

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

June 11, 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, June 11, 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.

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. **CALL TO ORDER**

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of May 14, 2009.* Board requested to authorize.
- B. Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the East Contra Costa County Rail Extension/eBART Project and the State Route 4 (East) Widening Project: Loveridge Road to State Route 160.* Board requested to adopt.
- C. Award of Contract No. 20LN-331, Procurement of Maintenance Vehicle Detection Devices.* Board requested to authorize.
- D. Award of Invitation for Bid No. 8842, Current Collector Shoes.* Board requested to authorize.
- E. Reject All Bids for Contract No. 6M3059A, Emergency Restoration, Preventive Maintenance and Non-Emergency Repair of Telecommunication Revenue Program.* Board requested to reject.

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.* Board requested to authorize.
- A-2. Business Advancement Plan Update.* For information.
- A-3. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Approval to Conduct Competitive Negotiation for Transit Vehicles.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B-2. Approval to Conduct Competitive Negotiation for Diesel Multiple Unit (DMU) Vehicles for the East Contra Costa BART Extension Project (eBART).* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B-3. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE
Director Sweet, Chairperson

NO REPORT.

RECONVENE BOARD MEETING

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

A-1. Fiscal Year 2010 Budget.* Board requested to authorize.

A-2. Business Advancement Plan Update.* For information.

B. ENGINEERING AND OPERATIONS COMMITTEE

B-1. Approval to Conduct Competitive Negotiation for Transit Vehicles.*
Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

B-2. Approval to Conduct Competitive Negotiation for Diesel Multiple Unit
(DMU) Vehicles for the East Contra Costa BART Extension Project
(eBART).* Board requested to authorize. (TWO-THIRDS VOTE
REQUIRED.)

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

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

A. Ratification of the Ad Hoc Committee on Disadvantaged Business
Enterprise Participation in Procurement Contracts.* Board requested to
ratify. (President Blalock's request.)

B. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

B. 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

C. CONFERENCE WITH LABOR NEGOTIATORS:

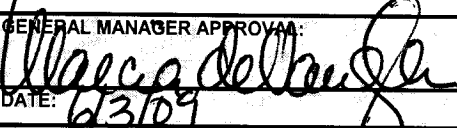



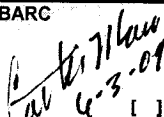
Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy, Assistant General Manager – Administration; M. Carol Stevens, Burke, Williams & Sorensen, LLP

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 Administration Committee		
DATE: 6/3/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control Signature/Date:  5/28/09	General Counsel  6/2/09	Controller/Treasurer  6/2/09	District Secretary []	BARC  6-3-09 []
Status: Routed		Date Created: 04/22/2009		

Approval of a Joint Application for Regional Measure 2 Funds for the eBART Project and State Route 4 (East) Widening Project from Loveridge Road to State Route 160

NARRATIVE:

Purpose:

To obtain BART Board approval of a joint application by BART and the Contra Costa Transportation Authority ("CCTA") for a total of \$32.08 million in Regional Measure 2 ("RM2") funds for the eBART Project and State Route 4 (East) Widening Project from Loveridge Road to State Route 160 ("SR4 Project"). The application includes a Resolution of Project Compliance ("Resolution") and Initial Project Report ("IPR"), and is described in the attached IPR Summary ("Summary"). This application is a request for reimbursement for \$7.08 million in planned project expenditures for final design for the eBART Project and \$25 million in planned project expenditures for right of way and construction for the SR4 Project.

Discussion:

On April 23, 2009, the Board of Directors adopted the eBART Project and authorized the General Manager to proceed with implementation actions. BART and the Contra Costa Transportation Authority (CCTA) are co-sponsors for the RM2 funds associated with the eBART Project. Previous allocations of RM2 funds have been used for the planning and environmental phase, the design of median structures to accommodate future mass transit, and right of way acquisition to widen the SR4 median. This application for RM2 funds will provide funding to begin final design of the eBART Project and continue right of way acquisition, utility relocation and construction of the SR4 Project. Approval of the IPR and Resolution is a requirement for an the application for RM2 funds. CCTA approved the IPR and Resolution on May 20, 2009. It is expected that the Metropolitan Transportation Commission ("MTC") will approve this application in June 2009.

Fiscal Impact:

Approval of the IPR and Resolution is a requirement for the District to receive an allocation of RM2 funds from the MTC.

Alternatives:

Do not approve the Resolution and IPR. Failure to approve the Resolution and IPR will result in

schedule delays and cost increases for both the eBART Project and the SR4 Widening Project.

Motion:

The Board of Directors approves the Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the eBART Project and SR4 Project.

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

**In the Matter of the Approval of a
Resolution of Project Compliance
and Initial Project Report for
Regional Measure 2 Funds for the
East Contra Costa County Rail
Extension/eBART Project and the
State Route 4 (East) Widening
Project: Loveridge Road to State
Route 160**

Resolution No.

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

Whereas, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds pursuant to Streets and Highways Code Section 30914(c) and (d); and

Whereas, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding; and

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

Whereas, BART and CCTA are eligible sponsors of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

Whereas, the East Contra Costa County Rail Extension/eBART Project and the State Route 4 East Widening Project: Loveridge Road to State Route 160 (the PROJECTS) are eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

Whereas, the Regional Measure 2 allocation requests, sponsored by BART and CCTA, in the Initial Project Report dated May 18, 2009 and incorporated herein as though set forth at length, list the purpose, schedule, budget, expenditure and cash flow plans for which BART and CCTA are requesting that MTC allocate Regional Measure 2 funds for the PROJECTS; and

Whereas, in its Resolution No. 09-17-P, dated May 20, 2009, and incorporated herein, CCTA and its agents agree to comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636);

NOW, THEREFORE, BE IT RESOLVED that:

1. BART and its agents agree to comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636);

2. BART certifies that the PROJECTS are consistent with the Regional Transportation Plan (RTP).

3. The timeframe of funding for any design, right-of-way and/or construction phases for the PROJECTS has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the PROJECT.

4. BART certifies that the Regional Measure 2 phase or segment for the PROJECTS are fully funded and result in an operable and useable segment.

5. BART approves the updated Initial Project Report dated May 18, 2009, as described in the attached Initial Project Report Summary (Summary).

6. BART approves the cash flow plan.

7. BART has reviewed the PROJECTS' needs and has adequate staffing resources to deliver and complete the PROJECTS within the schedule set forth in the Initial Project Report dated May 18, 2009.

8. BART is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c).

9. BART is authorized to submit an application for Regional Measure 2 funds for the PROJECTS in accordance with California Streets and Highways Code 30914(c).

10. BART certifies that the PROJECTS and purposes for which RM2 funds are being requested are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and, if relevant, the National Environmental Policy Act (NEPA), 42 USC Section 4321 et seq. and the applicable regulations thereunder.

11. There is no legal impediment to BART making allocation requests for Regional Measure 2 funds.

12. There is no pending or threatened litigation, which might in any way adversely affect the PROJECTS, or the ability of BART, to deliver such PROJECTS.

13. BART indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of BART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

14. BART agrees that, if any revenues or profits from any non-governmental use of property (or project) are collected, that those revenues or profits shall be used exclusively for the public transportation services for which the PROJECTS were initially approved, either for capital improvements or maintenance and operational costs; otherwise, the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the PROJECTS.

