

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

*****REVISED*****
SPECIAL BOARD MEETING AGENDA

July 1, 2010
9:00 a.m.

A special meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, July 1, 2010, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Special 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. Public Comment on Items 2-B, 2-C, 2-D, and 2-E Only.
- B. Approval of Minutes of the Meeting of May 13, 2010.* Board requested to authorize.
- C. Resolution of Project Compliance and Initial Project Report for AB1171 Bridge Toll Funds for the eBART Project.* Board requested to authorize.
- D. Award of Contract No. 17BJ-150A, Lake Merritt Administration Building (LMA) Stairwell and Elevator No. 83 Headhouse Site Restoration.* Board requested to authorize.
- E. Reject All Bids for Invitation for Bid No. 8876, Unified Optical Network.* Board requested to reject.

3. BOARD MATTERS (Item 3-A will be presented at 9:30 a.m.)

- A. Oath of Office: Kenton Rainey, BART Chief of Police.

4. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS
Director Ward Allen, Chairperson

- A. Public Hearing: Proposed BART to Livermore Extension Final Program Environmental Impact Report.* For information. **(Item 4-A will be presented at 10:00 a.m.)**
- B. Public Comment on Item 4-B Only.
- C. Proposed BART Extension to Livermore.*
 - a. Certification of BART to Livermore Extension Final Program Environmental Impact Report; Selection of a Preferred Alignment Alternative; and Adopt Findings, Facts in Support of Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan.

- b. Resolution of Project Compliance and Initial Project Report for AB1171 Bridge Toll Funds for the BART to Livermore Right-of-Way Preservation Project.
Board requested to authorize.

5. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Public Comment on Item 5-B Only.
- B. Condemnation of Real Property for the Oakland Airport Connector Project:
 - a. BART Parcel Numbers: H-1010-2b, -2c, -3a, -3b and -3c.
 - b. BART Parcel Number: H-2050-2b.
 - c. BART Parcel Numbers: H-1030-3 and H-1035-3.Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

6. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Public Comment on Items 6-B, 6-C, 6-D, 6-E, and 6-F Only.
- B. Agreement No. 04SE-513, with AGS Inc., for Preparation of Final Plans, Specifications, and Cost Estimate for the East Contra Costa County Transit Project (eBART).^{*} Board requested to authorize.
- C. Change Order to Contract No. 15IB-120, The 480-Volt Switchgear Replacement Project – Phase 2.^{*} Board requested to authorize.
- D. Change Order to Contract No. 02ED-110, Warm Springs Extension, Fremont Central Park Subway, with Shimmick Construction Co. Inc./Skanska USA Civil West California District Inc., a Joint Venture, for Quantity Variation in Lime Treated Subgrade (C.O. No. 2).^{*} Board requested to authorize.
- E. Prequalification of Prospective Design-Build Entities for Contract No. 02EE-120, Warm Springs Extension Line, Track, Station and Systems.^{*} Board requested to authorize.
- F. Award of Contract No. 15PD-110, BART Earthquake Safety Program Aerial Structures – C Line.^{*} Board requested to authorize.

7. GENERAL MANAGER'S REPORT

NO REPORT.

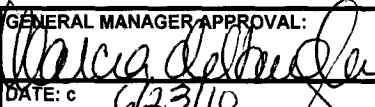
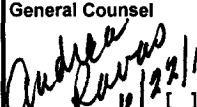

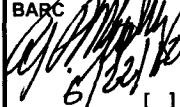
8. BOARD MATTERS

- A. Public Comment on Item 8-B Only.

- B. Report of the BART Police Department Review Committee. For information.
 - C. Roll Call for Introductions.
9. CLOSED SESSION (Room 303, Board Conference Room)
- A. Public Comment on Items 9-B Only.
 - B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: one potential case.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: c 6/23/10		BOARD INITIATED ITEM No		
Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control Stacey Perkins Signature/Date: 06/22/10	General Counsel  6/22/10 []	Controller/Treasurer  []	District Secretary []	BARC  6/22/10 []

TITLE:

Approval of Resolution of Project Compliance and Initial Project Report for AB1171 Bridge Toll Funds for the eBART Project

NARRATIVE:

Purpose:

To obtain BART Board approval of an application for a total of \$84,600,000 in AB1171 bridge toll funds for the eBART Project. The application includes a Resolution of Project Compliance ("Resolution") and an Initial Project Report ("IPR") for the AB1171 bridge toll funds, as described in the attached IPR Summary. This application is a request for reimbursement to provide funding for performance of final design and the procurement of vehicles for the eBART Project.

Discussion:

Metropolitan Transportation Commission ("MTC") Resolution No. 3636, the Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2 requires that a project sponsor approve a Resolution and IPR when the project sponsor requests an allocation of RM2 funds. Although MTC has not yet adopted a Resolution requiring the same documentation for AB1171 bridge toll funds, MTC has advised BART that a Resolution and IPR will be required. Staff has prepared the attached IPR Summary for this portion of the eBART Project and Resolution for adoption by the BART Board of Directors to meet MTC's requirement for allocation of a total of \$84,600,000 of AB1171 bridge toll funding for the eBART Project.

The eBART Project has received all necessary environmental clearances and is undergoing equity analysis. 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 AB1171 bridge toll funds associated with the eBART Project. Previous allocations of RM2 and AB1171 bridge toll funds have been used for the planning and environmental phase, final design, right of way acquisition to widen the SR4 median, right of way acquisition at the Hillcrest Station site, guideway preparation, and construction of the transfer station at the Pittsburg Bay Point BART Station. This application for AB1171 bridge toll funds will provide funding for performance of final

design and vehicle procurement. This will be the third request for AB1171 bridge toll funds for the eBART Project. Approval of the IPR and Resolution is a requirement for the application for AB1171 bridge toll funds. It is expected that CCTA will approve the IPR and Resolution in July 2010. It is expected that the MTC will approve this application in June 2010.

Fiscal Impact:

Approval of the IPR and Resolution is a requirement for the District to receive an allocation of AB1171 bridge toll funds from the MTC.

Alternatives:

Do not approve the Resolution and IPR. Failure to approve the Resolution and IPR would likely result in schedule delays and cost increases for the eBART Project.

Motion:

The Board of Directors approves the Resolution of Project Compliance and Initial Project Report dated May 27, 2010 for AB1171 bridge toll Funds for the eBART Project, as described in the attached Initial Project Report Summary.

**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
AB1171 Bridge Toll Funds for the
East Contra Costa County Rail
Extension/eBART Project**

Resolution No.

Whereas, the Metropolitan Transportation Commission ("MTC") is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Sections 66500 *et seq.*; and

Whereas, Streets and Highways Code Sections 30950 *et seq.* created the Bay Area Toll Authority ("BATA") which is a public instrumentality governed by the same board as that governing MTC; and

Whereas, pursuant to Streets and Highways Code Section 31010 (b), funds (generally referred to as "AB1171 bridge toll funds") generated in excess of those needed to meet the toll commitments as specified in paragraph (4) of subdivision (b) of section 188.5 of the Streets and Highways Code shall be available to BATA for funding projects consistent with Streets and Highways Code Sections 30913 and 30914; and

Whereas, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 ("RM2") identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

Whereas, MTC is responsible for funding projects eligible for RM2 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 RM2 and AB1171 bridge toll funding; and

Whereas, allocation requests to MTC must be submitted consistent with such process;
and

Whereas, BART and CCTA are sponsors of the East Contra Costa County Rail Extension /eBART project (PROJECT), which is eligible for consideration of RM2 Regional Traffic Relief Plan funds; and

Whereas, the PROJECT is also eligible for consideration of AB1171 bridge toll funds,
and;

Whereas, the AB1171 allocation request, sponsored by BART and CCTA, in the Initial Project Report ("IPR") dated May 27, 2010 and incorporated herein as though set forth at length, lists the purpose, schedule, budget, expenditure and cash flow plans for which BART is requesting that MTC allocate AB1171 bridge toll funds for the PROJECT; and

Whereas, MTC intends to require as a condition of its allocation of AB1171 bridge toll funds to the PROJECT that BART and MTC execute a funding agreement prior to award of the construction contract, and such agreement would specify the policies and procedures applicable for use of the AB1171 bridge toll funds;

NOW, THEREFORE, BE IT RESOLVED that:

1. BART and its agents agree to comply with the provisions of the MTC's RM2 Policy Guidance (MTC Resolution No. 3636) for the drawdown of AB1171 bridge toll funds;
2. BART certifies that the PROJECT is consistent with the Regional Transportation Plan ("RTP").
3. BART certifies that all environmental clearances necessary for the PROJECT have been obtained and that the year of funding for the design and construction phases have taken into consideration the time necessary to obtain permitting approval for such construction.
4. BART certifies that the PROJECT phase or segment to be funded with AB1171 bridge toll funds is fully funded and results in an operable and useable segment.
5. BART approves the updated IPR dated May 27, 2010, as described in the attached IPR Summary ("Summary").
6. BART approves the cash flow plan described in the IPR dated May 27, 2010, as described in the attached Summary.
7. BART has reviewed the PROJECT'S needs and has adequate staffing resources to deliver and complete the PROJECT within the schedule set forth in the IPR dated May 27, 2010, as described in the attached Summary.
8. BART is an eligible sponsor of projects in the RM2 Regional Traffic Relief Plan, Capital Program, in accordance with Streets and Highways Code Section 30914(c).
9. The PROJECT is eligible for receipt of AB1171 bridge toll funds consistent with Streets and Highway Code Section 31010 (b).
10. BART is authorized to submit an application for AB1171 bridge toll funds for the PROJECT in accordance with the provisions of the California Streets and Highways Code Sections 30913 and 30914 as applicable.
11. BART certifies that the PROJECT and purposes for which AB1171 bridge toll funds are being requested are in compliance with the requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.), and with the 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.

12. There is no legal impediment to BART making allocation requests for AB1171 bridge toll funds.

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

14. 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 AB1171 bridge toll funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of AB1171 bridge toll funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

15. 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 PROJECT was initially approved, either for capital improvements or maintenance and operational costs; otherwise, the MTC is entitled to a proportionate share equal to MTC's percentage participation in the PROJECT.

16. BART agrees that assets purchased with AB1171 bridge toll 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 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 AB1171 bridge toll funds were originally used.

17. BART has authorized its General Manager or his/her designee, to execute and submit an allocation request for the design and construction phase for the PROJECT to MTC for AB1171 bridge toll funds in the amount of \$84.6 million for the PROJECT, purposes and amounts included in the IPR dated May 27, 2010, as described in the attached Summary.

18. BART's General Manager or his/her designee has been delegated the authority to make non-substantive changes or minor amendments to the IPR dated May 27, 2010 as she deems appropriate.

19. A copy of this resolution shall be transmitted to MTC in conjunction with the filing of the IPR dated May 27, 2010 referenced herein.

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eBART Project
Initial Project Report Summary- May 27, 2010

Project Description

The purpose of the eBART Project and the State Route 4 widening project is to bring commute relief to the eastern portion of Contra Costa County in a reasonable period of time at a reasonable cost. Eastern Contra Costa County is the fastest growing part of the Bay Area, expecting population growth of 53% and job growth of 132% between 2000 and 2025. The area needs frequent, reliable, high quality transit service to connect the many and increasing homes in the area with the jobs in areas served by existing public transit, including BART. CCTA and BART have identified the SR-4 median as the preferred route for future transit expansion. This application is for the allocation of funds for completion of final design and the procurement of vehicles.

Current Allocation Request

Amount Being Requested	Phase Requested
\$84,600,000	Final Design/Construction

Project Schedule

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

Project Budget

Phase	Total Amount - Escalated - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	\$26,400
Design - Plans, Specifications and Estimates (PS&E)	\$32,300
Right-of-Way Activities /Acquisition (R/W)	\$119,400
Construction / Rolling Stock Acquisition (CON)	\$285,150
Total Project Budget (in thousands)	\$463,250



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul M Plechnik Dept: Transit System Development, ext. 6814 <i>[Signature]</i> Signature/Date: 6/17/10	General Counsel <i>[Signature]</i> 6/18/10	Controller/Treasurer <i>[Signature]</i> 6/21/10	District Secretary []	BARC <i>[Signature]</i> 6/23/10
Status: Approved		Date Created: 05/12/2010		

TITLE:

AWARD CONTRACT NO. 17BJ-150A FOR LMA STAIRWELL & ELEVATOR NO. 83 HEADHOUSE SITE RESTORATION

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 17BJ-150A, LMA Stairwell & Elevator No. 83 Headhouse Site Restoration, to KCK Builders Inc.

DISCUSSION:

The District has initiated an Earthquake Safety Program for the purpose of upgrading the original BART system that was built more than 30 years ago. The goal of this program is to develop prudent and cost-effective seismic retrofit solutions to ensure the safety of both BART patrons and employees during and after a major seismic event in the San Francisco Bay Area.

Contract No. 17BJ-150A is the final phase of construction to complete the LMA Dismantling Project work that began in May 2008 under Contract No. 17BJ-120B, Utilities Isolation and Elevator No. 83 Modification and continued in February 2009 under Contract No. 17BJ-140, LMA Dismantling Project. Now that the physical dismantling of the LMA building is complete, Contract No. 17BJ-150A will construct a headhouse for Elevator No. 83 that will bring service to the street level, restore the two stairwell plaza entrances, improve the general lighting and landscaping of the LMA plaza.

On April 20, 2010, the Advance Notice to Bidders was mailed to 62 prospective Bidders. Bid Documents were sent to 19 plan rooms and Minority Assistance Organizations. The Contract was advertised on April 21, 2010. A total of 5 firms purchased copies of the Bid Documents. A pre-Bid meeting was held on May 4, 2010 with 3 prospective Bidders attending. Bids were publicly opened on May 18, 2010.

