in 2006.

Following a number of contractor outreach sessions held during 2007-08 and an Advance Notice to Bidders mailed on February 3, 2009 to 405 prospective bidders of which 216 were minority owned firms, the Fremont Central Park Subway contract was advertised for bids on February 6, 2009. Bid Documents were mailed to 20 plan rooms and two minority assistance organizations. A total of 227 firms purchased copies of the Bid Documents. On February 20, 2009 a Pre-Bid meeting was attended by over 200 interested parties. Immediately following the Pre-Bid meeting, a further outreach mixer sponsored by BART's Office of Civil Rights was held so that potential prime contractors and sub-contractors had an opportunity to interact and discuss teaming in conjunction with the WSX Project.

Two Pre-Bid Protests were received during the bid period. Each was evaluated by District staff, found to be without merit and rejected by letter in accordance with BART procedures. Nine Bids were received by the District on April 21, 2009.

After review by District staff, several of the Bids were determined to have arithmetical errors in the Bid item totals and in the Total Bid Price. In accordance with Article 13.B, Evaluation, of the Instructions to Bidders, the District independently calculated the Total Bid Price based on the unit or lump sum prices bid. Tabulation of the Bids, with the arithmetical corrections and the Engineer's Estimate, is as follows:

1. Shimmick/Skanska, JV	\$136,750,550
2. Granite/RL Brosamer, JV	\$137,605,290
3. FCI/Condon Johnson, JV	\$138,250,197
4. Tutor Saliba	\$139,785,550
5. CEC/Myers, JV	\$140,485,920
6. Kiewit Pacific	\$143,743,000
7. Walsh Construction	\$156,440,305
8. Balfour Beatty/Stacy and Witbeck, JV	\$160,437,000
9. Barnard/MCM, JV	\$166,583,625

Engineer's Estimate	\$249,675,000
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The apparent low Bid was submitted by Shimmick/Skanska. This bid, which did not contain arithmetical errors, has been determined to be fair and reasonable and deemed to be responsive to the solicitation. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

FISCAL IMPACT:

There is no funding currently available to perform the work on Contract No. 02ED-110, in the amount of \$136,750,550, for the Fremont Central Park Subway contract.

On February 25, 2009 the Metropolitan Transportation Commission (MTC) approved an allocation of \$167 million in Regional Measure 2 (RM2) funding and \$20 million in Regional Measure 1 (RM1) funding for this contract. It is expected that BART and MTC will execute a funding agreement in June 2009.

On March 26, 2009 the Alameda County Transportation Improvement Authority (ACTIA) Board authorized staff to negotiate and execute a Project Specific Funding Agreement (PSFA) with BART for the construction of the BART Warm Springs Extension Project. This funding agreement would encumber up to \$83 million of Measure B funds for the delivery of the Fremont Central Park Subway Contract. It is expected that BART and ACTIA will execute a funding agreement in June 2009.

The award of the contract will be issued only after the Controller-Treasurer has certified that funds are available for this contract. Should the Notification to Bidders of the Recommended Award be issued prior to such certification, the Notification will specifically provide that the Notice of Award shall not be issued prior to the certification of the Controller-Treasurer.

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

ALTERNATIVE:

The alternative is to decline to authorize award of this contract. If the contract is not awarded, BART will be unable to proceed with the construction phase of the WSX Project at this time.

RECOMMENDATION:



It is recommended that the Board adopt the following motion:

MOTION:

Upon certification by the Controller/Treasurer that funds are available for this contract, the General Manager is authorized to award Contract No. 02ED-110, Warm Springs Extension, Fremont Central Park Subway to Shimmick Construction Co. Inc./ Skanska USA Civil West California District Inc. Joint Venture for the Bid amount of \$136,750,550.00 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:	
DATE: 5/20/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Anita C Sanchez Dept: Transportation & System Service Dept Signature/Date: Anita Codena Sanchez 5/18/09	General Counsel  5/18/09	Controller/Treasurer  5/19/09	District Secretary  5/20/09
Status: Routed		Date Created: 05/12/2009	

TITLE:

Agreement 6M3092 for Graffiti Removal Services

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to execute Agreement No. 6M3092 with Clean Innovation Corporation, Santa Clara, CA to provide graffiti removal services for a total compensation, including options, not to exceed \$1,499,103.20.