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

16. BART has authorized its General Manager or his/her designee, to execute and submit an allocation request for the design, right of way and/or construction phase for the PROJECTS to MTC for Regional Measure 2 funds in the amount of \$32.08 million, CCTA portion is \$25 million and BART portion is \$7.08 million, for the PROJECTS, purposes and amounts included in the Initial Project Report dated May 18, 2009.

17. BART's General Manager or his/her designee has been delegated the authority to make non-substantive changes or minor amendments to the Initial Project Report as she deems appropriate.

18. A copy of this resolution shall be transmitted to MTC in conjunction with the filing of the Initial Project Report dated May 18, 2009 referenced herein.

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Initial Project Report Summary

eBART Project and State Route 4 (East) Widening Project: Loveridge Road to State Route 160

Description

The Initial Project Report (IPR) is a joint application for Regional Measure 2 funds by BART and CCTA. This application is for \$7.08 million to begin final design for the eBART Project and \$25 million to continue with right of way acquisition and construction for the SR4 Project to widen the median of SR4 to accommodate the eBART Project. The eBART Project will expand the existing BART system by ten miles, and extend transportation services to communities in east Contra Costa County that are currently not served by rail transit. DMU trains will operate on tracks to be constructed in the median of SR 4 between the existing Pittsburg/Bay Point BART Station and the vicinity of the Hillcrest Avenue interchange in the City of Antioch. One transfer platform and two stations will be constructed along the 10-mile corridor.

eBART Project Schedule

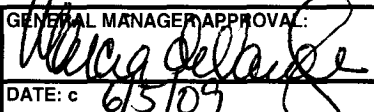
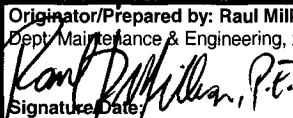
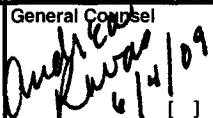

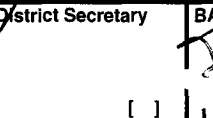
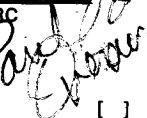
Phase-Milestone	Planned	
	Start Date	Completion Date
Environmental Document	FY05	FY09
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	FY05	FY09
Final Design - Plans, Specs. & Estimates (PS&E)	FY08	FY11
Right-of-Way Activities (R/W)	FY05	FY11
Construction (Begin – Open for Use) / Operating Service (CON)	FY11	FY15

SR4 Widening Project Schedule

Phase-Milestone	Planned	
	Start Date	Completion Date
Environmental Document	FY01	FY05
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	FY01	FY05
Final Design - Plans, Specs. & Estimates (PS&E)	FY06	FY10
Right-of-Way Activities /Acquisition (R/W)	FY07	FY12
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	FY10	FY15



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: c 6/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Raul Millena Dept. Maintenance & Engineering, x-6552  Signature Date: 5/26/09	General Counsel  6/4/09	Controller/Treasurer  6/1/09	District Secretary  []	BARC  []

Procurement of Maintenance Vehicle Detection Devices, Contract 20LN-331

NARRATIVE:

Award Contract No. 20LN-331, Procurement of Maintenance Vehicle Detection Devices.

PURPOSE:

To authorize the General Manager to award Contract No. 20LN-331, for the Procurement of Maintenance Vehicle Detection Devices ("MVDD") with commissioning support for the twenty (20) units.

DISCUSSION:

The MVDD allows the Train Control System to detect the presence of a Hi-Rail vehicle on the running rails. An MVDD must be installed on each Hi-Rail vehicle that operates on the BART running rails.

This Contract is part of the greater Train Control Rehabilitation Program. The first MVDD units were introduced to the District in 1978 and then replaced in 1993 with the addition of the East Bay Extensions. Every six (6) months, each unit must undergo a recertification process and is recalibrated and repaired if found out of compliance. These units are highly reliable. However, components do fail and require replacement and in the worst case, a unit is taken out of service and salvaged for spare parts. In order to support the fleet of District Hi-Rail maintenance vehicles, additional MVDD units are required. This contract will procure twenty (20) units with modern electronic components that will provide operational reliability and ease of installation and maintenance.

The District provided advanced notice to potential bidders on April 24, 2009 and advertised the contract on April 27, 2009. A pre-bid meeting was held on May 6, 2009 with two (2) potential bidders in attendance. A total of nine (9) potential bidders purchased the contract book. On May 19, 2009, the District publicly opened bids for this Contract. The two (2) bids received are shown below along with the Engineer's Estimate.

<u>Bidder</u>	<u>Bid Price</u>
Quackenbush Engineering Solutions and Technologies, LLC. Wellington, MO	\$315,000.00
B&C Transit Consultants, Inc. San Leandro, CA	\$497,495.00
Engineer's Estimate	\$412,075.00

Based on the competitive bid package evaluation, Quackenbush Engineering Solutions and Technologies was determined to be the lowest responsive and responsible bidder. Furthermore, examination of Quackenbush Engineering Solutions and Technologies business experience and financial capabilities shows a satisfactory condition. In addition, staff has determined that the bid price submitted by Quackenbush Engineering Solutions and Technologies is fair and reasonable.

FISCAL IMPACT:

Funding of \$345,713.00 (\$315,000.00 bid plus \$30,713.00 estimated tax) for Contract 20LN-331 is included in the total project budget for the FMS#20LN – Wayside MUX Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

CA-05-0211 FY06 Capital Improvement

47X

\$345,713.00

As of 04/26/09, \$995,535.00 is available for commitment from this fund source for this project, and BART to date has committed \$454,402.00. There is \$87,233.00 pending commitment in BART's financial management system. This action will commit an additional \$345,713.00, leaving an uncommitted balance of \$108,187.00 in this fund.

There is no fiscal impact on available unprogrammed District Reserve.

ALTERNATIVES:

The alternative is to continue to maintain the existing MVDD equipment that supports a larger maintenance fleet, and endure the inevitable failures that result in delays to revenue service due to limited maintenance to the wayside infrastructure. These types of failures result in severe operational delays. Maintenance costs will increase as the MVDD equipment further ages and replacement parts become harder to find.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to award Contract No. 20LN-331, Procurement of Maintenance Vehicle Detection Devices, to Quackenbush Engineering Solutions and Technologies, LLC., for the bid amount of \$315,000.00, plus applicable taxes, subject to the District protest procedures and FTA's requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Delgado</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of directors		
DATE: 6/3/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ben Holland Dept: Rolling Stock & Shops <i>Ben Holland</i> 5/28/09	General Counsel <i>Andrew Rivas</i> 5/28/09	Controller/Treasurer <i>[Signature]</i> 5/28/09	District Secretary []	BARC <i>Paul Jensen</i> 6/3/09
Status: Routed		Date Created: 05/20/2009		

TITLE:

Invitation to Bid No. 8842 -- Purchase of Current Collector Shoes

NARRATIVE:

Purpose: To obtain Board authorization to award Invitation For Bid (IFB) No. 8842 to Wabtec (Duncan, South Carolina) in the amount of \$298,520 (includes all taxes) for the purchase of 8,000 Current Collector Shoes.