The following Bids were received:

Bidder	Location	Total
KCK Builders, Inc.	San Rafael, CA	\$1,011,500
Taber Construction, Inc.	Martinez, CA	\$1,134,500
Rodan Builders, Inc.	Burlingame, CA	\$1,229,000
Albay Construction, Inc.	Martinez, CA	\$1,404,000
Engineer's Estimate		\$ 1,155,000

The apparent low Bid Price submitted by KCK Builders, Inc. is \$1,011,500 which is 12 % lower than the Engineer's Estimate of \$1,155,000. After review by District staff, the low Bid has been deemed to be responsive to the solicitation. Furthermore, staff's review of the low Bidder's business experience and financial capabilities has resulted in a determination that the Bidder is responsible and that the Bid Price of \$1,011,500 submitted by KCK Builders, Inc. is fair and reasonable.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for MBEs and 12% for WBEs. The Bidder committed to 21.3% for MBEs and 0% for WBEs, and therefore did not meet either the MBE or WBE percentage requirements. Accordingly, the Bidder was requested to provide the District with information to determine if it had in fact discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT:

Funding of \$1,011,500 for Award of Contract No. 17BJ-150A is included in the total project budget for FMS #17BJ, Lake Merritt Building Dismantling. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F - 2004 Earthquake Safety General Obligation Bond \$1,011,500

As of month ending 5/2/10, \$9,308,854 is available for commitment from this fund source for this project and BART has committed \$7,550,950 to date. There is a pending commitment total of \$448,925 in BART's financial management system. This action will commit \$1,011,500 leaving an uncommitted balance of \$297,479 in this fund source.

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

ALTERNATIVES:

Reject all bids and not award the Contract. If the Contract is not awarded, staff will have to issue a new Invitation to Bid and restart the contract bidding process. In that event, the schedule for completion of the site restoration of the LMA Stairwells & Elevator No. 83 Headhouse would be delayed.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager is authorized to award Contract No. 17BJ-150A, LMA Stairwell & Elevator No. 83 Headhouse Site Restoration, to KCK Builders, Inc. for the Bid amount of \$1,011,500 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT http://www.youtube.com/watch?v=bGDNdiGCvK4	Baseline Budget	Current Forecast as of 6/9/10	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$226,200,000	
CM	\$61,498,000	\$79,000,000	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$307,398,237	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$76,030,000	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$90,000,000	
Fremont	\$178,224,000	\$117,800,000	
Concord	\$36,500,000	\$10,606,641	
Richmond	\$80,155,000	\$75,800,000	
San Francisco/Daly City	\$36,590,000	\$9,991,645	
Stations (18)	\$126,961,000	\$118,896,318	
Other Structures			
LMA	\$5,529,000	\$5,267,440	
Yds & Shops	\$12,436,000	\$17,757,437	
Parking Structures	\$14,437,000	\$13,500,000	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$40,000,000	
Systems	\$7,066,000	\$9,868,000	
TOTAL CONSTRUCTION	\$909,469,000	\$603,025,424	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$101,208,733	
TOTAL PROGRAM COSTS	\$191,998,204	\$343,010,496	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING		\$1,253,434,157	
			\$1,221,275,376 Adopted Funding \$32,158,781 Outside Adopted Funding



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: 		
DATE: c 6/23/10		BOARD INITIATED ITEM No		
Originator/Prepared by: Anthony Seung Dept: CE 	General Counsel 	Controller/Treasurer 	District Secretary 	BARC
Signature/Date: 6/22/10				

TITLE:

Reject all Bids for IFB No. 8876 for the Purchase of CCTV Network - Unified Optical Network

NARRATIVE:

PURPOSE:

To reject all bids for IFB No. 8876 for the Purchase of CCTV Network - Unified Optical Network.

DISCUSSION:

Closed Circuit Television (CCTV) Video surveillance images are captured by the cameras and must be transported from the camera to display and storage equipment. For IP based cameras, there must be a "communications network" to transport the video surveillance images. The communications network equipment being procure by IFB No. 8876 covers the Berkeley Hills Tunnel and the Oakland WYE and the Civic Center, 19th Street and Berkeley BART Stations.

A Notice requesting Bids was published on April 28, 2010. Bid requests were mailed to fifteen (15) prospective bidders. Bids were opened on May 25, 2010 and three (3) bids were received.

<u>Bidder</u>	Total Including <u>9.75% Sales Tax</u>
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Cisco Systems, Inc. Pleasanton, CA	\$1,747,953.06
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World Wide Technology St. Louis, MO	\$2,141,021.66
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Strategic Sourcing, LLC Florence, KY	\$2,253,105.82
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Independent cost estimate by BART staff: \$1,614,248.23

Cisco Systems, Inc was the low bidder at \$1,747,953.06. However, Cisco conditioned its bid on the District including certain exceptions it had to federal requirements in the District's grant application to the Department of Homeland Security. Cisco indicated that the failure to do so would render its bid null and void. Since the District's grant application had already been submitted (Jan 2008), Cisco's bid, by its terms, was null and void.

Reject all Bids for IFB No. 8876

The second low bidder is World Wide Technology at \$2,141,021.66. Staff has determined that World Wide Technology bid is over the budget amount.

Staff believes it will be more cost effective to procure these items as part of a proposed construction contract for CCTV Network and Camera installation.

Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for Invitation for Bid (IFB) contracts. Therefore, no DBE goal was set for this contract.

Fiscal Impact:

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

Alternative:

To award the contract to World Wide. Staff does not recommend as it is about \$500,000 over the Engineer's Estimate.

Recommendation:

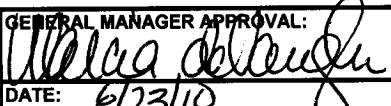
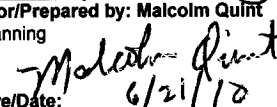
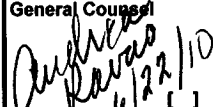


It is recommended that the Board adopt the following motion.

Motion:

All bids received for IFB No. 8876, Purchase of CCTV Network - Unified Optical Network, are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Malcolm Quint Dept: Planning  Signature/Date: 6/21/10	General Counsel  Signature/Date: 6/22/10	Controller/Treasurer  Signature/Date: 6/22/10	District Secretary []	BART  Signature/Date: 6/23/10
Status: Routed		Date Created: 06/10/2010		

TITLE:

SELECT PREFERRED ALIGNMENT ALTERNATIVE FOR THE BART TO LIVERMORE EXTENSION

NARRATIVE:

PURPOSE:

To obtain Board action on the BART to Livermore Extension:

1. Certify the Final Program Environmental Impact Report.
2. Select the Preferred Alignment Alternative.
3. Adopt Findings, Facts in Support of Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan for the BART to Livermore Extension.
4. Authorize the General Manager or her designee to proceed with acquisition of property as funding is identified and to execute real property instruments and agreements relating to acquisition and management of real property interests.
5. Authorize the General Manager or her designee to enter into agreements with public agencies or utilities that do not involve expenditure of District funds to further implementation of the BART to Livermore Extension.

DISCUSSION:

Introduction: A Final Program Environmental Impact Report (FPEIR) has been prepared by BART to evaluate the environmental impacts associated with the proposed BART to Livermore Extension. The purpose of this Program EIR is to highlight the differences among ten alternatives and to allow BART, after considering comments from public agencies and the public, to select a preferred alignment alternative as a focus for right-of-way preservation, more detailed engineering efforts and environmental review. Differences in freeway congestion, local circulation, transit connections in the Tri-Valley, land use and visual compatibility, biological resource impacts, regional air emissions, and noise exposure are among the environmental comparisons presented in the Program EIR to assist with selection of a preferred alignment alternative.

The FPEIR, prepared in compliance with the California Environmental Quality Act (CEQA),

provides full disclosure of the anticipated significant environmental impacts of selecting a preferred alignment alternative for the BART to Livermore extension and identifies measures to mitigate significant environmental impacts. The Findings, Facts in Support of Findings and Statement of Overriding Considerations provide the findings and support for findings which a public agency must make in order to approve an action for which a Final EIR has been prepared which identifies significant effects on the environment, as required by CEQA. The Mitigation Monitoring and Reporting Plan defines a program to ensure implementation of specific mitigation measures suggested in the FPEIR as required by CEQA.

In order to adopt a preferred alignment alternative, the Board must review and consider the information contained in the FPEIR, make specific findings and certify that the FPEIR has been completed in compliance with CEQA. The FPEIR consists of the following documents: 1) a Draft Program Environmental Impact Report (DPEIR) containing evaluation of impacts and proposed mitigation measures for proposed alignment alternatives, 2) a Responses to Comments volume containing comments received during public review of the DPEIR, responses to those comments and revisions to the DPEIR, and 3) changed pages for Section 4.5, Environmentally Superior Alternative, of the DPEIR.

Background: A BART extension to Livermore has been under consideration since the inception of the BART system. A variety of studies have examined potential options and alternatives for the BART extension but there has never been a consensus as to the most suitable route and station locations for the project. Meanwhile growth has continued in the Tri-Valley area, and coupled with the dramatic growth of the Central Valley, the I-580 corridor has become increasingly congested. The Dublin Pleasanton BART Station serves 15,000 patrons on weekdays, and its 4,133 parking spaces fill up by 6:45 AM on most workdays. The opening of the new West Dublin Pleasanton Station in the near future is not expected to alleviate the high demand for the use of BART in this corridor.

BART, with the support of the Alameda County Transportation Improvement Authority, prepared a program level EIR to study the alternatives for a BART extension from the Dublin/Pleasanton Station to Livermore. The DPEIR was issued on November 5, 2009 and the time period for commenting on the document closed on January 21, 2010. There are many reasons why the selection of the preferred alignment alternative is being considered at this time. The increased traffic congestion on I-580 in the Tri-Valley has made this corridor one of the most congested in the San Francisco Bay Area. Elected representatives of the BART District have been advocating for service to the largest city in the Tri-Valley, i.e., Livermore, for several decades, while BART staff has studied this potential extension for a similar period. The Metropolitan Transportation Commission (MTC) Regional Rail Plan, completed in fall 2007, highlights the importance of having an intermodal connection between the Altamont Commuter Express (ACE) and BART in the City of Livermore.

One important reason for completing the FPEIR at this time is to determine the right-of-way (ROW) that should be preserved for a future rail extension. Properties along I-580 and other potential rights-of-way for a rail extension will likely be developed for commercial and other purposes unless action is taken. The Alameda County Congestion Management Agency has

determined the width of anticipated ROW for I-580 from Hacienda to Greenville Interchange based on High Occupancy Toll lanes in each direction, four lanes in each direction, plus auxiliary lanes and shoulders in each direction as well as a median for rail transit. This study identifies the portion of the median of I-580 east of the existing BART Dublin/Pleasanton Station on I-580 which should be preserved for rail, as well as right-of-way needs for the preferred alignment alternative outside the freeway corridor.

Recommended Preferred Alignment Alternative: BART staff conducted an evaluation and ranking process of the alternatives that have resulted in a staff recommendation for Alternative 2b (Downtown-Vasco via Portola) as the preferred alignment alternative. Alternative 2b consists of components of both Alternative 2a (Downtown-Vasco) and Alternative 3 (Portola) that were analyzed in the DPEIR. This hybrid alternative would originate at the existing Dublin/Pleasanton Station and proceed eastward at grade in the median of I-580. The alignment would diverge from the I-580 corridor at Airway Boulevard (just west of the existing Portola interchange), transitioning to an underground configuration, where it would proceed underground under Portola Avenue to an underground station adjacent to the existing Altamont Commuter Express (ACE) station in Downtown Livermore. The alignment would continue eastward at grade along the Union Pacific Railroad (UPRR) tracks, to a terminus Vasco Road Station adjacent to the Vasco Road ACE Station. Tracks would continue eastward to a maintenance facility and tailtracks.

BART staff ranked all alignment alternatives in accordance with the DPEIR Program Objectives and the BART System Expansion Criteria. Among all alternatives, Alternative 2b has the highest or tied for the highest rankings except for the cost effectiveness objective, for which it tied with seven other alternatives at a low-medium ranking. Alternative 2b has the strongest support from the City of Livermore, as shown by the unanimous votes by the Livermore City Council and the Livermore Planning Commission to recommend this alternative to the BART Board of Directors. The combination of the proposed Downtown and Vasco Stations has the strongest potential for economic development and highest ridership. Alternative 2b avoids an alignment through the Chain of Lakes area, which generated strong opposition from local stakeholders. Alternative 2b includes an underground approach from I-580 to downtown Livermore, unlike Alternative 2a that includes the same two stations but traverses the Chain of Lakes. Moreover, Alternative 2b avoids the potential biological impacts at the Greenville Yard site associated with Alternatives 1, 1a and 1b described in more detail on page 5 below.

FISCAL IMPACT:

The estimated capital cost of a BART to Livermore Extension would range from approximately \$1.12 billion for Alternative 4 (Isabel/I-580) to \$3.83 billion (in 2009 dollars) for Alternative 2b (Downtown-Vasco via Portola). There is currently no capital funding planned or programmed for the design and construction of this extension. Projects of this magnitude (approximately \$3.9B) are funded from multiple sources, and most likely will need to be funded partially with Federal Transit Administration (FTA) New Starts funds. Sufficient funds do not exist within the Alameda County Measure B Transportation Sales Tax Program, although a reauthorization of this program could provide partial funding for the project. BART District funds are also not

sufficient to build this Extension. Because the BART to Livermore Extension would need to meet both the MTC transit-oriented development policy and the FTA Livability policy with regard to the station locations and Alternative 2b is best positioned to meet these policies, these agencies would likely be supportive in providing funding.

One of the objectives of the Extension is to connect BART to ACE service. As part of the California High-Speed Rail program, BART and ACE are cooperating on the Altamont Corridor Project, which is seeking to upgrade ACE to high-speed compatible equipment, potentially on a rebuilt alignment through Livermore. As part of the development of that project, High Speed Rail funding could become available to facilitate the ACE/BART connection in Livermore.

As noted above, a capital funding plan has not yet been prepared for the BART to Livermore Extension. The limited availability of funds for extensions of this magnitude means that phasing project construction may have to be considered moving forward. BART will have to undergo two or more additional studies before construction of a Livermore extension project. One study will refine the system yard and shop needs of BART associated with the Extension, and the other (a project-level EIS/EIR) would evaluate the environmental impact of a specific project, in preparation for future construction.