DISCUSSION: Transportation and System Service Department is the sponsoring Department for this Agreement. These graffiti removal and surface restoration services are required to maintain the cleanliness of areas subject to vandalism, specifically BART stations, shops, line buildings, portals, retaining structures, and parking lots and garages.

Historically, the District has used the services of an outside contractor to provide this work. Transportation and System Service has determined that this work is not duplicative of any duties performed by District employees. Graffiti removal has been successful primarily due to the contractor's immediate removal of graffiti following daily systemwide inspections.

Request for Proposals (RFP) No. 6M3092, to provide graffiti removal service systemwide, was issued on February 23, 2009 to forty six (46) organizations. Nineteen (19) organizations attended the pre-proposal meeting on March 11, 2009, and five (5) proposals were submitted on March 31, 2009. The proposals were from Able Building Maintenance, Clean Innovation Corporation, Santa Clara Valley Corporation, WWC Services of San Francisco, Inc., and Zero Waste Solutions.

A Source Selection Committee (the Committee), chaired by the Procurement Department with representatives from Transportation & System Service, Facilities Maintenance, and the Office of Civil Rights participated in the evaluation process. The Committee utilized the Lowest-Priced-Technically-Acceptable Method to assess the proposals against the technical minimum requirements set forth in the RFP. On the basis of this analysis, the Committee found that the proposal submitted by Santa Clara Valley Corporation failed to demonstrate possession of the technical minimum requirements, and that Proposer was eliminated from further consideration.

Thereafter, price proposals from the remaining four (4) Proposers who submitted technically accepted proposals were ranked based on total proposal price. The total proposal price includes the sum of the three (3) years base period and the two (2) additional one-year options. Pricing was based on hourly rates of estimated time for normal, premium and special graffiti removal work.

The rank order of the Proposers from lowest to highest is as follows:

<u>Proposer</u>	<u>Total Price Proposed</u>
Clean Innovation Corporation	\$1,499,103.20
Able Building Maintenance	\$1,633,018.80
Zero Waste Solutions	\$1,702,086.40
WWC Services Of San Francisco, Inc.	\$1,707,980.00
Santa Clara Valley Corporation	Non-Responsive Bidder

The Committee determined that the proposal submitted by Clean Innovation Corporation is the lowest-priced-technically-acceptable proposal. Staff has reviewed Clean Innovation Corporation business experience and financial status and has determined that Clean Innovation Corporation is responsible and that its proposed price is fair and reasonable.

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

FISCAL IMPACT: Funding for this contract will come from the Transportation and System Service Department's operating budget. Funding for FY 2010 in the amount of \$282,380.00 is included in the Department's preliminary budget. The remainder due under Agreement 6M3092 will be included in the proposed budgets for fiscal years 2011 through 2014.

ALTERNATIVES: Not enter into Agreement No. 6M3092; however, failure to enter into a graffiti removal contract would result in unsightly conditions throughout the System as graffiti attracts more vandalism.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to enter into Agreement No. 6M3092 with Clean Innovation Corporation to provide graffiti removal services District-wide for a period of three (3) years with options to extend for up to two (2) additional one

(1) year periods under the same terms and conditions for a total compensation, including options, not to exceed \$1,499,103.20 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Salas</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/27/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadel Dept: Government and Community Relations	General Counsel <i>Paul Fadel</i> 5/18/09	Controller/Treasurer <i>Paul Fadel</i> 5/18/09	District Secretary	BARC <i>Paul Fadel</i> 5/21/2009
Signature/Date:				
Status: Routed		Date Created: 05/07/2009		

TITLE:

2009 State and Federal Legislation Review

NARRATIVE:

PURPOSE

To seek Board positions on state and federal legislation.