Discussion: The BART fleet of 669 revenue cars is powered by a high-voltage third rail that runs alongside the running rail. Power is transferred from the third rail to the car through the collector shoe assemblies. Each car has four collector shoes with two shoes each mounted on both the left and right side of each truck. As the car moves down the rails, the collector shoes wear against the third rail. This constant wear results in frequent replacement of this part. BART changes approximately 4,000 collector shoes each year.

A notice requesting bids was published on January 21, 2009 and bid requests were mailed to three (3) prospective bidders. Bids were opened on February 24, 2009 and three (3) bids were received.

<u>Bidder</u>	<u>Unit Price</u>	<u>Total Including 9.75% Sales Tax</u>
Diamond Tool & Die Oakland, CA	\$14.30	\$ 125,554.00
Mission Tool & Mfg Hayward, CA	\$29.88	\$ 262,346.40
*Wabtec Duncan, S.C.	\$34.00	\$ 298,520.00

*Lowest Responsive Bidder

After review by District staff, the apparent low bids submitted by Diamond Tool & Die and Mission Tool & Manufacturing, which were for alternate or "equal" products, have been deemed

to be non-responsive.

Staff has determined that the bidder Wabtec submitted a responsive bid, and that the bid pricing is fair and reasonable. The District's previous experience in the purchase of current collector shoes was in February, 2005, with WABCO (a Wabtec company), for 4,000 each at a unit cost of \$28.

Fiscal Impact: Funding will be provided from the General Fund, Materials and Supplies Inventory build-up account, (140-010).

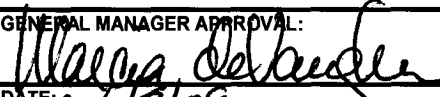
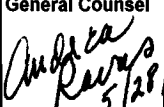
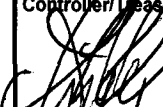


Alternatives: Current collector shoes are essential components of the transit vehicle and must be replaced when they wear out. An alternative to awarding this IFB would be to reject all bids and readvertise the contract.

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. 8842 for Current Collector Shoes to Wabtec for the bid price of \$298,520 including tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 6/3/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Chuck Rae Dept: M&E	General Counsel  5/28/09	Controller/Treasurer  5/28/09	District Secretary []	BARC  6/1/09
Signature/Date:  5/28/09				

TITLE:

REJECT ALL BIDS FOR CONTRACT NO. 6M3059A EMERGENCY RESTORATION PREVENTIVE MAINTENANCE AND NON EMERGENCY REPAIR OF TELECOMMUNICATIONS REVENUE PROGRAM

NARRATIVE:

PURPOSE: To reject all bids for Contract No. 6M3059A Emergency Restoration Preventive Maintenance and Non Emergency Repair of Telecommunications Revenue Program.

DISCUSSION: Since 1994, the District has executed two Emergency Restoration Service Agreements and two Maintenance contracts for the Commercial Telecommunication Revenue Program. The initial goal of the Maintenance Contracts was to bring the fiber infrastructure up to a preventive level by repairing major problems. Now that this goal has been met, and the on-going maintenance is predominately fiber-oriented, the need for a separate maintenance contract is no longer required. Therefore, staff has solicited bids for Contract No. 6M3059A with a scope that includes emergency restoration, preventative maintenance and emergency repairs.

Advance Notice to Bidders were mailed to 33 prospective bidders. Contract documents were sent to 18 plan rooms. The Contract was advertised on March 6, 2009 in various local publications. A total of 11 firms purchased copies of the Contract documents. A pre-bid meeting was conducted on March 17, 2009 with 11 prospective bidders attending. Four bids (qualification bids and price bids sealed in separate envelopes) were received on March 31, 2009. A Selection Committee evaluated the technical qualifications of the bidders and determined that only two bidders met the minimum technical requirements. Their price bids were publicly opened on May 5, 2009. Tabulation of the price bids, including the Engineer's Estimate, is as follows:

REJECT ALL BIDS FOR CONTRACT NO. 6M3059A EMERGENCY RESTORATION PREVENTIVE MAINTENANCE .

BIDDERS	LOCATION	BASE BID (1-Year)	OPTION 1 (1-Year)	OPTION 2 (1-Year)	TOTAL BID PRICE (Base Bid + Option 1 + Option 2)
Western Lightwave, Inc.	Menifee, CA	\$579,492.00	\$572,413.00	\$591,950.40	\$1,743,855.40
Phase 3 Communications, Inc.	San Jose, CA	\$730,582.00	\$729,710.00	\$729,710.00	\$2,190,002.00
Engineer's Estimate					\$1,650,000.00

During the evaluation of bids, staff determined that parts of the contract specifications were deficient in relation to the bid schedule as well as in the procedures for the handling of the District's Security Sensitive Information. Staff believes that it is in the District's best interest to rectify these deficiencies and re-advertise this contract.

FISCAL IMPACT: There is no fiscal impact to the District as a result of this action.

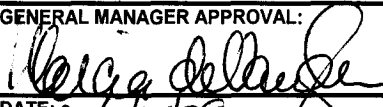
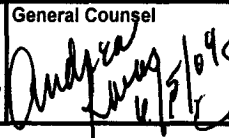
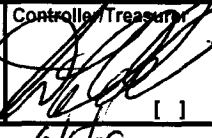
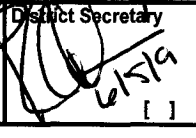
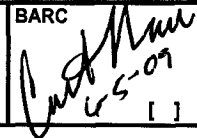

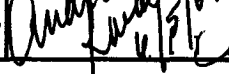
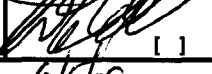

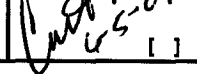
ALTERNATIVE: To award this contract. This could preclude the District from implementing necessary Security Sensitive Information procedures to this contract.

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

MOTION: All bids received in response to Contract No. 6M3059A, for the Emergency Restoration, Preventive Maintenance and Non-Emergency Repair of the Telecommunications Revenue Program are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Place on the June 11, 2009 Administration Committee Agenda		
DATE: c 6/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept: Operating Budgets & Analysis	General Counsel 	Controller/Treasurer 	District Secretary 	BARC 
Signature/Date:  6/5/09	 6/5/09	 6/5/09	 6/5/09	 6/5/09

TITLE:

ANNUAL BUDGET RESOLUTION FOR FISCAL YEAR 2010

NARRATIVE:

NARRATIVE:

PURPOSE:

To authorize adoption of an Interim Annual Budget Resolution for Fiscal Year 2010 that is unbalanced, and that will be revised after labor contract negotiations have been completed.

DISCUSSION:

The proposed Interim Fiscal Year 2010 (FY10) annual operating budget summarized in Attachment 1 incorporates expense reductions and service adjustments that were included in the Preliminary Budget Memo and were reviewed in presentations to the Board of Directors during April and May. The proposed budget also includes passenger fare increases and the parking policy changes that the Board approved at the May 28, 2009 meeting. In addition, the budget includes a limited number of updates and corrections to the Preliminary Budget, as provided below.

As shown in the attached Resolution, operating sources in the Interim FY10 Operating Budget total \$605.6 million (M), and expenses and allocations total \$642.4M (excluding the \$15.1M Other Post Employment Benefit Unfunded Liability), with a resulting net deficit of \$21.7M. Changes from the Preliminary Budget result in a net \$1.3M improvement from the original deficit of \$23.0M.