ALTERNATIVES:

The BART to Livermore Extension FPEIR considered ten alignment alternatives as outlined below:

- No Build Alternative — This alternative includes continued operation of the existing transit services in the Livermore-Amador Valley area, which include BART, ACE, and Livermore Amador Valley Transit Authority (LAVTA or “Wheels”). This alternative analyzes the network as it exists in 2009 with the programs and projects that are currently in regional transportation plans and have identified funds for implementation by the Year 2035.
- Alternative 1, Greenville East — This alternative would originate at the existing Dublin/Pleasanton Station, follow the median of I-580, include an intermediate station at Isabel/I-580, and continue to a terminus at the proposed Greenville East Station at Greenville Road, just south of I-580.
- Alternative 1a, Downtown-Greenville East via UPRR — This alternative would originate at the existing Dublin/Pleasanton Station and follow the median of I-580, then diverge southeasterly along El Charro Road, parallel the existing UPRR tracks, and include an intermediate station at Downtown Livermore before heading northeast to a terminus at the proposed Greenville East Station.
- Alternative 1b, Downtown-Greenville East via SPRR — This alternative would share those elements described above for Alternative 1a, except that the segment between the proposed Downtown Livermore Station and a terminus at Greenville East would run parallel to an existing freight spur line previously operated by SPRR. The departure from the UPRR right-of-way east of downtown would occur near the intersection of Mines Road.

- Alternative 2, Las Positas — This alternative would originate at the existing Dublin/Pleasanton Station in the median of I-580, include an intermediate station at Isabel/I-580, then diverge southeasterly along Las Positas Road, toward central Livermore, to the UPRR right-of-way, at which point the alignment would run parallel to the existing UPRR tracks to a terminus station at Vasco Road.
- Alternative 2a, Downtown-Vasco — This alternative would be identical to Alternatives 1a and 1b between the existing end of track at the Dublin/Pleasanton Station and the proposed Downtown Livermore Station. Alternative 2a would include a Downtown Livermore Station and a terminus station at the Vasco Road Station.
- Alternative 2b, Downtown-Vasco via Portola, the preferred alternative as recommended by BART staff — This alternative would originate at the existing Dublin/Pleasanton Station in the median of I-580 then diverge from the I-580 corridor at Airway Boulevard (just west of the existing Portola interchange), transition to Portola and Junction Avenues to a station adjacent to the existing ACE station in Downtown Livermore and terminate at a Vasco Road Station.
- Alternative 3, Portola — This alternative would originate at the existing Dublin/Pleasanton Station in the median of I-580, include an intermediate station at Isabel/I-580, then diverge from the I-580 corridor at Airway Boulevard (just west of the existing Portola interchange), transition to Portola and Junction Avenues and terminate at a station adjacent to the existing ACE station in Downtown Livermore.
- Alternative 3a, Railroad — This alternative would have an alignment identical to Alternatives 1a, 1b, and 2a in the median of I-580 and then along El Charro Road, then parallel to the UPRR tracks, include an intermediate station at the intersection of Isabel Avenue (SR-84) and Stanley Boulevard, and terminate adjacent to the existing Livermore ACE Station.
- Alternative 4, Isabel/I-580 — This single-station alternative would originate at the existing Dublin/Pleasanton Station and follow the median of I-580 to a terminus station immediately east of the planned Isabel Avenue overpass/interchange.
- Alternative 5, Quarry — This single-station alternative would originate at the existing Dublin/Pleasanton Station and follow the median of I-580, diverging from the I-580 corridor at El Charro Road, then proceed southeasterly to the UPRR, at which point the alternative would travel parallel to the UPRR tracks to a terminus station west of the Isabel Avenue (SR-84) and Stanley Boulevard intersection.

The Greenville Yard site is associated with potentially significant biological impacts. The alternatives that include the Greenville Yard site are Alternatives 1, 1a and 1b. There are important biological resources within the Livermore Valley area, in particular Altamont Creek, wetlands and vernal pools, vernal pool plants, vernal pool branchiopods, California tiger salamanders and California red-legged frogs, which may be within the Greenville Yard area. The U.S. Fish and Wildlife Service and San Francisco Bay Regional Water Quality Control Board submitted comments indicating that it may not be possible to adequately mitigate impacts to biological resources in this location, and that the agencies may not issue the necessary permits and approvals to authorize construction. For this reason, BART staff has recommended that the

BART Board reject the alternatives requiring a Greenville Yard alternative as infeasible. However, should the BART Board wish to further consider Alternatives 1, 1a or 1b for adoption as the preferred alignment alternative, staff would be required to conduct additional consultation with the resources agencies, after which it may be necessary to revise and recirculate the PEIR for additional public review and comment.

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

MOTION:

Having reviewed and considered the information contained in the Final Program Environmental Impact Report, the Findings, and the Mitigation Monitoring and Reporting Plan dated June 2010, the BART Board of Directors hereby:

1. Certifies that the Final Program Environmental Impact Report has been completed in compliance with CEQA.
2. Selects Alternative 2b (Downtown - Vasco via Portola) as the Preferred Alignment Alternative.
3. Adopts the Findings, Facts in Support of Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan.
4. Authorizes the General Manager or her designee to proceed with acquisition of property as funding is identified and to execute real property instruments and agreements relating to acquisition and management of real property interests.
5. Authorizes the General Manager or her designee to enter into agreements with public agencies or utilities that do not involve expenditure of District funds to further implementation of the BART to Livermore Extension.

4.5 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The State CEQA Guidelines (Section 15126.6(a) and (e)(2)) require that an EIR's analysis of alternatives identify the "environmentally superior alternative" among all of those considered. In addition, if the No Build Alternative is identified as the environmentally superior alternative, then the EIR must also identify the environmentally superior alternative among the other alternatives. Under CEQA, the goal of identifying the environmentally superior alternative is to assist decision-makers in considering project approval. CEQA does not require an agency to select the environmentally superior alternative (CEQA Guidelines Section 15042-15043).

Based on the evaluation presented in Section 3, Environmental Analysis, the No Build Alternative would include projects that are approved and environmentally cleared under CEQA and/or the National Environmental Policy Act. As such, the No Build Alternative would not involve new development or infrastructure improvements that could cause physical environmental effects in the study area that were not previously addressed in the environmental documents prepared for those projects. Thus, the No Build Alternative would avoid new impacts related to natural resources, cultural resources, and encroachment into hazardous areas such as environmentally contaminated sites, floodprone areas, or ground rupture zones. On the other hand, the No Build Alternative would not improve future travel conditions along I-580 or reduce air emissions, greenhouse gas emissions, or energy consumption. In addition, the No Build Alternative would not obtain any of the objectives identified in Section 1, including improving air quality, reducing vehicle miles traveled and enhancing mobility along I-580, reducing greenhouse emission, and providing connections to ACE and potential high-speed train services. While the No Build Alternative would avoid new "footprint" impacts (those based on the land area required to accommodate a proposed improvement), the continuation of "transportation" impacts (those related to vehicle miles traveled, congestion, and air and greenhouse gas emissions, and energy consumption) indicate that the No Build Alternative would not be environmentally superior.

Of the BART extension alternatives, Alternative 2b – Portola-Vasco is considered to be the environmentally superior alternative. Alternative 2b would operate in the median of I-580 to Airway Boulevard (just west of the existing Portola interchange), where it would diverge from the I-580 corridor and transition to a subway under Portola and Junction Avenues to a station adjacent to the existing ACE station in Downtown Livermore, and extend at-grade parallel to the existing UPRR tracks to a terminus station at Vasco Road. This alternative would result in the highest increase in BART ridership with 31,900 passengers per day. Alternative 2b would also produce the greatest reduction in vehicle miles traveled at over 868,370 miles per day. Accordingly, Alternative 2b would also have the greatest air quality benefits, energy savings, and reductions in greenhouse emissions. Energy savings would amount to 928 billion BTUs annually and greenhouse emissions reductions would be over 597,138 pounds per day of CO₂, compared to the No Build Alternative.

Impacts for Alternative 2b are similar to the other BART extension alternatives, particularly Alternative 2a and Alternative 3, because Alternative 2b consists of components of both of these alternatives. As a

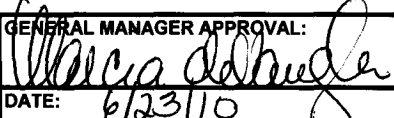

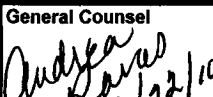


result, the alternative-specific impacts, as well as the cumulative effects, are comparable to those described in the Draft Program EIR for Alternative 2a and Alternative 3.

Alternative 2b, however, would present some benefits compared to those and other alternatives, in that it would not include the El Charro Road/UPRR alignment associated with Alternative 2a nor the Isabel/I-580 Station and the Portola/Railroad Yard associated with Alternative 3. These components of Alternatives 2a and 3 result in potentially significant impacts that include noise exposure and land acquisition along El Charro Road and the UPRR corridor (Alternative 2a), consistency of an aerial alignment with Pleasanton's plans for Staples Ranch and El Charro Road (Alternative 2a), consistency of an aerial alignment and station area development with the Airport Protection Area (Alternatives 2a and 3), potential encroachment outside the UGB from station area development around the Isabel/I-580 Station (Alternative 3), potential disturbance to the Arroyo Mocho and central California coast steelhead from station area development around the Isabel/I-580 Station (Alternative 3), potential noise and compatibility issues from the Portola/Railroad Yard with the Trevarno Road Historic District (Alternative 3), and potential hazardous materials releases from the Portola/Railroad Yard near residences and schools (Alternative 3). Alternative 2b would avoid these potential impacts. In addition, as noted above, Alternative 2b would result in the highest BART ridership and the greatest reduction to vehicle miles traveled, it would yield the greatest benefits in terms of reduced air emissions, greenhouse gas emissions, and energy resource consumption.

While Alternative 2b is the environmentally superior alternative, it is noted that Alternative 4 – Isabel/I-580, being one of the shorter alternatives (slightly greater than 5 miles with one station at Isabel/I-580) and potentially serving as a first phase for Alternatives 1 – Greenville East, 2 – Las Positas, and 3 – Portola, would be expected to have fewer footprint impacts. This alternative remains within the I-580 median. The potential to disturb historic resources and prehistoric archaeological resources is less because of the shorter length of the alternative and its avoidance of the Downtown Livermore area. Similarly, Alternative 4 rates well in terms of avoiding wetlands, stream crossings, and California tiger salamander habitat, and would have among the least effects on wetlands. With respect to land use and visual compatibility, noise and vibration impacts, and land acquisition, Alternative 4 has relatively few adverse impacts. This alternative is not, however, as successful as the two-station alternatives at achieving reductions in vehicles miles traveled (Alternative 2b would result in a reduction of 868,370 miles per day; Alternative 4 would result in a reduction of 404, 159 miles per day, the lowest of the BART extension alternatives). As a result, Alternative 4, while still improving air quality, reducing energy consumption, and lowering greenhouse gas emissions, would offer considerably less benefit in these environmental areas than the other extension alternatives. Finally, Alternative 4, as a stand-alone alternative, would not satisfy the program objectives particularly well. This alternative would result in the smallest increase in BART ridership (19,900 daily system riders, compared to the environmentally superior Alternative 2b at 31,900), worsening congestion along four freeway segments (compared to one under Alternative 2b), and no connection to ACE.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Malcolm Quint Dept: Planning  Signature/Date: 6/23/10	General Counsel  Signature/Date: 6/22/10	Controller/Treasurer  Signature/Date: []	District Secretary []	BARC  Signature/Date: 6/23/10
Status: Routed		Date Created: 06/09/2010		

TITLE:

Approval of Resolution of Project Compliance and Initial Project Report for AB1171 Bridge Toll Funds for the BART-to-Livermore Project

NARRATIVE:

Purpose

To obtain BART Board approval of an application for a total of \$1,250,000 in AB1171 bridge toll funds for the BART-to-Livermore Extension. The application includes a Resolution of Project Compliance (Resolution), and an Initial Project Report (IPR) for the AB1171 funds, as described in the attached IPR Summary. This application is a request for reimbursement to provide funding for the acquisition of a specific piece of at-risk right-of-way for the Extension.

Discussion

Metropolitan Transportation Commission (MTC) Resolution No. 3636, Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2 (RM2) requires that a project sponsor approve a Resolution of Project Compliance and IPR when the project sponsor requests an allocation of RM2 funds. Although MTC has not yet adopted a resolution requiring the same documentation for AB1171 funds, MTC has advised BART that a Resolution of Project Compliance and IPR will be required. Staff has prepared the IPR Summary for this portion of the BART-to-Livermore program and a Resolution of Project Compliance for adoption by the BART Board of Directors to meet MTC's requirement for the allocation of a total of \$1,250,000 of AB1171 bridge toll funding for the BART-to-Livermore Extension.

This action will allow reimbursement to the City of Livermore which is obtaining the right-of-way in order to prevent development from occurring adjacent to the corridor that would preclude the opportunity to widen the freeway corridor in the future and increase the cost of a BART to Livermore Extension. The Alameda County Congestion Management Agency (ACCMA) in consultation with BART will obtain funding from MTC and the Alameda County Transportation Improvement Authority. With this funding, ACCMA will execute an agreement with the City of Livermore for reimbursement of the purchase of the at-risk property. BART, as the lead agency for the BART to Livermore Extension for which the right-of-way is needed, must approve the Resolution of Project Compliance before MTC can approve this funding allocation.

At the BART Board meeting of July 1, 2010, the BART Board will be asked to certify the Final Program

Environmental Impact Report (FPEIR) for the BART to Livermore Extension, and to select a preferred alignment alternative for the Extension. The action contemplated by this EDD is subject to the Board having previously taken these two actions.

This will be the first allocation of AB1171 funds for the Extension, and BART and the ACCMA are co-sponsors for the AB1171 funds associated with the Extension. This application for AB1171 funds will provide funding for the acquisition of a specific piece of at-risk right-of-way for the Extension, located adjacent to I-580 east of El Charro Road. This piece of property will be needed for implementation of any of the alternatives located in the I-580 median east of El Charro Road. The resolution also includes an allocation of an additional \$500,000 to MTC for an independent Opportunity Risk Assessment Study by MTC related to the \$95 million in AB1171 funds committed to BART to Livermore right-of-way preservation. Approval of the IPR and the Resolution is a requirement for the application of AB1171 funds. ACCMA is scheduled to approve the IPR and Resolution on June 24, 2010. It is expected that MTC will approve this application in July 2010. The balance of the funding (\$1,250,000) for this right-of-way acquisition will come from Alameda County Measure B, as part of a separate application to the Alameda County Transportation Improvement Agency (ACTIA).