DISCUSSION:

The BART Board has approved state and federal goals for 2009. Following are specific state and federal bills for the Board to review that could have direct impact on the BART system and its riders. For additional information on the measures, the EDD attachments provide either official Legislative analyses or fact sheets on each piece of legislation.

A. State Legislation proposed for SUPPORT:

AB 338 (Ma) Transit village developments: infrastructure financing:

BART is the sponsor of AB 338, which would recast the area included in transit village plans from 1/4 mile to 1/2 mile, and would provide local finance tools to assist development of Transit Oriented Development (TOD) through the Infrastructure Financing Districts Act. This bill would eliminate the requirement of voter approval to form an Infrastructure Finance District for transit purposes, to adopt an infrastructure financing plan, and to issue bonds for the purpose of developing and financing transit facilities. A similar bill, AB 1221 (Ma), also sponsored by BART, passed the legislature last session, but was vetoed by the Governor with a generic veto message.

AB 729 (Evans) Public contracts: transit design-build contracts

Present law allows transit operators to enter into "design-build" contracts until January 1, 2011. AB 729 would extend that "sunset" provision until January 1, 2015.

AB 1072 (Eng) Public Transportation Modernization, Improvement, and Service Enhancement Account.

In 2006, California voters passed The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B), which authorized the issuance of nearly \$20 billion of general obligation bonds, including \$3.6 billion for allocation to public transit purposes through the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA). Existing law only specifies the process for allocating the available funds in the PTMISEA until July 1, 2009, and the provisions authorizing the allocation process are repealed on January 1, 2010.

This bill would make the allocation provisions currently in effect applicable to funds appropriated for PTMISEA by the Budget Act of 2009 and those appropriated in subsequent fiscal years, and would make other conforming changes. The bill would require that eligible project sponsors provide the Department of Transportation with descriptions of projects they plan to fund with the PTMISEA funds yet to be appropriated for the duration of the program. AB 1072 would also allow a project sponsor to use an allocation of funds in a subsequent fiscal year in order to complete projects approved in a previous fiscal year. BART has testified that a consistent annual allocation of funding from this program would assist its planning efforts toward station modernization and other projects.

AB 1175 (Torlakson) MTC Toll Authority

AB 1175 would make a variety of changes involving how Caltrans, the Metropolitan Transportation Commission (MTC) and the Bay Area Toll Authority (BATA) interact and implement bridge toll policies and procedures (including making the Antioch and Dumbarton bridges part of the Toll Bridge Seismic Retrofit Program). AB 1175 would also provide the BATA/MTC with the authority to increase tolls on all Bay Area state-owned toll bridges, vary the toll structure on each bridge and provide discounts for vehicles classified by the authority as high-occupancy vehicles or paying tolls via electronic collection.

AB 1175 would also authorize BATA to submit regional measures containing a toll increase to the county voters for approval, along with the projects and programs that would be undertaken with any increased tolls. AB 1175 would require that any such efforts must “consist of infrastructure projects, the acquisition of transit vehicles, transit operating assistance, and other improvement projects intended to reduce congestion and improve travel options in the bridge and transportation network.”

Making it easier to raise local bridge tolls (by providing BATA/MTC with that authority as opposed to having to always seek legislation) could provide additional options and opportunities for financing BART projects like rail car replacement and system access and capacity improvement.

ACA 9 (Huffman) Local government bonds: special taxes: voter approval.

With dramatic funding cuts for transportation and other programs and services, there are efforts in Sacramento to enable greater local opportunities to initiate funding for infrastructure and other projects.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of two thirds of the voters of the city, county, or special district voting on that tax, subject to certain exceptions. Assembly Constitutional Amendment 9 (ACA 9) would change the two thirds voter-approval requirement to authorize a city, county, or special district to impose a special tax to service bonded indebtedness, incurred to fund specific public improvements, facilities, buildings and

housing, with the approval of 55 percent of its voters.

ACA 15 (Arambula) Local government transportation projects: special taxes:
Voter approval

The California Constitution requires two thirds voter approval for the imposition of a special tax to finance transportation projects. ACA 15 would allow local governments (including special districts) to impose, extend, or increase a special tax for the purpose of providing funding for local transportation projects upon the approval of 55 percent of its voters.