The interim budget has been developed in the midst of the worst recession in many decades, and BART has been presented with difficult decisions in order to address the structural imbalance between revenues and expenses. The District's main revenue sources have been negatively impacted, with rapidly declining ridership and sales tax revenues and the elimination of State Transit Assistance. At the same time, costs have continued to increase, in particular employee health insurance and retiree medical expenses. Because of the size and continuing nature of the deficit, no single solution or strategy exists to resolve the deficit. As a result a balanced strategy has been developed that contains both cost cutting measures and revenue enhancement options, but minimizes impacts on our customers by maintaining safety, reliability, customer convenience and cleanliness.

Long term forecasts originally projected a four-year deficit of \$249M. The expense reduction and revenue enhancements incorporated in the FY10 budget are projected to reduce the four-year deficit to approximately \$139M and will improve the long-range outlook. However, with reasonable assumptions for revenue growth (even with the expense reductions and revenue

enhancements), unless there are changes to the employee and retiree benefit cost structure, the District will continue to face projected annual operating deficits averaging \$35M for the next four years.

The interim budget will be updated after labor negotiations have been completed to incorporate the financial impact of the new agreements. After the agreements have been completed the budget will need to be balanced, with expenses reduced to match the projected revenues. Labor and benefit costs constitute about 73% of the base operating expense budget. So, if long-term changes to the wage and benefit levels are not addressed during labor negotiations, additional decisions, such as service cuts and position reductions, will be necessary to address the expense growth and structural imbalance between revenues and expenses.

Background

Expense Reductions

The following cost cutting proposals are included in the proposed interim budget. They reduce the annual budget by 100 operating positions and total \$15.5M. These reductions have been planned with the goal of avoiding negative impacts to strategic priorities and operational performance measures. The positions being eliminated are primarily vacant as a result of a hiring freeze put in place last fall, and the remainder should be able to be accomplished through attrition or placement in other jobs.

- Expense reductions consisting of 78 operating positions and non-labor items, \$8.2M
- Service adjustments eliminating 22 positions and related non labor expense, including return to 20-minute evening and weekend headways, one-route evening and weekend Peninsula service, and work plan efficiencies, \$2.5M; and
- Elimination of Special Sales Tax Reserve and West Bay Parking allocations, \$4.8M

Revenue Enhancements

Even with the \$15.5M expense reduction identified in the FY10 Preliminary Budget, a shortfall of approximately \$38M remained. In order to help reduce the remaining deficit, on May 28th the Board of Directors approved a package of revenue enhancement items, which will provide an additional \$18.4M in core system revenue for FY10 as follows:

- Accelerate the scheduled 6.1% CPI-based fare increase from 1/1/10 to 7/1/09, \$7.3M
- Increase the minimum fare from \$1.50 to \$1.75, \$3.6M
- Increase the SFO premium fare by \$2.50 per trip, \$6.1M; and
- Parking policy changes, \$1.4M

Revenue generated by the three fare increases as approved at the May 28th meeting is estimated to produce \$17.0M additional core system passenger revenue for FY10 (an increase from the \$15.9M generated by the 10% fare increase that had been included in the Preliminary Budget).

As discussed at the May 28th meeting, the District is in discussions with the San Francisco Airport about ways to lessen the impact of the premium fare increase on airport employees. Total passenger revenue in the proposed interim budget is actually less than the Preliminary Budget, because the 10% fare increase produced \$2.4M more in SFO extension base fare revenue. However, the package approved by the Board of Directors produces higher core system

revenue (by \$1.1M as noted above), and the lower SFO extension passenger revenue is covered by an increased allocation from the SFO reserve. The parking policy changes add an estimated 8 stations to paid parking for FY10, for an average of 6 months. As discussed at budget presentations, the \$2.8M capital allocation cost will be funded by a Federal stimulus funds grant for preventive maintenance, which is added to financial assistance.

Budget Updates and Corrections

The Preliminary Budget was developed in March. In the intervening months there are a number of updates and changes. In addition to the passenger revenue change, other revenue is lowered \$2.7M, the net of a \$2.8M reduction in advertising revenue and a \$0.1M increase for the Berkeley Bike Station revenue sources. FY10 advertising revenues are projected to be lower than FY09 due to a downturn in the advertising industry and financial difficulties reported by our advertising contractor. Actual revenues will depend on how the situation with the contractor develops in the coming months. Financial Assistance is increased by \$0.7M for the estimated reimbursement from CalTrans attributable to the cost of extra service BART will run during a planned closure of the Bay Bridge over the Labor Day weekend. Total operating expenses are decreased by a net of \$1.5M, excluding the increase in the OPEB unfunded liability. Three operating positions and \$0.1M in non-labor for training and other expenses are added to the budget for “placeholder” expenses for anticipated needs related to citizen oversight of the Police Department for a cost of approximately \$0.5M. Expenses for extra service for the Bay Bridge closure are estimated at \$0.7M. PERS has announced that there will be a two-month “holiday” for its Preferred Provider Organization (PPO) health insurance plans, where neither employers nor employees pay premium costs for two months of FY10 which will produce approximately \$2.0M in one-time savings in health insurance and retiree medical premiums. An increase of \$1.3M is needed to correct an error in labor and benefits in the Preliminary Budget. Finally, \$2.0M budgeted in operating expense for outside counsel litigation expenses related to a capital project will instead be allocated to capital (the legal expenses will be expended within the capital project budget).

FY10 Capital Budget

The capital budget summarized in Attachment 2 proposes FY10 expenditures of \$584.8M and funds 406 positions. The capital budget is primarily funded through capital grants; however, District-allocated funds are also needed for a portion of the required local match and for expenditures which do not qualify for grants, including facilities renovation and the replacement of police and maintenance vehicles and equipment. The largest program area for capital expenditure next year will continue to be earthquake safety. System renovation comprises a program of essential reinvestment, primarily in the areas of station modernization, train control, traction power, rail replacement and trackway renovation and other critical projects. Work will also continue on security upgrades, system accessibility improvements and the eBART, Oakland Airport Connector, and Warm Springs extension projects, the West Dublin/Pleasanton Station project, and a program EIR for the Livermore/I-580 corridor.

FY10 BUDGET RESOLUTION

Staff recommends approval of the attached Resolution to adopt the Interim FY10 Annual Budget. The Resolution includes language stating that the Board will reconsider the budget after the labor contracts are completed to make any changes necessary to adopt a balanced budget following the negotiations.

As in previous years, the FY10 budget Resolution includes authorization to submit annual applications for Transportation Development Act (TDA), State Transit Assistance (STA) and bridge toll funds that are included in the FY10 capital budget, as appropriate. The Resolution also allows the General Manager or her designee to execute the agreement with the City and County of San Francisco to provide annual transfer payments to the San Francisco Municipal Transportation Agency for FY10. These annual transfer payments for feeder services are made in accordance with the agreement with the Metropolitan Transportation Commission (MTC) and are based on the prior year's sales tax percentage increase or decrease, as appropriate. The budget Resolution also incorporates provisions referring to the SFO extension service plan and certain District's system-wide operating policies. The budget Resolution authorizes the General Manager, or her designee, to file grant applications and execute funding agreements on behalf of the District with the State of California for security grants. Exhibit A (attached) of the Budget Resolution summarizes operating and capital budget totals. It assumes adoption of the staff recommendations for expense reductions and parking and fare revenue enhancements items.