Fiscal Impact

Approval of the Resolution and IPR is a requirement for the District to receive an allocation of the AB1171 funds from MTC.

Alternatives

Do not approve the Resolution and IPR. Not approving the Resolution and IPR would likely result in the specific piece of right-of-way not being purchased at the negotiated price with the landowner. The current price was negotiated by the City of Livermore, and the option to purchase at the negotiated price expires in July 2010. Not purchasing this piece of right-of-way at this time may result in future delays and cost increases to the project.

Motion

The Board of Directors approves the attached Resolution of Project Compliance and the Initial Project Report dated June 1, 2010, as described in the attached Initial Project Report Summary, which are required for the application for AB1171 funds for the BART to Livermore Program.

**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
AB1171 Bridge Toll Funds for the
BART to Livermore ROW
Preservation Project /**

Resolution No.

Whereas, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Sections 66500 *et seq.*; and

Whereas, Streets and Highways Code Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

Whereas, pursuant to Streets & Highways Code (SHC) Section 31010 (b), funds (generally referred to as “AB1171 funds”) generated in excess of those needed to meet the toll commitments as specified in paragraph (4) or subdivision (b) of section 188.5 of the SHC shall be available to BATA for funding projects consistent with SHC Code Sections 30913 and 30914; and

Whereas, MTC adopted Resolution 3434, Revised, which establishes commitments of AB 1171 bridge toll funds to specific projects and corridors; and

Whereas, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for AB1171 bridge toll funding; and

Whereas, allocation requests to MTC must be submitted consistent with such procedures and conditions; and

Whereas, the San Francisco Bay Area Rapid Transit District (BART) and the Alameda County Congestion Management Agency (ACCMA) are sponsors of the BART to Livermore – Right of Way Preservation Project (Project), which is eligible for consideration of AB 1171 funds; and

Whereas, the AB1171 allocation request, sponsored by ACCMA and BART, in the Initial Project Report (“IPR”) dated June 1, 2010, as summarized in the attached Initial Project Report Summary (“IPR Summary”) lists the purpose, schedule, budget, expenditure and cash flow plans

for which ACCMA and BART are requesting that MTC allocate AB1171 bridge toll funds for the Project; and

Whereas, MTC intends to require as a condition of its allocation of AB1171 funds to the Project that ACCMA and MTC execute a funding agreement, and that such agreement would specify the policies and procedures applicable for use of the AB1171 funds; and

Whereas, the ACCMA is the implementing agency for the right-of-way acquisition of certain parcels in Alameda County; and

Whereas, the ACCMA adopted Resolution No. 10-10 on June 24, 2010, which approved a Resolution of Project Compliance and IPR for this Project;

NOW THEREFORE BE IT RESOLVED that:

1. BART agrees to comply with the provisions of MTC's RM2 Policy Guidance (MTC Resolution No. 3636) for the drawdown of AB1171 funds; and
2. BART certifies that the Project is consistent with the Regional Transportation Plan (RTP); and
3. BART concurs with the following conditions, to be included in the Project funding agreement between ACCMA and MTC:
 - a. The establishment of a Land Trust or other system for holding property, including, but not limited to the following terms:
 - i. Properties shall be held for the benefit of a BART Extension to Livermore
 - ii. If a BART Extension to Livermore does not commence construction within ten (10) years, property in the Land Trust shall be sold for fair market value and proceeds distributed equally to funding partners. MTC reserves the right to extend this condition; and
 - b. An additional AB 1171 allocation, not to exceed \$500,000, to MTC for an independent Opportunity/Risk Assessment Study administered by MTC related to the \$95 million in AB 1171 funds committed to the Project in Resolution 3434. No further AB 1171 allocations will be considered until completion of the Opportunity/Risk Assessment Study.
4. BART certifies that all environmental clearances necessary for the Project have been obtained; and
5. BART approves the updated IPR dated June 1, 2010, as described in the attached IPR Summary; and
6. BART approves the cash flow plan described in the IPR as described in the attached IPR Summary; and
7. BART has reviewed the Project's needs and has adequate staffing resources to deliver and complete the Project within the schedule set forth in the IPR dated June 1, 2010 as described in the attached IPR Summary; and

8. The Project is eligible for receipt of AB1171 funds consistent with California Streets and Highway Code section 31010 (b); and
9. BART is authorized to submit an application for AB1171 funds for the Project in accordance with the provisions of the California Streets and Highways Code sections 30913 and 30914 as applicable; and
10. BART certifies that the Project and purposes for which AB1171 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; and
11. There is no legal impediment to BART making allocation requests for AB1171 funds; and
12. There is no pending or threatened litigation, which might in any way adversely affect the Project, or the ability of BART, to deliver the Project; and
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 AB1171 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of AB1171 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages; and
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 Project was initially approved, either for capital improvements or maintenance and operational costs; otherwise, MTC is entitled to a proportionate share equal to MTC's percentage participation in the Project; and
15. BART agrees that assets purchased with AB1171 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 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 AB1171 funds were originally used; and
16. BART has authorized its General Manager or her designee to execute and submit an allocation request for the right of way phase for the Project to MTC for AB1171 bridge toll funds in the amount of \$1.25 million for the Project, purposes and amounts included in the attached IPR Summary; and

17. The BART General Manager or her designee is hereby delegated the authority to make non-substantive changes or minor amendments to the IPR as she deems appropriate; and
18. Resolved, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the IPR dated June 1, 2010 referenced herein.

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**I-580 Right-of-way Preservation Corridor
El Charro Acquisition
Initial Project Report Summary – June 1, 2010**

Subproject Description:

Representatives of the BART to Livermore Extension will acquire a portion of the BART to Livermore Project ROW needs along I-580 in the western portion of Livermore.

Need and Purpose:

This application is for the allocation of AB 1171 funds for right-of-way acquisition needed for the BART to Livermore Extension. The Extension will obtain right-of-way in order to prevent development from occurring adjacent to the corridor that would preclude the opportunity to widen the freeway corridor in the future and significantly increase the project cost. The BART to Livermore Project will ease I-580 traffic congestion, decrease vehicle miles travelled, bring economic development opportunities and create an intermodal connection with the Altamont Commuter Express (ACE). The increased traffic congestion on I-580 in the Tri-Valley has made this corridor one of the most congested in the San Francisco Bay Area.

Current Allocation Request from AB 1171:

IPR Revision Date	Amount Being Requested	Phase Requested
June 1, 2010	\$1,250,000	ROW

Project Cost and Funding:

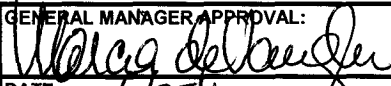
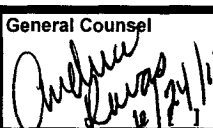
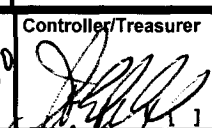
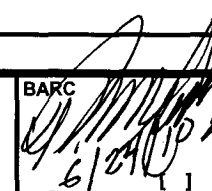
PHASE	COST	PROPOSED FUNDING
Right-of-way definition/ Engineering & Environmental	\$3,000,000	\$ 3,000,000 – TCRP
Right-of-way Utilities (Zone 7)	\$250,000	\$250,000 – Measure B
Right-of-Way Acquisition	\$115,700,000	\$95,000,000 AB 1171 \$16,000,000 RM1 \$1,700,000 TCRP \$3,000,000 Measure B
TOTAL	\$118,950,000	\$118,950,000

Subproject Schedule:

PHASE	BEGIN	END
ROW Eng / Environmental	June 2007	February 2011
ROW	June 2010	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board		
DATE: c 6/25/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Barbara Inaba Dept: Real Estate	General Counsel 	Controller/Treasurer 	District Secretary []	BARC 
Signature/Date: Inaba 6/24/10				

TITLE:

Condemnation of Real Property for Oakland Airport Connector Project (OAC) BART Parcels H-1010-2b, H-1010-2c, H-1010-3a, H-1010-3b, H-1010-3c and H-2050-2b

NARRATIVE:

PURPOSE:

To adopt by a two-thirds vote of the entire Board (1) the attached Resolution of Necessity to Condemn in order to acquire both permanent and temporary construction easement interests in real property located at 7303, 7425 and 7501 San Leandro Street, 77th Avenue and the areas formerly known as 74th Avenue and 75th Avenue ("San Leandro Street Property"); and (2) the attached Resolution of Necessity to Condemn in order to acquire a permanent easement interest in real property located at 90 Hegenberger Road ("Hegenberger Road Property"), Oakland, California 94621. These easement interests in the properties are required for the construction of the Oakland Airport Connector Project.

DISCUSSION:

On March 28, 2002, the BART Board of Directors ("Board") certified the Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/FEIS) and adopted the BART-Oakland International Airport Project (Project). On February 22, 2007, the Board adopted an Addendum to the FEIR/FEIS (Addendum). The Project consists of an Automated Guideway Transit (AGT) system connecting the BART Coliseum Station to Oakland International Airport by a 3.2 mile long exclusive guideway with potential for a future intermediate station.

The San Francisco Bay Area Rapid Transit District ("BART") proposes to purchase certain real property interests for the purpose of designing, constructing, operating and maintaining an Automated Guideway Transit (AGT) system. The Project requires the acquisition of (1) approximately 47,271 square feet of permanent easements (BART Parcel Nos. H-1010-2b and H-1010-2c) and approximately 97,508 square feet of temporary construction easements (BART Parcel Nos. H-1010-3a, H-1010-3b and H-1010-3c) in property owned by the City of Oakland located at 7303, 7425 and 7501 San Leandro Street, 77th Avenue and the areas formerly known as 74th Avenue (Jessie Street) and 75th Avenue (Charles Street) (portions of Assessor's Parcel Nos. 041-3901-005-04, 041-4173-001-04, 041-4173-005-01, 041-4175-003-03 and portions of the areas formerly known as 74th Avenue (no Assessor's Parcel Number) and 75th Avenue (no Assessor's Parcel Number)) ("San Leandro Street Property"); and (2) approximately 2,908 square feet of permanent easement (BART Parcel H-2050-2b) in property owned by the City of Oakland at 90 Hegenberger Road (portion of Assessor's Parcel No. 044-5020-005-52)

("Hegenberger Road Property"), Oakland, California 94621, (collectively, "Subject Property").

The proposed use of the Subject Property: (1) at the San Leandro Street Property is for a construction work area, the construction, operation and maintenance of the elevated guideway, a terminal station and appurtenances thereto; and (2) at the Hegenberger Road Property is for construction, operation and maintenance of the elevated guideway and appurtenances thereto. Project features proposed on or near the Subject Property have been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible.

The Subject Property is required for the successful construction of the Project. The Subject Property is uniquely suited to support the required Project purposes.

The offer required by Section 7267.2 of the Government Code was made to the owner of record of the Subject Property on February 3, 2010. The estimated market value of the required property interest in the San Leandro Street Property, Parcels H-1010-2b and H-1010-2c is \$2,000 and for Parcels H-1010-3a, H-1010-3b and H-1010-3c is \$19,800; and for the Hegenberger Road Property, Parcel H-2050-2b is \$9,000. The total is \$30,800.

To date, negotiations appear to be at an impasse. The property owner was notified on May 24, 2010 of the Board's hearing of this matter and notified on June 9, 2010 of the new Board hearing date. On June 1, 2010, the property owner provided its written request to reserve its right to appear and speak at the Board hearing.

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

1. That the public interest and necessity require the Project.
2. That the Project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. That the Subject Property is necessary for the Project.
4. That the offer required by California Government Code Section 7267.2 has been made to the owner or owners of record of the Subject Property.

FISCAL IMPACT:

Funding of \$30,800 for the acquisition of Subject Property (1) \$21,800 for BART Parcel Nos. H-1010-2b, H-1010-2c, H-1010-3a, H-1010-3b and H-1010-3c, and (2) \$9,000 for BART Parcel No. H-2050-2b is included in the total project budget for the FMS #01ZJ – Oakland Airport Connector Right of Way Acquisition. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funding will come from the following source:

F/G 52W - CA-90-Y270 - FY04 Capital Assistance Program

\$30,800

As of month ending 5/30/2010, \$8,353,000 is available for commitment from this fund source for this project and BART has committed \$8,146,962 to date. There is a pending commitment of \$127,126 in BART's financial management system. This action will commit \$30,800 leaving an uncommitted balance of \$48,112 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

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

RECOMMENDATIONS:

Adoption of the following motions:

MOTIONS:

1. Adopt the attached, "Resolution of Necessity to Condemn Real Property; Make Findings and Determinations; Authorize Eminent Domain Proceedings and Application for Possession Prior to Judgment for BART Parcels H-1010-2b, H-1010-2c, H-1010-3a, H-1010-3b and H-1010-3c; Draw and Deposit Warrant." (Two-thirds vote required.)
2. Adopt the attached, "Resolution of Necessity to Condemn Real Property; Make Findings and Determinations; Authorize Eminent Domain Proceedings and Application for Possession Prior to Judgment for BART Parcel H-2050-2b; Draw and Deposit Warrant." (Two-thirds vote required.)

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

RESOLUTION OF NECESSITY TO CONDEMN)
REAL PROPERTY; MAKE FINDINGS AND)
DETERMINATIONS; AUTHORIZE EMINENT)
DOMAIN PROCEEDINGS AND APPLICATION)
FOR POSSESSION PRIOR TO JUDGMENT FOR)
BART PARCELS H-1010-2b, H-1010-2c,)
H-1010-3a, H-1010-3b AND H-1010-3c;)
DRAW AND DEPOSIT WARRANT /)

Resolution No.

Recitals

1. The San Francisco Bay Area Rapid Transit District ("BART or District") is undertaking the construction of the BART - Oakland International Airport Connector Project (the "Project"). On March 28, 2002, the BART Board of Directors ("Board") certified the Final Environmental Impact Report and the Final Environmental Impact Statement (FEIR/FEIS) and adopted the Project. On February 22, 2007, the Board adopted modifications to the Project and an Addendum to the FEIR/FEIS.