The author has testified that at a time of fiscal crisis in the state ACA 15 will allow local governments to support the will of a majority of its voting residents to make vital investments in local transportation projects, and provide local economic stimulus.

SB 205 (Hancock) Traffic congestion: motor vehicle registration fees

SB 205 would authorize a countywide transportation planning agency to adopt ballot measure resolutions providing for an annual fee of up to \$10 on motor vehicle registrations. The fee would pay for specific programs and projects that have a direct relationship or benefit to the motorists paying the fee. If adopted by the countywide transportation planning agency, the measure would then have to be approved by a majority of the local voters.

Sponsored by the Alameda County Congestion Management Agency, potential projects that could be funded through SB 205 would primarily include those that provide matching funds for bond-funded transportation projects or create or sustain congestion or pollution mitigation programs and projects. The bill defines “congestion mitigation programs and projects” to include “improved transit service through the use of technology, bicycle and pedestrian improvements” and “transit service expansion.”

The bill would require the governing board of the countywide transportation planning agency to adopt a specified expenditure plan and would allow the Department of Motor Vehicles (DMV), if requested, to collect the fees.

In the last legislative session, BART supported a similar bill, AB 444, also introduced by Senator Hancock, which would have allowed a similar fee program to be established in Bay Area counties only.

B. State Legislation proposed for WATCH; SUPPORT (if amended):

AB 312 (Ammiano) Public Review of BART Police

AB 312 would require the BART Board to create an Office of Citizen Complaints (OCC) to investigate complaints and/or allegations of possible misconduct by the BART Police Department. The bill, fashioned after the San Francisco OCC, would provide for the nomination of the director of that office by the district attorneys of the Counties of Alameda, Contra Costa, and San Francisco, subject to confirmation by the Board. AB 312 would also specify other requirements and processes with which the OCC would have to comply.

At a hearing of the Assembly Public Safety Committee on April 14, 2009 the Committee Chairman held the bill pending progress by the BART Board to establish its own process for citizen oversight of its police department. BART has communicated with the committee members and the author that it will establish a BART civilian police oversight process this year. If appropriate, BART may request the author's assistance in carrying necessary legislation to achieve that goal, depending on the citizen oversight model selected.

C. Federal Legislation proposed for SUPPORT:

H.R. 1329 (Blumenauer, Tauscher, LaTourette) "Clean, Low-Emission, Affordable, New Transportation Efficiency Act" (CLEAN-TEA)

H.R. 1329 recognizes that the United States cannot meet its climate change goals without reducing emissions from the transportation sector. It also recognizes that transit must be *supported* as a means to reach these critical goals

The bill is predicated upon passage of a comprehensive climate change bill that would generate revenue for the Federal government. Under CLEAN-TEA, 10 percent of the revenue from a cap and trade system would be dedicated to transportation projects that help create a more efficient transportation system and lower greenhouse gas (GHG) emissions. Specifically, funds would be used to create new or expanded transit or passenger rail, support development around transit hubs, and make neighborhoods safer for bikes and pedestrians.

President Blalock has written on behalf of BART to the California Members of the House Energy and Commerce Committee urging their support for the transit-specific provisions in H.R. 1329, as their Committee reviews and considers options for GHG cap and trade legislation.

S. 247 (Senators Feinstein, Collins and Schumer)

H.R. 520 (Representatives Israel, Lee, etc.)

"Accelerated Retirement of Inefficient Vehicles Act of 2009" (Cash for Clunkers)

S. 247 and H.R. 520 would establish in the U.S. Department of Energy (DOE) the "Accelerated Retirement of Inefficient Vehicles Program" to distribute vouchers to owners of high fuel consumption automobiles for the purchase of fuel-efficient automobiles. Specifically, the so-called "Cash for Clunkers" program would provide a credit of up to \$4,500 to drivers who turn in fuel-inefficient vehicles to be scrapped, and purchase more fuel-efficient vehicles.