FISCAL IMPACT

The proposed Interim FY10 Annual Operating Budget has a \$21.7M shortfall. Following the completion of labor contract negotiations, staff will present recommendations to produce a balanced budget; thereafter the FY10 Annual Operating budget will be revised.

ALTERNATIVES

Not adopt the Budget Resolution. Rules of the Board of Directors require that the budget be adopted prior to June 30th; adoption of the Budget Resolution by June 30th is required to authorize expenditures in FY10.

RECOMMENDATION

Adoption of the following motion:

MOTION

Adoption of the attached Resolution in the matter of approving the Annual Budget for the San Francisco Bay Area Rapid Transit District and authorizing expenditures for the fiscal year July 1, 2009, to June 30, 2010.

ATTACHMENT 1

Fiscal Year 2010 District Operating Budget Sources and Uses Detail

	FY10		FY10
SOURCES	PRELIMINARY	Changes	ADOPTED
Rail Passenger Revenue	\$ 335,980,675	\$ (1,399,051)	\$ 334,581,624
ADA Passenger Revenue	667,375	-	667,375
Parking Revenue	14,615,266	-	14,615,266
Other Operating Revenue	20,450,993	(2,721,766)	17,729,227
Sub-Total Operating Revenue	371,714,309	(4,120,817)	367,593,492
Sales Tax Proceeds	172,901,069	-	172,901,069
Property Tax Proceeds	29,490,048	-	29,490,048
Measure B	1,565,245	-	1,565,245
American Recovery & Reinvestment Act Grant	-	2,800,000	2,800,000
Federal 5307 Preventive Maintenance (SMP Grant)	1,939,928	-	1,939,928
Federal 5307 Grant - Rail Car MTC Fund Swap	22,681,000	-	22,681,000
CalTrans Bay Bridge Closure Service Reimbursement	-	707,861	707,861
Millbrae Use, Operating & Maint. Agreement	742,630	-	742,630
San Mateo Co. Financial Assistance - SFO Operations	-	1,987,084	1,987,084
Allocation from W. Dublin Project for Debt Service	3,130,964	-	3,130,964
Allocation from Access Fund	-	25,000	25,000
Sub-Total Financial Assistance & Allocations	232,450,884	5,519,945	237,970,829
TOTAL SOURCES	604,165,193	1,399,128	605,564,321
USES			
Labor	368,427,937	(75,739)	368,352,198
OPEB Unfunded Liability	14,299,985	786,158	15,086,143
ADA Paratransit	12,394,152	-	12,394,152
Purchased Transportation	5,356,903	-	5,356,903
Power	36,061,000	71,117	36,132,117
Other Non-Labor	89,567,017	(1,477,768)	88,089,249
Extraordinary Expense - Rail Car Fund Swap	22,681,000	-	22,681,000
Sub-Total Operating Expense	548,787,994	(696,232)	548,091,762
Debt Service	59,329,374	-	59,329,374
MTC Loan Debt Service	9,110,000	-	9,110,000
Allocation - To SFO Reserves	433,637	(433,637)	-
Allocation - Capital Rehabilitation	23,822,119	2,000,000	25,822,119
Sub-Total Allocations	92,695,130	1,566,363	94,261,493
TOTAL USES	641,483,124	870,131	642,353,255
OPEB Unfunded Liability	(14,299,985)	(786,158)	(15,086,143)
NET RESULT	\$ (23,017,946)	\$ 1,315,155	\$ (21,702,791)
Operating Ratio	70.7%		70.0%
Rail Farebox Recovery Ratio	66.1%		65.9%
Farebox Recovery Ratio	64.0%		63.8%

ATTACHMENT 2

FY10 Capital Budget

Headcount and Planned Expenditures

Program Summary

Program Category	Capital Headcount*	Planned Expenditures
System Reinvestment		
Rolling Stock	35	\$16,160,147
Mainline	72	\$47,279,480
Stations	17	\$24,300,596
Controls & Communications	51	\$49,028,828
Facilities	2	\$1,616,804
Work Equipment	2	\$11,007,975
Subtotals	179	\$149,393,830
 Safety & Security	 10	 \$19,613,954
 Earthquake Safety	 40	 \$224,441,386
 Service & Capacity Enhancement	 43	 \$64,816,547
 System Expansion	 54	 \$121,959,257
 Capitol Corridor**	 19	 \$2,700,000
 Reimbursable***	 13	 \$1,880,822
 Cost Allocation Plan	 48	 CAP costs are included in the line items above.
TOTALS	406	\$584,805,796

* Total authorized permanent positions ("high water").

** All expenses for the Capitol Corridor service to be reimbursed as allocated to the Capitol Corridor Joint Powers Board in the Annual State Budget Act.

*** Positions fully reimbursed by Muni, Caltrans, and businesses for BART staff expenses incurred in performing services for the those agencies and businesses.

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

**In the matter of approving
The Annual Budget for the
San Francisco Bay Area Rapid
Transit District and authorizing
Expenditures for the Fiscal Year
July 1, 2009, to June 30, 2010**

Resolution No.

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District published notices in newspapers of general circulation in the County of San Francisco on May 15, 2009, the County of Alameda on May 15, 2009, and the County of Contra Costa on May 15, 2009, of its intention to adopt an Annual Budget for the Fiscal Year July 1, 2009, to June 30, 2010; **and**

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District desires to adopt an Annual Budget for the Fiscal Year July 1, 2009, to June 30, 2010; **and**

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District is required by Public Utilities Code Section 28767 to determine and create, by resolution, such number and character of positions as are necessary to properly carry out the functions of the District; **and**

WHEREAS, the Transportation Development Act (TDA), Public Utilities Code §99200, et seq., provides for the disbursement of funds from the Local Transportation Fund of the Counties of Alameda and Contra Costa for use by eligible claimants for the purpose of operating assistance; **and**

WHEREAS, the State Transit Assistance (STA) fund makes funds available pursuant to Public Utilities Code Section 99313.6 for allocation to eligible applicants to support approved transit projects; **and**

WHEREAS, as attested to by opinions of the Office of the General Counsel, the San Francisco Bay Area Rapid Transit District is an eligible applicant for Net Toll Revenues and MTC Rail Extension Reserve bridge toll revenues pursuant to Section 30892 of the Streets and Highways Code; and is an eligible claimant for TDA and STA funds pursuant to Public Utilities Code Section 99260; **and**

WHEREAS, the agreement between the San Francisco Bay Area Rapid Transit District and San Mateo County Transit District, dated April 27, 2007, states that the San Francisco Bay Area Rapid Transit District will provide service on the SFO extension in a manner consistent with BART's system-wide operating policies; **and**

WHEREAS, the system-wide operating plan for Fiscal Year 2010 was presented to the Board of Directors on May 14, 2009, in a presentation entitled FY10 Preliminary Operating Budget – Sources and Uses & Service Plan; and

WHEREAS, the California Emergency Management Agency (CalEMA) makes funds available from the FY 2009-2010 California Transit Security Grant Program – California Transit Assistance Fund (CTSGP-CTAF) to eligible applicants to support approved security transit projects;

NOW, THEREFORE, BE IT RESOLVED that the attached Annual budget (marked Exhibit A and incorporated herein as though set forth at length) is hereby adopted, subject to formal reconsideration by the Board for the purpose of making such changes as are necessary to adopt a balanced budget promptly following the completion of labor contract negotiations; **and**