2. The Project requires the acquisition of certain property owned by the City of Oakland ("City") that is defined in paragraph 4 of these Recitals as the Subject Property.

3. The District has complied with all requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") for the Project.

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

property, or interests in property, is located at 7303, 7425 and 7501 San Leandro Street, 77th Avenue and the areas formerly known as 74th Avenue (Jessie Street) and 75th Avenue (Charles Street), Oakland, California, 94621, and is more specifically identified as BART Parcels H-1010-2b, H-1010-2c, H-1010-3a, H-1010-3b and H-1010-3c (portions of Assessor's Parcel Numbers 041-3901-005-04, 041-4173-001-04, 041-4173-005-01, 041-4175-003-03 and portions of the areas formerly known as 74th Avenue (no Assessor's Parcel Number) and 75th Avenue (no Assessor's Parcel Number)), and more particularly described and shown in Exhibits A, B, C, D and E, respectively, attached hereto and incorporated herein by this reference (the "Subject Property"). Parcels H-1010-2b and H-1010-2c are required and to be acquired as permanent easements, together with any improvements thereon. Parcels H-1010-3a, H-1010-3b and H-1010-3c are required and to be acquired as temporary construction easements. The permanent easements are required for the construction, operation, maintenance, repair, replacement, alteration and/or removal of the elevated guideway, terminal station and appurtenances thereto required as part of the Project. The temporary easements are required to provide access to the construction and for the storage of materials and other uses that may be required in order to complete the construction of the Project and will be required during the course of the construction.

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

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

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

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

1. The public interest and necessity require the Project;
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. The Subject Property is necessary for the Project;
4. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record of the Subject Property.
5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future; and
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is

appropriated.

BART Office of the General Counsel and/or its special counsel are hereby AUTHORIZED AND EMPOWERED:

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

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

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

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

To draw a warrant in the amount as determined by an appraisal of the fair market value of the Subject Property, made payable on Federal Transit Administration Grant Number CA-90-Y270 – FY04 Capital Projects, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said Office of the General Counsel or special counsel or wire said sum directly to the State of California Treasurer's Office, to be deposited with said payee as security for the order for possession hereinbefore authorized.

#

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 29, 31, 33, 35, 36, 37, 38, 39, 40, 44, 45, 46, 47 and 48 of Block 51 and 75th Avenue (formerly Charles Street) as they appear on that certain Map entitled "Resubdivision of the Townsite of Fitchburg," filed May 18, 1892 at Map Book 17 on Page 9 in the Office of the Recorder of Alameda County, California, a portion of 74th Avenue per the acceptance of Grant Deed recorded July 14, 1949, at Book 5845 Page 420 and a portion of the lands granted to City of Oakland recorded February 15, 1968 under Document Number BA16086 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

Beginning at the western corner of the above referenced lands granted to City of Oakland under Document Number BA16086, said point of beginning being located at North 2100645.85, East 6070960.13; thence S41°17'43"E, 202.72 feet to the **True Point of Commencement**; thence N15°09'38"E, 292.76 feet, thence S87°29'15"E, 27.64 feet more or less to the southeastern line of said 74th Avenue per said acceptance of Grant Deed recorded July 14, 1949, at Book 5845 Page 420; thence along last said line N52°04'05"E, 12.55 feet; thence leaving last said line Southerly along a non-tangent curve to the right from a tangent which bears S00°19'27"W, said curve having a radius of 814.53 feet through a central angle of 7°18'38" an arc length of 103.93 feet; thence S07°38'05"W, 268.84 feet more or less to the southwestern line of said lands granted to City of Oakland under said Document Number BA16086; thence along last said line N41°17'43"W, 107.81 feet to the **True Point of Commencement**.

The above described parcel of land contains an area of 20,845 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

Date

8/11/09



SURVEYOR'S STATEMENT:

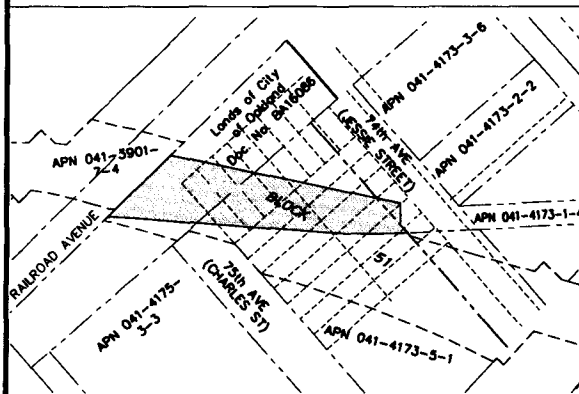
This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August, 2009.

Lands of The City of Oakland
A Portion of Block 51, A Portion of 75th Avenue,
and A Portion of Lands of City of Oakland
Doc. No. BA 16086
Official Records Alameda County
APN 041-4173-005-01

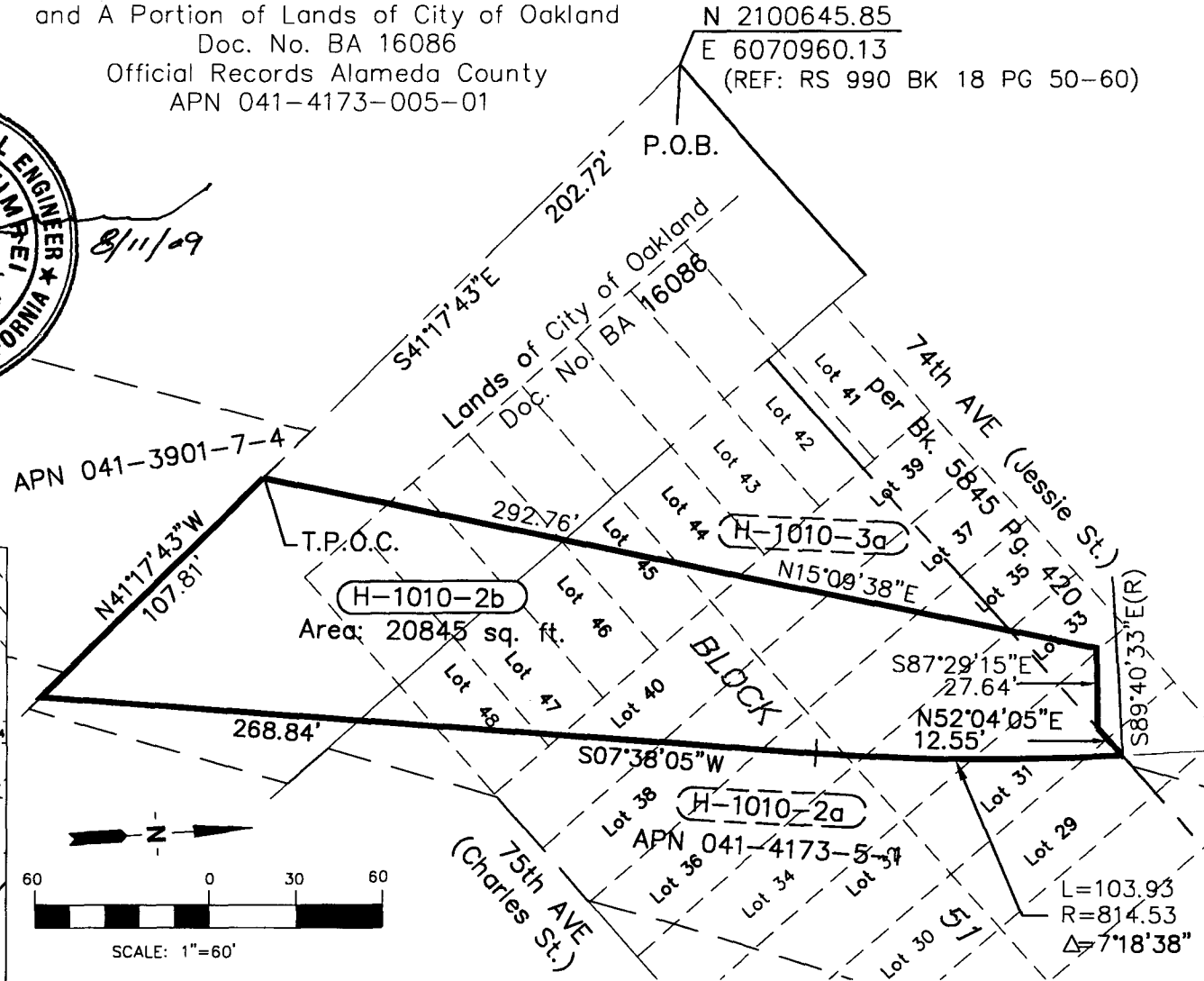
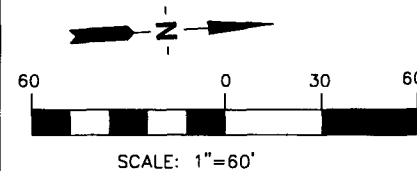


LEGEND:

- P.O.B. - Point of Beginning
T.P.O.C. - True Point of Commencement
APN - Assessor's Parcel No.
(H 1030-3) - OAC Parcel No.



Location Detail
Not to Scale



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE
CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83, EPOCH 1991.35.
MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL
DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS
NOTED.



EXHIBIT "A"

ALAMEDA CO.

RTE. OAK

RRE/SL

SCALE: 1"=60'

DATE: 08-11-09

DR.NO.

H-1010-2b

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 8, 10 and 12 of Block 50, a portion of Lots 7, 9, 11, 12, 13, 14, 15, 16, 18, and 20 of Block 51 and a portion of 74th Avenue (formerly Jessie Street) as they appear on that certain Map entitled "Fitchburg Homestead Lots," filed January 25, 1870 at Map Book 5 on Page 8 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

Beginning at the intersection of the Southerly line of San Leandro Street per acceptance of Grant Deed recorded October 15, 1946, at Book 4987 Page 425 Official Records of Alameda County, California and the southeastern line of 74th Avenue (formerly Jessie Street) being the most eastern corner of that 30 feet wide strip of land described in the deed to City of Oakland, recorded July 14, 1949 in Book 5845 Page 420 Official Records of Alameda County, California, said point of beginning being located at North 2100934.57, East 6071402.96; thence along said southeastern line S52°04'07"W, 58.60 feet to the **True Point of Commencement**; thence leaving last said line S43°51'59"E, 24.88 feet; thence Southerly along a non-tangent curve to the left from a tangent which bears S30°08'56"W, said curve having a radius of 1,496.66 feet through a central angle of 11°56'42" an arc length of 312.02 feet more or less to the northwestern line of 75th Avenue (formerly Charles Street); thence along last said line S52°04'07"W, 37.26 feet; thence leaving last said line N07°38'06"E, 128.62 feet; thence Northerly along a non-tangent curve to the left from a tangent which bears N07°54'35"E, said curve having a radius of 785.48 feet through a central angle of 9°08'09" an arc length of 125.24 feet; thence N01°13'34"W, 40.73 feet; thence N19°29'29"E, 75.08 feet; thence N42°51'59"W, 16.22 feet; thence N47°08'02"E, 30.97 feet; thence N19°29'29"E, 8.39 feet; thence S43°51'59"E, 110.64 feet to the **True Point of Commencement**.

The above described parcel of land contains an area of 26,426 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8-11-09
Date



SURVEYOR'S STATEMENT:

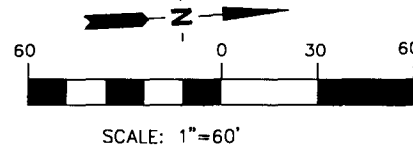
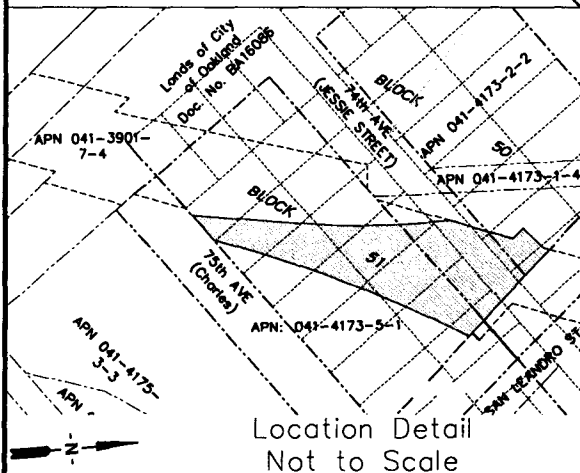
This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August 2009.

LEGEND:

T.P.O.C. - True Point of Commencement
P.O.B. - Point of Beginning



Lands of City of Oakland
A Portion of Blocks 50, and 51, and A Portion of 74th Ave. (Jessie Street)
per Fitchburg Homestead Lots
Map Book 5 Pg. 8 Official Records Alameda County
APN 041-4173-005-01 & 041-4173-001-04



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE
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MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL
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NOTED.



SCALE: 1"=60'

DATE: 08-11-09

EXHIBIT "A"

ALAMEDA CO.

RTE. OAK

RRE/SL

DR.NO.

H-1010-2c

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 17, 19, 20, 21, 22, 23, 24, 26, 28, 30, 32, 34, 36, 38, 40 and 48 of Block 50, a portion of Lots 27, 29, 31, 33, 35, 37, 39, 44, 45, 46, and 47 and all of Lots 41, 42 and 43 of Block 51 and a portion of 74th Ave (formerly Jessie Street) as they appear on that certain Map entitled "Resubdivision of the Townsite of Fitchburg," filed May 18, 1892 at Map Book 17 on Page 9 in the Office of the Recorder of Alameda County, California and a portion of the lands granted to City of Oakland recorded February 15, 1968 under Document Number BA16086 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

Beginning at the northeastern corner of the above referenced lands granted to City of Oakland under Document Number BA16086, said point of beginning being located at North 2100705.47, East 6071036.51; thence N37°50'50"W, 25.38 feet more or less to the northwestern line of 74th Avenue (formerly Jessie Street) per the acceptance of Grant Deed recorded July 22, 1948 at Book 5208 Page 393 in the Office of the County Recorder of Alameda County; thence along the said northwestern line N52°03'26"E, 199.93 feet; thence leaving last said line N00°29'17"E, 193.08 feet; thence N37°48'13"W, 38.84 feet more or less to the southeastern line of 73rd Avenue (formerly George Street) per said Map; thence along last said line N52°04'29"E, 11.07 feet; thence leaving last said line S37°52'25"E, 73.17 feet; thence S00°30'26"W, 238.65 feet more or less to the southeastern line of said 74th Avenue per the acceptance of Grant Deed recorded July 14, 1949 at Book 5845 Page 420 in the Office of the County Recorder of Alameda County; thence along last said line S52°04'05"W, 12.55 feet; thence leaving last said line N87°29'15"W, 27.64 feet; thence S15°09'38" W, 292.76 feet more or less to the southwestern line of the lands granted to the City of Oakland under said Document Number BA16086; thence along last said line N41°17'43"W, 202.72 feet; thence along the northwestern line of said lands N52°01'18"E, 96.89 feet to the **Point of Beginning**.