This legislation is expected to retire up to one million vehicles per year. Senator Feinstein and her Senate coauthors recently wrote President Obama that this legislation could encourage the sales of high mileage autos in the U.S. and improve the environment.

More pertinent to BART, S. 247 and H.R. 520 (as introduced) would also authorize the use of vouchers to acquire single-passenger transit fare credits, and require the Secretary of the U.S. Department of Transportation (working with the Secretary of the DOE) to allow operators of bus and rail public transit

systems to redeem vouchers to offset the purchase price of annual transit passes or any other form of individual transit fare credit designated by the transit system operator. While the transit provisions remain active in S. 247, the transit voucher provisions were dropped from recently announced compromise language to be added to the House cap and trade legislation now being debated.

In the past, the BART Board has supported efforts that provide incentives for transit ridership. Even though the transit voucher language in H.R. 520 may not be included in the House "Cash for Clunkers" compromise, it would still be appropriate for BART to demonstrate support for these bills as introduced.

FISCAL IMPACT:

N/A (see attachment)

ALTERNATIVE:

The Board does not support legislation listed for review.

RECOMMENDATION:

That the Board approves the following motion.

MOTION:

The Board approves the following positions for legislation:

SUPPORT for:

- AB 338 (Ma) Transit Village Development Financing
- AB 729 (Evans) Design-Build Contracts
- AB 1072 (Eng) PTMISEA Implementation
- AB 1175 (Torlakson) BATA/MTC Bridge Toll Authority
- ACA 9 (Huffman) Local Special Taxes: Voter Approval
- ACA 15 (Arambula) Local Special Taxes for Transportation: Voter Approval
- SB 205 (Hancock) Traffic Congestion: Vehicle Registration Fees
- H.R. 1329 (Blumenauer, Tauscher, LaTourette) CLEAN-TEA
- S. 247 (Feinstein, Collins, Schumer) "Cash for Clunkers"
- H.R.520 (Israel, Lee) "Cash for Clunkers"

WATCH/ SUPPORT (if amended):

- AB 312 (Ammiano) Public Review of BART Police



CAPITOL CORRIDOR JOINT POWERS AUTHORITY
MEETING OF THE CAPITOL CORRIDOR JOINT POWERS BOARD
Wednesday June 10, 2009

10 a.m.

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

DRAFT AGENDA

- I. Call to Order
- II. Roll Call and Pledge of Allegiance
- III. Report of the Chair
- IV. Minutes of February 18, 2009 Meeting *Action*
- V. Consent Calendar
 - 1. Support for Polling by California Transit Association to Protect State Transit Funding *Action*
- VI. Action and Discussion Items (Executive Director)
 - 1. Update - Federal Intercity Rail Capital Grant Opportunities (FY09 and ARRA) *Action*
 - 2. Governor's Proposed FY 2009-10 Budget/Legislative Matters *Action*
 - 3. Update - Wireless Network *Action*
 - 4. Purchase of UPRR Oakland Subdivision Right-of-Way for Dumbarton Rail Project *Action*
 - 5. Managing Director's Report (Status of Service Performance) *Info*
 - 6. Work Completed
 - a. Business Plan Update (FY 2009-10 – FY 2010-11) *Info*
 - b. Marketing Activities (November 2008 – February 2009) *Info*
 - 7. Work in Progress
 - a. Proposition 1A (California High Speed Train System) Connectivity Projects/Funds *Info*
 - b. Prop 1B FY 08 Transit Safety/Security Improvement Projects *Info*
 - c. Prop 1B Intercity Rail Project Allocations: Bahia Crossover, Emeryville Track Upgrades *Info*
 - d. Yolo Causeway West Crossover Project Design/Engineering and Access Agreement *Info*
 - e. Upcoming Marketing Activities *Info*
- VII. Board Member Reports
- VIII. Public Comment
- IX. Adjournment. Next Meeting Date: 10:00 a.m., September 16, 2009 at City Council Chambers, Suisun City Hall, 701 Civic Center Blvd., City of Suisun City, CA

Notes:

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

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

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.