BE IT FURTHER RESOLVED that, subject to the resolved clauses, said Annual Budget includes appropriations of monies expected to be available in the General Fund, Capital Funds including Construction Funds and existing and anticipated Federal, State and local grants, for expenditures in the amounts and for the purposes set forth in said budget; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to enter into services agreements (including professional, technical, maintenance and repair agreements) and lease or license agreements for District use of real property, facilities, equipment and software provided that:

- (1) The General Manager shall first determine that the work or services concerned, in the amounts authorized in a service agreement, cannot satisfactorily be performed by the officers or employees of the District;
- (2) Except agreements that are let by public bidding, service, lease, and license agreements, and amendments thereto, between \$25,000 and \$100,000, shall be reported bi-monthly to the Board of Directors;
- (3) Prior authorization by the Board of Directors is required when:
 - a. The agreement, and amendments thereto, total in the aggregate \$100,000 or more in the fiscal year; or
 - b. Amendments total in the aggregate \$100,000 or more in any subsequent fiscal year;
- (4) The General Counsel is authorized to enter into services agreements in amounts up to \$100,000 with special counsel not previously designated by the Board without prior notice to the Board where the General Counsel determines that such immediate action is necessary to protect the legal interests of the District. Any such agreement shall be reported by the General Counsel to the Board within the calendar month thereafter.
- (5) The General Manager's authority to take immediate remedial measures, as defined in Section 20224 of the California Public Contract Code, and as authorized in Resolution No. 4834 shall remain unchanged; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to exchange District goods and services for goods and services from others of approximately equal or greater value; **and**

BE IT FURTHER RESOLVED that all disbursements resulting from the exercise of authority granted the General Manager pursuant to this resolution shall be reported to the Board of Directors in the District's quarterly financial report; **and**

BE IT FURTHER RESOLVED that Resolution No. 5052, adopted June 12, 2008, amended by Resolution No. 5061, adopted October 23, 2008, amended by Resolution No. 5072, adopted February 26, 2009, is repealed effective August 31, 2009, except as it applies to unexpended capital appropriations, **and**

BE IT FURTHER RESOLVED that the General Manager or her designee is authorized to execute and file a Bridge Toll Application, a TDA Application and an STA Application along with necessary supporting documents, with the Metropolitan Transportation Commission for allocation of bridge toll revenues, TDA and STA funds in FY10; **and**

BE IT FURTHER RESOLVED that the General Manager or her designee is authorized to execute any actions necessary for the purpose of obtaining financial assistance provided by the California Transit Security Grant Program – California Transit Assistance Fund (CTSGP-CTAF); **and**

BE IT FURTHER RESOLVED that the San Francisco Bay Area Rapid Transit District's system-wide operating policies shall be generally as set forth in the May 14, 2009, presentation entitled FY10 Preliminary Operating Budget – Sources and Uses Service Plan, subject to such adjustments that staff determines necessary to operate the service in the public's interest; **and**

BE IT FURTHER RESOLVED that the General Manager or her designee is authorized to execute an agreement with the City and County of San Francisco (CITY) to provide a transfer payment in FY10, such transfer payment being paid by the District to CITY in order to facilitate the coordination of transit service and furnish an incentive to CITY for providing enhanced transfer services between MUNI and BART stations; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to make expenditures and incur liabilities against said funds within the limits set forth in said budget and the provisions of this Resolution, and to act on behalf of the District in connection with contracts arising thereunder, by following the procedures provided by law, and by Board of Directors' Resolutions and Board Rules, except that no contractual obligation shall be assumed by the District in excess of its ability to pay, and provided further that all expenditures shall be in conformance with statutory and other restrictions placed on the use of said funds; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to exceed Board Appointed Department/Executive Office budgets by more than ten percent (10%) ten (10) days after written notice of this intended action has been mailed to the Board of Directors, provided that the Total Net Operating Expense line item set forth in "Exhibit A" is not exceeded and such action is consistent with Board Rule 5-1.4 and provided further that the General Manager will prepare and send to the Board, a summary of Department budgets within approximately 30 days after the adoption of this budget; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to exceed the foregoing ten percent limitation for emergency expenditures which are made in accordance with Resolution No. 4834 and Public Contract Code Section 20224; **and**

BE IT FURTHER RESOLVED that the General Manager is authorized to act on behalf of the District, and to make expenditures and incur liabilities against all funds of the District as provided for in contracts which have been authorized by the Board of Directors of the District and that the Board's authorizations of such contracts also include the necessary appropriations for such contracts and change orders authorized by Rules approved by the Board, subject, however, to compliance with such specific appropriation resolutions as may be adopted by the Board from time to time; **and**

BE IT FURTHER RESOLVED that effective July 1, 2009:

- (1) The total number of permanent full and permanent part-time positions ("high water") as of June 30, 2010, budgeted for the District shall be 3,326.5 (a part-time position is counted as 0.5 positions). Additional permanent positions are authorized, as required, not to exceed 50 positions, of which not more than 25 positions may be charged to operating expense provided the budgeted Total Net Operating Expense is not thereby exceeded;
- (2) The character and salary ranges of such positions, including officers appointed by the Board pursuant to Public Utilities Code Section 28811 shall be as set forth in the agreements entered into with Service Employees' International Union, Local 1021, Amalgamated Transit Union, Local 1555, American Federation of State and County Municipal Employees, Local 3993, the BART Police Officers Association and the BART Police Managers Association as to the employees represented thereby, and with other Bargaining Units for employees that may later be represented thereby, and for all other employees as set forth in the attached "Exhibit B", incorporated herein as though set forth at length. The employment benefits for non-represented employees shall be administered by the General Manager in accordance with Board Rule 4-1.2.
- (3) The General Manager is authorized to make future adjustments to the Professional/Management Salary Ranges ("Exhibit B") in accordance with applicable provisions of the AFSCME Agreement and the Compensation Manual, which reflect the District policy and practice to evaluate such ranges on an annual basis and to establish the mid-points of the pay ranges for positions so that they approximate the 75th percentile of the average of salaries paid for similar jobs in the labor market and to promptly advise the Board of any and all such range adjustments. The General Manager is directed to initiate the annual review by October of each year.
- (4) The District Secretary shall insure that an amendment to Exhibit B be prepared to reflect any adjustment to the hourly wage rates or professional/management pay bands as provided above or any adjustment to the Board appointed officers' salaries as a result of merit adjustments or scheduled increases provided in such officers' employment agreements that take effect during the fiscal year. The District Secretary shall attach any such amendment to Exhibit B as an addendum to this resolution.

- (5) The General Manager is authorized to pay employees on the merit plan that portion of their merit increase which exceeds the top of the salary range, but with no increase to the employee's "base wage" above the top of the salary range.
- (6) Except for Paragraph 1, and to the extent it is modified by Resolution No. 4748, Resolution No. 4487 remains in full force and effect.