The above described parcel of land contains an area of 41,661 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8/11/09
Date

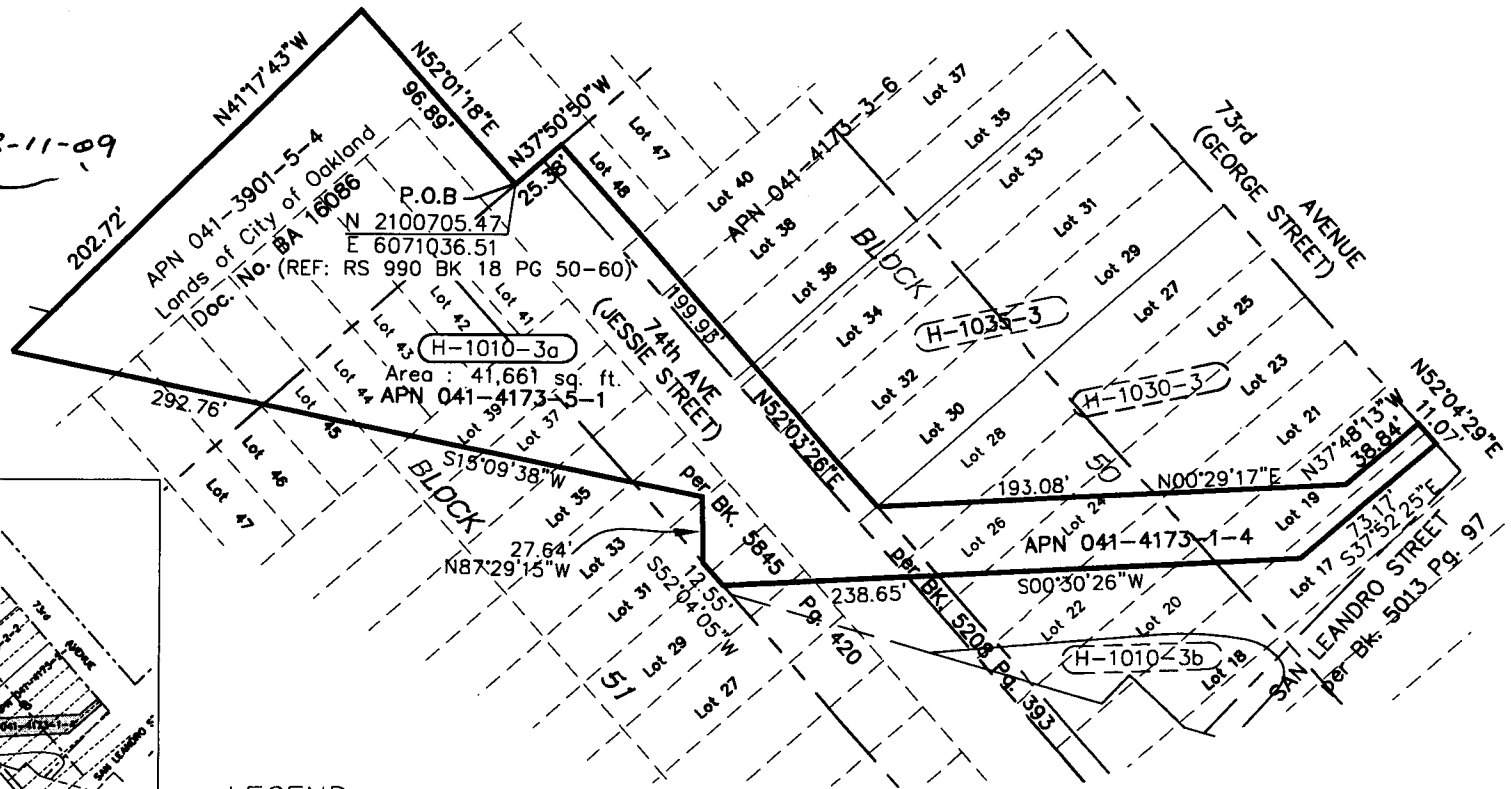


SURVEYOR'S STATEMENT:

This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August, 2009.

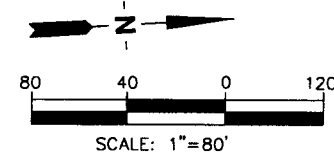


Lands of The City of Oakland
A Portion of Blocks 50 & 51, A Portion of 74th Ave. (Jessie Street),
and A Portion of Lands of City of Oakland
Doc. No. BA 16086
Official Records Alameda County
APN 041-4173-005-01, 041-4173-001-04 and 041-3901-005-04

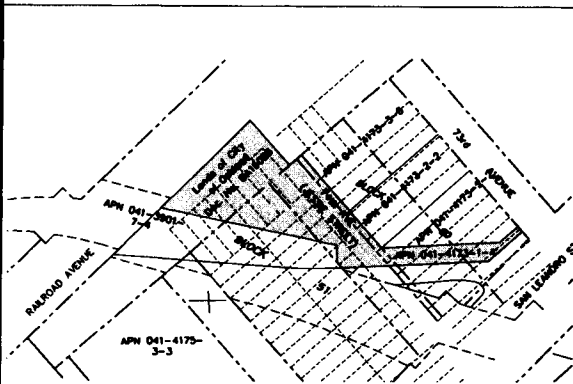


LEGEND:

- P.O.B. - Point of Beginning
APN - Assessor's Parcel No.
(H-1030-3) - OAC Parcel No.



Location Detail
Not to Scale



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE
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MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL
DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS
NOTED.



SCALE: 1"=80'

DATE: 08-11-09

EXHIBIT "A"

ALAMEDA CO.

RTE. OAK

RRE/SL

DR.NO.

H-1010-3a

TEMPORARY CONSTRUCTION EASEMENT

This temporary construction easement is for a period during construction as part of the San Francisco Bay Area Rapid Transit District's Oakland International Airport Connector Project (OAC) in the city of Oakland, County of Alameda, State of California.

BART will provide the property owner no less than thirty (30) written days notice prior to commencing actual construction in the temporary construction easement area ("Commencement Notice"). The temporary construction easement will expire three (3) years after BART commences construction pursuant to the Commencement Notice.

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 8, 10 and 12 of Block 50 and a portion of 74th Avenue (formerly Jessie Street) as they appear on that certain Map entitled "Fitchburg Homestead Lots," filed January 25, 1870 at Map Book 5 on Page 8 and a portion of that strip of land described in the acceptance of Grant Deed to City of Oakland recorded July 22, 1948 at Book 5208 Page 393 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

Beginning at the intersection of the southwestern line of San Leandro Street per acceptance of Grant Deed recorded October 15, 1946 at Book 4987 Page 425 and the southeastern line of 74th Avenue (formerly Jessie Street) being the most eastern corner of that 30 feet wide strip of land described in the acceptance of Grant Deed to City of Oakland, recorded July 14, 1949 in Book 5845 page 420 Official Records of Alameda County, California, said point of beginning being located at North 2100934.57, East 6071402.96; thence along said southeastern line S52°04'07"W, 58.60 feet; thence leaving last said line N43°51'59"W, 110.64 feet to the **True Point of Commencement**; thence S19°29'29"W, 8.39 feet; thence S47°08'02"W, 30.97 feet; thence S42°51'59"E, 16.22 feet; thence S19°29'29"W, 75.08 feet; thence N01°13'34"W, 96.35 feet; thence Northerly along a tangent curve to the right, having a radius of 125.85 feet through a central angle of 16°00'59" an arc length of 35.18 feet; thence Northerly along a tangent compound curve to the right, having a radius of 22.59 feet through a central angle of 38°02'18" an arc length of 15.00 feet; thence Northeasterly along another compound tangent curve to the right, having a radius of 9.75 feet through a central angle of 82°32'07" an arc length of 14.04 feet; thence S44°38'07"E, 28.63 feet; thence S19°29'29"W, 11.08 feet to the **True Point of Commencement**;

The above described parcel of land contains an area of 3,163 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

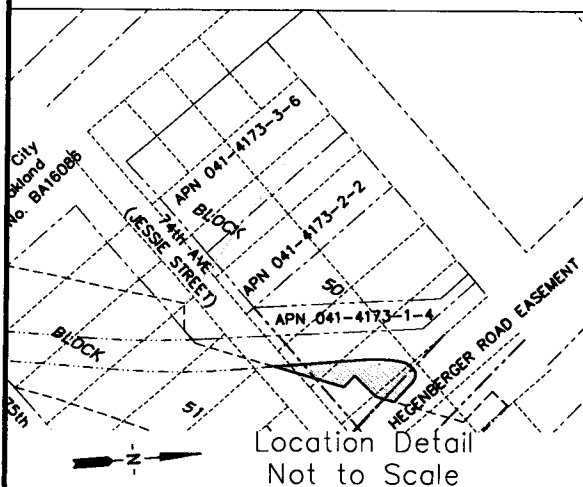
8/11/09
Date



Lands of the City of Oakland
 A Portion of Block 50 and
 A Portion of 74th Avenue (Jessie St.) per
 Fitchburg Homestead Lots
 Map Book 5 Pg. 8 and A Portion of
 Lands of City of Oakland Bk. 5208 Pg. 393
 Official Records Alameda County
 APN 41-4173-001-04

SURVEYOR'S STATEMENT:

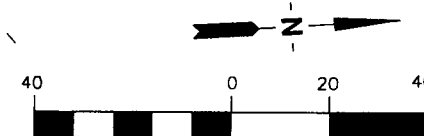
This plat was prepared by me
 or under my direction in
 conformance with the Land
 Surveyor's Act in August, 2009.



LEGEND:

T.P.O.C. - True Point of Commencement
 P.O.B. - Point of Beginning

N 2100934.57
 E 6071402.96
 (REF: RS 990 BK 18 PG 50-60)



SCALE: 1"=40'

COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE
 CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83 EPOCH 1991.35.
 MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL
 DISTANCES.

ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS
 NOTED.



SCALE: 1"=40'

DATE: 08-11-09

EXHIBIT "A"

ALAMEDA CO.

RTE. OAK

RRE/SL

DR.NO.

H-1010-3b

TEMPORARY CONSTRUCTION EASEMENT

This temporary construction easement is for a period during construction as part of the San Francisco Bay Area Rapid Transit District's Oakland International Airport Connector Project (OAC) in the city of Oakland, County of Alameda, State of California.

BART will provide the property owner no less than thirty (30) written days notice prior to commencing actual construction in the temporary construction easement area ("Commencement Notice"). The temporary construction easement will expire three (3) years after BART commences construction pursuant to the Commencement Notice.

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 6, 7, 8, 9, 10, 11, 12, 14, 16, 18, and 20 of Block 51, a portion of Lots 9, 11, 13, 15, 17, and 19 of Block 52 and a portion of 75th Avenue (formerly Charles Street) as they appear on that certain Map entitled "Fitchburg Homestead Lots," filed January 25, 1870 Map Book 5 on Page 8 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

Beginning at the intersection of the southwestern line of San Leandro Street per the acceptance of Grant Deed recorded October 15, 1946 at Book 4987 Page 425 and the southeastern line of 74th Avenue (formerly Jessie Street) being the most eastern corner of that 30 feet wide strip of land described in the acceptance of Grand Deed to City of Oakland, recorded July 14, 1949 in Book 5845 Page 420 Official Records of Alameda County, California, said Point of Beginning being located at North 2100934.57, East 6071402.96; thence along said southeastern line of said 30 feet wide strip of land described in the acceptance of Grant Deed to City of Oakland, recorded July 14, 1949 in Book 5845 Page 420 Official Records of Alameda County, California S52°04'07"W, 58.60 feet; thence leaving last said line S43°51'59"E, 19.24 feet to the **True Point of Commencement**; thence N47°03'24"E, 11.57 feet; thence S44°38'07"E, 150.74 feet; thence S20°40'08"W, 298.97 feet; thence N74°45'05"W, 181.43 feet; thence N19°29'09"E, 14.69 feet; thence N52°04'07"E, 47.72 feet; thence Northerly along a non-tangent curve to the right from a tangent which bears N18°12'14"E, said curve having a radius of 1,496.66 feet through a central angle of 11°56'42" an arc length of 312.02 feet; thence N43°51'59"W, 5.64 feet to the **True Point of Commencement**;

The above described parcel of land contains an area of 52,684 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8/11/09
Date



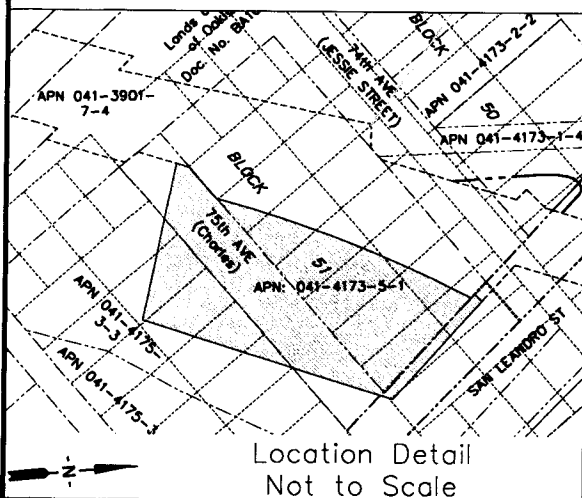
SURVEYOR'S STATEMENT:

This plat was prepared by me or under my direction in conformance with the Land Surveyor's Act in August, 2009.