#

EXHIBIT A

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

ANNUAL BUDGET - FISCAL YEAR 2010

<u>FUND SOURCES</u>	<u>TOTAL</u>
FUND SOURCES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS	
Operating Revenue	367,593,492
Property Tax	29,490,048
1/2 ¢ Sales Tax	172,901,069
Measure B Paratransit Assistance	1,565,245
San Mateo Co. Financial Assistance - SFO Operations	1,987,084
Caltrain - Millbrae Station Joint Use	742,630
5307/08 Preventive Maintenance Grants - SMP & Rail Car Fund Swap	24,620,928
American Recovery and Reinvestment Act of 2009 Transit Grant	2,800,000
CalTrans Bay Bridge Closure Service Reimbursement	707,861
STA/TDA	0
Allocation from West Dublin Project	3,130,964
Allocations from Access Fund	25,000
Total Operating Sources	\$ 605,564,321
FUND SOURCE FOR CAPITAL BUDGET	
Capital Funds - Cash Flow FY10	\$ 584,805,796
TOTAL ESTIMATED FUND SOURCES	\$ 1,190,370,117
 <u>FUND USES</u>	
FUND USES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS	
Net Labor Expense ⁽¹⁾	\$ 383,438,341
Non-Labor Expense	141,972,421
Extraordinary Expense - Rail Car Fund Swap	22,681,000
Total Net Operating Expense	\$ 548,091,762
Revenue Bond Debt Service	59,329,374
MTC Loan Debt Service	9,110,000
Allocations to Capital - Rehabilitation	25,822,119
Total Operating Uses	\$ 642,353,255
Other Post Employment Benefits Unfunded Liability	\$ (15,086,143)
FUND USES FOR CAPITAL BUDGET	
Capital Funds - Cash Flow FY10	\$ 584,805,796
TOTAL ESTIMATED FUND USES	\$ 1,212,072,908
NET FINANCIAL RESULT (DEFICIT)	\$ (21,702,791)

⁽¹⁾ Total Authorized Permanent Positions ("high water") as of 6/30/10 = 3,326.5

EXHIBIT B
CHARACTER AND BASE SALARIES, PAY BANDS,
HOURLY WAGE RATES OF MANAGEMENT AND
NON-REPRESENTED CLASSIFICATIONS

CHARACTER OF POSITION/PAYROLL
CLASSIFICATION TITLE

HOURLY WAGE RANGE

CLERICAL	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
ADMINISTRATIVE TECHNICIAN	\$24.8063	\$25.9098	\$26.9327	\$27.9820	\$29.0587	\$29.4720
ADMINISTRATIVE SECRETARY	23.8735	24.9346	25.9173	26.9264	27.9618	28.3557
SENIOR SECRETARY	22.2172	23.0457	23.8997	24.9346	25.9437	26.3373
SENIOR CLERK	23.6589	24.7097	25.6835	26.6832	27.7084	28.1022
INTERMEDIATE CLERK	21.1471	22.0180	22.8384	23.6859	24.7097	25.1034
P/T SURVEY TAKER (SINGLE RATE)	28.5162					

NOTE: The clerical rates were effective July 1, 2008.

PROFESSIONAL/MANAGEMENT PAY BANDS

PAY BAND	MINIMUM	MIDPOINT	MAXIMUM
14	\$136,561	\$174,116	\$211,672
13	117,969	150,411	182,853
12	107,002	136,428	165,854
11	101,905	129,931	157,956
10	97,052	123,743	150,433
9	92,431	117,850	143,270
8	88,029	112,238	136,447
7	79,845	101,803	123,761
6	76,043	96,956	117,868
5	68,973	87,942	106,910
4	65,690	83,755	101,820
3	62,561	79,766	96,971
2	59,581	75,967	92,353
1	54,041	68,904	83,766

NOTE: The professional/ management pay bands were effective 12/31/08.

BOARD APPOINTED OFFICERS CURRENT ANNUAL SALARY

DISTRICT SECRETARY	\$139,139.64
CONTROLLER-TREASURER	\$184,755.85
GENERAL COUNSEL	\$216,300.00
GENERAL MANAGER	\$298,700.00



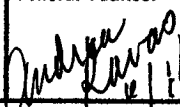
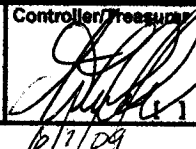
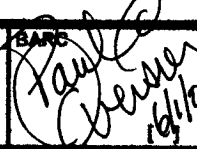
Note:

The base salaries for the District Secretary, Controller-Treasurer and General Counsel were effective January 1, 2009.

The General Manager's salary was effective July 1, 2008.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 6/3/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Henry Procter Dept: TSD 	General Counsel  6/1/09	Controller/Treasurer  6/7/09	District Secretary []	BART  6/1/09
Signature/Date:				
Status: Approved		Date Created: 05/12/2009		

TITLE:

Approval to Conduct Competitive Negotiation for Transit Vehicles

NARRATIVE:

Purpose:

To request the Board to find, by two-thirds majority, that the purchase of transit vehicles in compliance with the provisions of the California Public Contract Code generally applicable to the purchase does not constitute a method of procurement adequate for the District's needs; and to direct the purchase of transit vehicles by competitive negotiation consistent with California Public Contract Code Section 20229.1, subject to Board approval of the award.

Discussion:

Since the initial procurement of A/B transit vehicles in the early 1970s, the District has procured additional vehicles (C1 and C2) and rehabilitated the original A/B vehicles. The District currently has 669 vehicles. The projected end of useful life for each existing vehicle will occur between 2012 and 2019, depending on the age of the vehicle and whether and when it was rehabilitated. For the first time in forty years, the District has the opportunity to procure vehicles based on specifications that will allow new technology, and that will not be constrained by the need for inter-operability between existing and new vehicles.

The scope of work for the procurement, in general, consists of providing the design, engineering, mockups, manufacture, assembly, testing, delivery and acceptance testing for 200 new heavy rail transit vehicles, ready for revenue service as an integral part of the District's transportation system, and associated program management, in-service support, publications, warranty, training and data submittal, all as more fully described in the Contract Documents. Additionally, there are two Options of 250 vehicles each, and two Options of 150 vehicles each.

A competitively negotiated procurement, rather than a low responsive bid-based procurement, is necessary to procure the transit vehicles. This will be the largest investment in equipment in the District's history. The vehicles will be relied upon to safely and efficiently transport millions of customers throughout the BART system for at least 40 years. It is imperative for the District to be able to consider factors other than price in selecting a supplier, such as a proposer's approach, capabilities and understanding of the District's requirements.

Subject to the Board approval requested in this document, this procurement will be a competitive negotiation based on procedures consistent with the California Public Contract Code Section 20229.1. Award will be made to the qualified proposer whose proposal is most advantageous to the District with price and other factors considered. Award will not be solely based on price. Proposers whose technical proposal does not meet the minimum technical requirements will be eliminated from further consideration and deemed non-responsive.

Upon receipt, examination and ranking of the Proposals by District staff, the District may conduct a series of negotiation meetings with the proposers whose proposals have been determined to meet the minimum technical requirements and are within the competitive range. The District may award the contract at any time on the basis of the initial proposals received or may issue requests for best and final offers from selected proposers. Upon evaluation of the best and final offer(s), the District may award, resume negotiations, issue a new request for best and final offers, or not award the contract.

The Office of General Counsel will review the Request for Proposals as to form.

Fiscal Impact: There is no direct fiscal impact from the proposed competitive negotiation process other than staff time and consultant costs. Funding for the procurement of transit vehicles will be identified prior to staff recommendation for award.

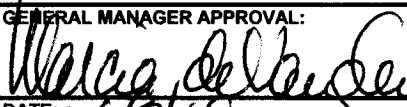
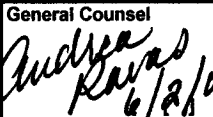
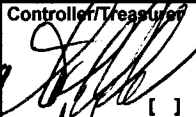

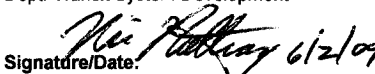
Alternatives: Utilize a low bid method of procurement. This could result in the least qualified bidder being awarded the contract even if the bid is only slightly lower than the bids received from more qualified bidders. For such an important procurement, this result is imprudent and undesirable.

Recommendation: Adoption of the following motion.

Motion: The Board finds by two-thirds vote that the procurement of transit vehicles in compliance with the provisions of the California Public Contract Code generally applicable to the purchase does not constitute a method of procurement adequate for the District's needs; and authorizes the General Manager to direct the purchase of transit vehicles by competitive negotiation under California Public Contract Code Section 20229.1, subject to Board approval of the award.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: To Obtain Board Approval for Competitive Negotiation Procurement		
DATE: 6/3/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept: Transit System Development	General Counsel 	Controller/Treasurer 	District Secretary []	BARC 
Signature/Date:  6/2/09				

TITLE:

Approval to Conduct Competitive Negotiations for Procurement of Diesel Multiple Unit (DMU) Vehicles for the East Contra Costa County Transit Project (eBART)

NARRATIVE:

PURPOSE

To request the Board to find, by two-thirds majority, that the purchase of DMU vehicles in compliance with the provisions of the Public Contract Code generally applicable to this purchase does not constitute a method of procurement adequate for the District's needs, and to direct the purchase of the DMU vehicles by competitive negotiation consistent with Public Contract Code Section 20229.1, subject to Board approval of the award.

DISCUSSION

On April 23, 2009, the BART Board of Directors adopted the eBART Project providing 10 miles of additional rail service using DMU technology, from the existing Pittsburg/Bay Point BART Station in the median of SR4, with a transfer platform in the existing Pittsburg/Bay Point Station BART tailtracks, a station at Railroad Avenue in the City of Pittsburg, a terminus station east of the Hillcrest Avenue Interchange in the City of Antioch, and a maintenance facility east of the Hillcrest Avenue Station. A minimum of eight DMU vehicles using standard gauge tracks will be procured. Additionally, there are two Options of 2 and 4 vehicles each, for a total procurement of 14 vehicles if both Options are exercised.

A competitive Request for Proposals (RFP) will be issued to solicit proposals to provide the DMU vehicles. Proposals will be evaluated by a committee composed of District staff chosen for their expertise and experience. The evaluation criteria for the proposal will include both technical and price related factors. These factors may include experience and qualifications of the firms and personnel, management approach, past performance, technical approach, schedule, life cycle cost, integration and innovative design or technical solutions. The DMU vehicles will be procured under Section 20229.1 of the California Public Contract Code which permits the District to discuss or negotiate any aspect of a proposal before award is made. The competitive negotiation process also gives the District the flexibility to consider factors, other than price, when evaluating all technically responsive proposals. Price proposals will be evaluated only for those proposers whose technical proposals are determined to be acceptable. Award of the Contract shall be made to the Proposer whose Proposal will be most advantageous to the District

with price and other factors considered.

The Contract Documents for undertaking the competitive negotiation process will be approved as to form by the Office of the General Counsel.

FISCAL IMPACT

This action has no immediate or direct fiscal impact. The Board will be requested to authorize award of the eBART vehicle procurement contract under a separate action.

ALTERNATIVE

The alternative to procuring the vehicles through the competitive negotiation process would be either not to proceed with this procurement (however, the vehicles for the eBART Project will still be needed) or to utilize the traditional method for procurement under Public Contract Code Section 20221 (low bid or best value). Procurements under that Code have the disadvantage of not allowing the District to negotiate terms related to a proposer's approach, capabilities or understanding of the District's requirements. The traditional contracting method would likely adversely impact the quality of the procurement and require award to the proposer offering the lowest price for the vehicles without regard to the underlying qualifications of the proposer or its understanding of the District's needs.

Another alternative would be to procure the vehicles under Public Contract Code Section 20217 Purchase Contracts for Technology. This statute allows competitive negotiation in accordance with terms similar to Public Contract Code Section 20229.1 and was recently enacted for cities, counties and transit districts. District staff believe Section 20229.1 which was adopted specifically for BART is the preferred statute for this procurement and would use existing procedures that have been successfully utilized for prior car procurements.

RECOMMENDATIONS

It is recommended the Board adopt the following motion.

MOTION

The Board finds by two-thirds vote that the procurement of Diesel Multiple Unit (DMU) vehicles for the eBART Project in compliance with the provisions of the Public Contract Code generally applicable to such a contract does not constitute a method of procurement adequate for the District's needs; and authorizes the General Manager to direct the purchase of DMU vehicles for the eBART Project by competitive negotiation under Public Contract Section 20229.1 subject to Board approval of the award. **(Two-Thirds Vote Required)**

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** June 5, 2009

FROM: District Secretary

SUBJECT: 2009 Ad Hoc Committee on Disadvantaged Business Enterprise Participation in Procurement Contracts

Attached for your consideration is President Blalock's proposed Ad Hoc Committee on Disadvantaged Business Enterprise (DBE) Participation in Procurement Contracts.


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

In accordance with Board Rule 3-3.2, President Blalock is bringing the 2009 Ad Hoc Committee on Disadvantaged Business Enterprise Participation in Procurement Contracts before the Board of Directors for ratification on June 11, 2009.

Attached for your reference is the scope for the Ad Hoc Committee.

Should you have any questions, please contact President Blalock or Thomas Parker, Executive Manager, Transit System Compliance (510.287.4919).

Thank you.



Kenneth A. Duron

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Department Manager, Office of Civil Rights

Item No. 6-A.

RATIFICATION OF 2009 AD HOC COMMITTEE ON DISADVANTAGED BUSINESS
ENTERPRISE PARTICIPATION IN PROCURMENT CONTRACTS

MOTION:

That the Board of Directors ratifies the proposed 2009 Ad Hoc Committee on Disadvantaged Business Enterprise Participation in Procurement Contracts:

Chairperson: Thomas Blalock
Committee Members: James Fang
Gail Murray

Board Ad Hoc Committee on Disadvantaged Business Enterprise Participation in Procurement Contracts

Objective: To lend advocacy support to District efforts to increase the participation of Disadvantaged Business Enterprises on BART procurement contracts. The Ad Hoc Committee will serve as the initial point of contact to discuss issues related to the participation of Disadvantaged Business Enterprises on BART procurement contracts.

Focus: To review the feasibility of implementing race and gender conscious goals on procurement contracts.

The Ad Hoc committee shall:

- Meet periodically with BART staff to review the Availability and Utilization Study and its recommendations regarding the participation of minorities and women in procurement contracts;
- Review staff reports on the utilization of Disadvantaged Business Enterprises on procurement contracts;
- Review procurement standards, policies and procedures for the Disadvantaged Business Enterprise Program and Non-Discrimination in Subcontracting Program;
- Recommend to the Board the feasibility of implementing race and gender conscious goals on procurement contracts.