LEGEND:

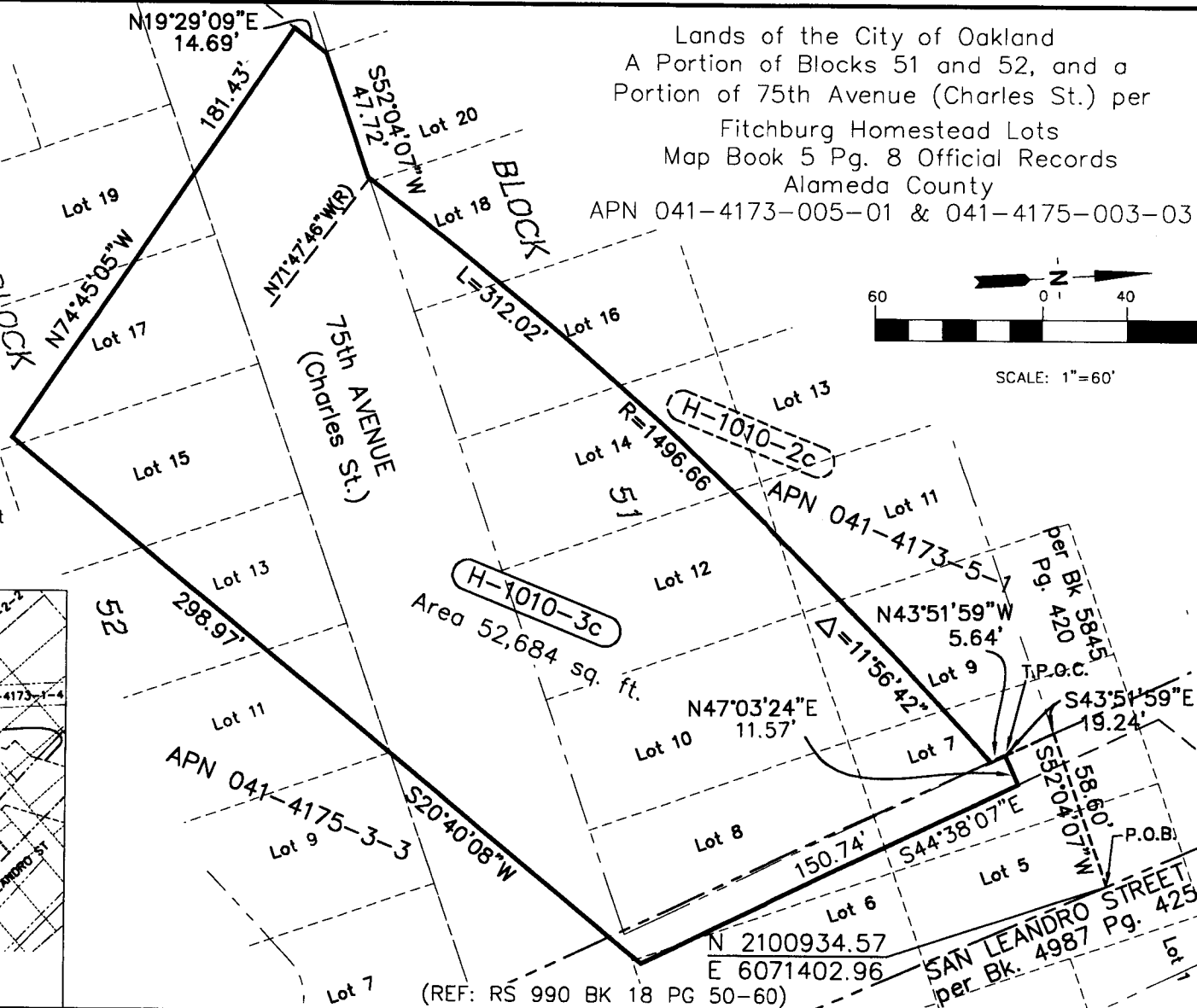
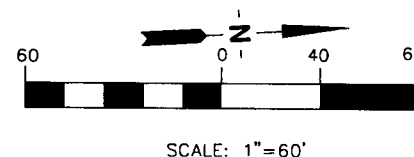
P.O.B. -Point of Beginning
T.P.O.C -True Point of Commencement



Lands of the City of Oakland
A Portion of Blocks 51 and 52, and a
Portion of 75th Avenue (Charles St.) per

Fitchburg Homestead Lots
Map Book 5 Pg. 8 Official Records
Alameda County

APN 041-4173-005-01 & 041-4175-003-03



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83, EPOCH 1991.35. MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS NOTED.



EXHIBIT "A"

ALAMEDA CO. RTE. OAK RRE/SL

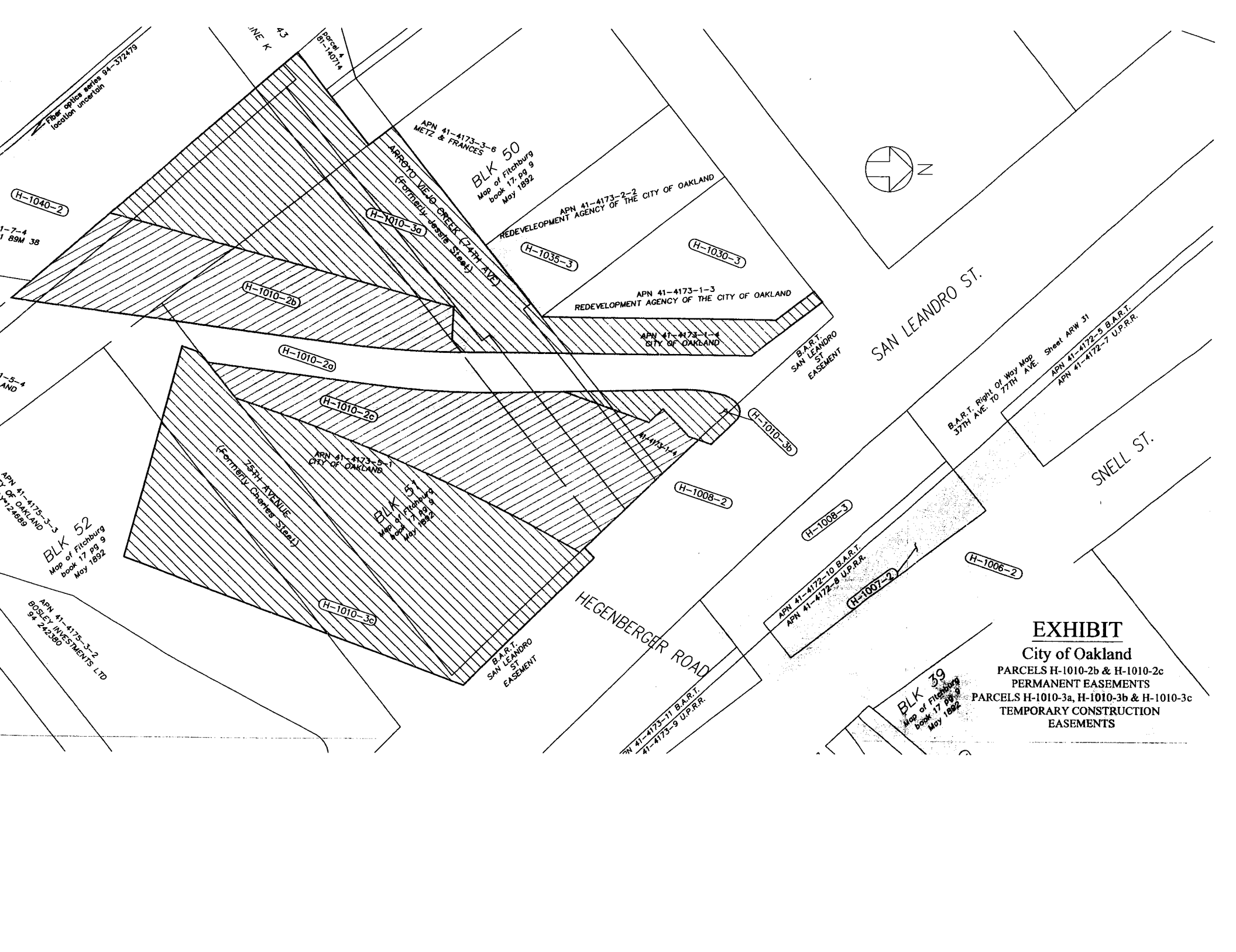
SCALE: 1"=60' DATE: 08-11-09

DR.NO. H-1010-3c

TEMPORARY CONSTRUCTION EASEMENT

This temporary construction easement is for a period during construction as part of the San Francisco Bay Area Rapid Transit District's Oakland International Airport Connector Project (OAC) in the city of Oakland, County of Alameda, State of California.

BART will provide the property owner no less than thirty (30) written days notice prior to commencing actual construction in the temporary construction easement area ("Commencement Notice"). The temporary construction easement will expire three (3) years after BART commences construction pursuant to the Commencement Notice.



EXHIBIT

City of Oakland

PARCELS H-1010-2b & H-1010-2c

PERMANENT EASEMENTS

PARCELS H-1010-3a, H-1010-3b & H-1010-3c

TEMPORARY CONSTRUCTION

EASEMENTS

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

RESOLUTION OF NECESSITY TO CONDEMN)	
REAL PROPERTY; MAKE FINDINGS AND)	
DETERMINATIONS; AUTHORIZE EMINENT)	Resolution No.
DOMAIN PROCEEDINGS AND APPLICATION)	
FOR POSSESSION PRIOR TO JUDGMENT FOR)	
BART PARCEL H-2050-2b;)	
<u>DRAW AND DEPOSIT WARRANT</u>)	

Recitals

1. The San Francisco Bay Area Rapid Transit District ("BART or District") is undertaking the construction of the BART - Oakland International Airport Connector Project (the "Project"). On March 28, 2002, the BART Board of Directors ("Board") certified the Final Environmental Impact Report and the Final Environmental Impact Statement (FEIR/FEIS) and adopted the Project. On February 22, 2007, the Board adopted modifications to the Project and an Addendum to the FEIR/FEIS.

2. The Project requires the acquisition of certain property owned by the City of Oakland ("City") that is defined in paragraph 4 of these Recitals as the Subject Property.

3. The District has complied with all requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") for the Project.

4. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, specifically, a permanent easement, together with all improvements situated thereon and with all rights appurtenant thereto, to certain real property owned in fee simple by the City, as its interests appear of record, which real property, or interests in property, is located

at 90 Hegenberger Road, Oakland, California, 94621, and is more specifically identified as BART Parcel H-2050-2b (portion of Assessor's Parcel Number 044-5020-005-52), and more particularly described and shown in Exhibit A, attached hereto and incorporated herein by this reference (the "Subject Property"). Parcel H-2050-2b is required and is to be acquired as a permanent easement, together with any improvements thereon. The permanent easement is required for the construction, operation, maintenance, repair, replacement, alteration and/or removal of elevated guideway and appurtenances thereto required as part of the Project.

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

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

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

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

1. The public interest and necessity require the Project;
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;

3. The Subject Property is necessary for the Project;
4. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record of the Subject Property.
5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future; and
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

BART Office of the General Counsel and/or its special counsel are hereby AUTHORIZED AND EMPOWERED:

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

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

To deposit the probable amount of just compensation, based on an appraisal, and to apply to

said court for an order permitting the San Francisco Bay Area Rapid Transit District to take immediate possession and use the Subject Property for said public uses and purposes.

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

To draw a warrant in the amount as determined by an appraisal of the fair market value of the Subject Property, made payable on Federal Transit Administration Grant Number CA-90-Y270 – FY04 Capital Projects, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said Office of the General Counsel or special counsel, or wire said sum directly to the State of California Treasurer's Office, to be deposited with said payee as security for the order for possession hereinbefore authorized.

#

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of the real property described in the Grant Deed to City of Oakland recorded November 6, 1972 as Document No. 72-150728, Official Records of Alameda County, said portion being more particularly described as follows:

Beginning on the Southeastern line of Hegenberger Road at the most western corner of that certain parcel of land described in the deed from W.K. Van Bokkelen et al to Jack Berrett Truck and Auto Leasing Inc., dated September 6, 1968 and recorded on Reel 2252 of Official Records, Image 347 in the Office of the Recorder of Alameda County, California, said Point of Beginning being located at North 2092417.97, East 6069977.07; thence South 41° 08' 32" East along the southwestern line of said parcel of land, 78.89 feet to the **True Point of Commencement** of the parcel of land described herein; thence continuing along said southwestern line, South 41° 08' 32" East, 92.35 feet; thence leaving said line, North 11° 47' 38" West, 42.90 feet; thence Northwesterly along a non-tangent curve to the right from a tangent which bears North 29° 28' 35" West, said curve having a radius of 625.00 feet through a central angle of 5° 02' 34" an arc length of 55.01 feet; thence North 24° 26' 01" West, 61.35 feet; thence South 1° 14' 55" West, 77.34 feet to the **True Point of Commencement**.

The above described parcel of land contains an area of 2,908 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distances.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8-11-09
Date



SURVEYOR'S STATEMENT:

This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August, 2009.



Lands of City of Oakland
A Portion of
Doc. No. 72-150728
Official Records Alameda County
APN 044-5020-005-52

8-11-09

APN 044-5020-5-56

N 2092417.97
E 6069977.07
(REF: RS 990 BK 18 PG 50-60)

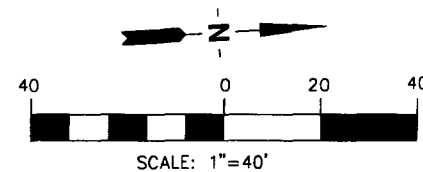
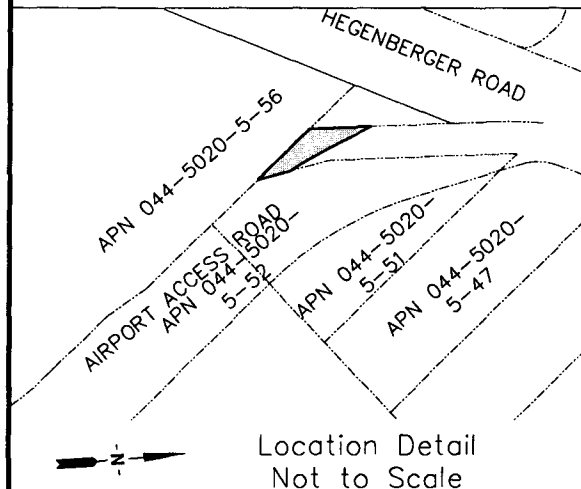
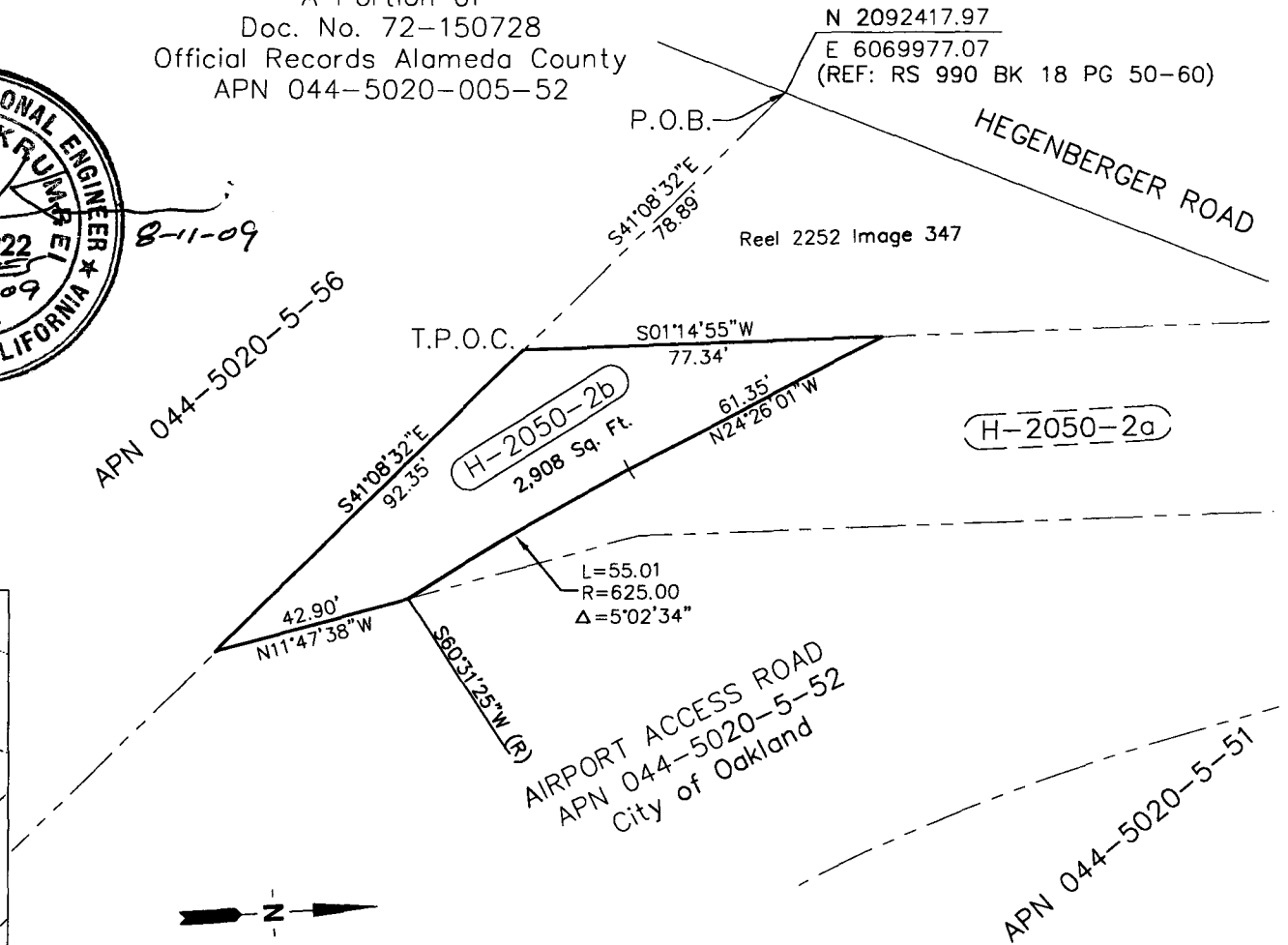
P.O.B.

HEGENBERGER ROAD

Reel 2252 Image 347

LEGEND:

- P.O.B. - Point of Beginning
- T.P.O.C. - True Point of Commencement
- (R) - Radial
- R - Radius
- L - Length of Arc
- △(Delta) - Central Angle of Arc



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83, EPOCH 1991.35. MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS NOTED.



EXHIBIT "A"

ALAMEDA CO. RTE. OAK RRE/SL

SCALE: 1"=40' DATE: 08-11-09

DR.NO. H-2050-2b

HEGENBERGER ROAD

4410-2-2
W-075987
LONGSHOREMENS & WHSE UNION LOCAL 6

PARDEE DRIVE
PARDEE DRIVE

APN 42-4420-4 BA
73-170472

HEGENBERGER ROAD

APN 44-5020-5-56
BROTHERHOOD TEAMSTERS &
AUTO TRUCK DRIVERS
LOCAL UNION 70 AX-083620
RE: 1530 IM: 485 EXCEPTING RE: 3326 IM: 520

H-3000-1

H-3000-1

H-2050-2b

H-2050-2g

H-2030-2

APN 44-5020-5-52
CITY OF OAKLAND
72-150728

APN 44-5020-5-51
UNITED LABOR
BANK FSB

ROS 1600
BK 22 page 97

APN 44-5020-5-47
UNITED LABOR
BANK FSB

APN 44-5020-5-42
HEGENBERGER ROAD
LLC
ROS 376
BK 7 page 43

AIRPORT DRIVE

AIRPORT ACCESS ROAD

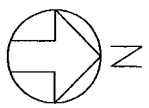
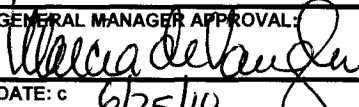
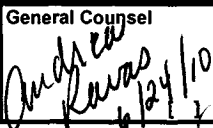

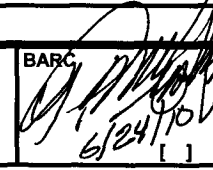


EXHIBIT
City of Oakland
PARCEL H-2050-2b
PERMANENT EASEMENT



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 6/25/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Barbara Inaba Dept: Real Estate	General Counsel  6/24/10	Controller/Treasurer  6/24/10	District Secretary []	BART  6/24/10
Signature/Date: Barbara 6/24/10				
TITLE:				

Condemnation of Real Property for the Oakland Airport Connector Project (OAC) BART Parcels H-1030-3 and H-1035-3

NARRATIVE:

PURPOSE:

To adopt by a two-thirds vote of the entire Board the attached Resolution of Necessity to Condemn in order to acquire temporary construction easement interests in real property located at 73rd Avenue, Oakland, California 94621. These easement interests in the properties are required for the construction of the Oakland Airport Connector Project.

DISCUSSION:

On March 28, 2002, the BART Board of Directors ("Board") certified the Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/FEIS) and adopted the BART-Oakland International Airport Project (Project). On February 22, 2007, the Board adopted an Addendum to the FEIR/FEIS (Addendum). The Project consists of an Automated Guideway Transit (AGT) system connecting the BART Coliseum Station to Oakland International Airport by a 3.2 mile long exclusive guideway with potential for a future intermediate station.

The San Francisco Bay Area Rapid Transit District ("BART") proposes to purchase certain real property interests for the purpose of designing, constructing, operating and maintaining an Automated Guideway Transit (AGT) system. The Project requires the acquisition of approximately 13,732 square feet of temporary construction easement (BART Parcel No. H-1030-3) in property owned by the Redevelopment Agency of the City of Oakland located at 73rd Avenue (Assessor's Parcel No. 041-4173-001-03) and approximately 15,211 square feet of temporary construction easement (BART Parcel H-1035-3) in property located next to H-1030-3 and owned by the Redevelopment Agency of the City of Oakland at 728 73rd Avenue (Assessor's Parcel No. 041-4173-002-02), Oakland, California 94621, (collectively, "Subject Property").

The proposed use of the Subject Property is for a work area to construct the elevated guideway, a terminal station and appurtenances thereto. Project features proposed on or near the Subject Property have been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible.

The Subject Property is required for the successful construction of the Project. The Subject Property is uniquely suited to support the required Project purposes.

The offer required by Section 7267.2 of the Government Code was made to the owner of record of the Subject Property on February 3, 2010. The estimated market value of the required property interest in the Parcel H-1030-3 is \$52,189 and in H-1035-3 is \$57,811 for a total of \$110,000.

To date, negotiations appear to be at an impasse. The property owner was notified on May 24, 2010 of the Board's hearing of this matter and notified on June 9, 2010 of the new Board hearing date. On June 1, 2010, the property owner provided its written request to reserve its right to appear and speak at the Board hearing.

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

1. That the public interest and necessity require the Project.
2. That the Project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. That the Subject Property is necessary for the Project.
4. That the offer required by California Government Code Section 7267.2 has been made to the owner or owners of record of the Subject Property.

FISCAL IMPACT:

Funding of \$110,000 for the acquisition of Subject Property (1) \$52,189 for BART Parcel No. H-1030-3 and (2) \$57,811 for BART Parcel No. H-1035-3, is included in the total project budget for the FMS #01ZJ – Oakland Airport Connector Right of Way Acquisition. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funding will come from the following source:

<u>F/G 52W - CA-90-Y270 - FY04 Capital Assistance Program</u>	<u>\$110,000</u>
---	------------------

As of month ending 5/30/2010, \$8,353,000 is available for commitment from this fund source for this project and BART has committed \$8,146,962 to date. There is a pending commitment of \$47,926 in BART's financial management system. This action will commit \$110,000 leaving an uncommitted balance of \$48,112 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

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

RECOMMENDATION:

Adoption of the following motion:

MOTION:

Adopt the attached, "Resolution of Necessity to Condemn Real Property; Make Findings and Determinations; Authorize Eminent Domain Proceedings and Application for Possession Prior to Judgment for BART Parcels H-1030-3 and H-1035-3; Draw and Deposit Warrant." (Two-thirds vote required.)

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

RESOLUTION OF NECESSITY TO CONDEMN)	
REAL PROPERTY; MAKE FINDINGS AND)	
DETERMINATIONS; AUTHORIZE EMINENT)	Resolution No.
DOMAIN PROCEEDINGS AND APPLICATION)	
FOR POSSESSION PRIOR TO JUDGMENT FOR)	
BART PARCEL H-1030-3 and H-1035-3;)	
<u>DRAW AND DEPOSIT WARRANT</u>)	

Recitals

1. The San Francisco Bay Area Rapid Transit District ("BART or District") is undertaking the construction of the BART - Oakland International Airport Connector Project (the "Project"). On March 28, 2002, the BART Board of Directors ("Board") certified the Final Environmental Impact Report and the Final Environmental Impact Statement (FEIR/FEIS) and adopted the Project. On February 22, 2007, the Board adopted modifications to the Project and an Addendum to the FEIR/FEIS.

2. The Project requires the acquisition of certain property owned by the Redevelopment Agency of the City of Oakland ("Redevelopment Agency") that is defined in paragraph 4 of these Recitals as the Subject Property.

3. The District has complied with all requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") for the Project.

4. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, specifically, temporary construction easements, together with all improvements situated thereon and with all rights appurtenant thereto, to certain real property owned

in fee simple by the Redevelopment Agency, as its interests appear of record, which real property, or interests in property, is located at 73rd Avenue and 728 73rd Avenue, Oakland, California, 94621, and is more specifically identified as BART Parcels H-1030-3 and H-1035-3 (Assessor's Parcel Numbers 041-4173-001-03 and 041-4173-002-02), and more particularly described and shown in Exhibits A and B, attached hereto and incorporated herein by this reference (the "Subject Property"). Parcels H-1030-3 and H-1035-3 are required and are to be acquired as temporary construction easements, together with any improvements thereon. The temporary easements are required to provide access to the construction and for the storage of materials and other uses that may be required in order to complete the construction of the Project and will be required during the course of the construction.

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

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

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

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

1. The public interest and necessity require the Project;

2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. The Subject Property is necessary for the Project;
4. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record of the Subject Property.
5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future; and
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

BART Office of the General Counsel and/or its special counsel are hereby AUTHORIZED AND EMPOWERED:

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

To prepare and prosecute in the name of the San Francisco Bay Area Rapid Transit District

such proceedings in the proper court as are necessary for such acquisition; and

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

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

To draw a warrant in the amount as determined by an appraisal of the fair market value of the Subject Property, made payable on Federal Transit Administration Grant Number CA-90-Y270 – FY04 Capital Projects, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said Office of the General Counsel or special counsel, or wire said sum directly to the State of California Treasurer's Office, to be deposited with said payee as security for the order for possession hereinbefore authorized.

###

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

A portion of Lots 19, 21, 23, 24, 26 and 28 and all of Lots 25 and 27 as they appear on Block 50 of that certain Map entitled "Resubdivision of the Townsite of Fitchburg," filed May 18, 1892 at Map Book 17 on Page 9 in the Office of the Recorder of Alameda County, California, said portions being more particularly described as follows:

BEGINNING on the southeastern line of 73rd Avenue (formerly George Street) at the westernmost corner of the hereinabove referred to Lot 27, said Point of Beginning being located at North 2100998.45, East 6071061.79; thence Northeasterly along said line of 73rd Avenue, N52°04'29"E, 120.00 feet; thence leaving said line, S37°48'13"E, 38.84 feet; thence S00°29'17"W, 193.08 feet, more or less, to a point on the lot line common to Lot 28 and Lot 30 of said Block 50 of the Map referred to hereinabove, distant thereon northwesterly 10.00 feet along said common line from the southernmost lot corner common to said Lots 28 and 30 as shown on said Map; thence Northwesterly along said common lot line and along the lot line common to Lots 27 and 29 of said Block 50, N37°54'38"W, 190.13 feet, more or less, to the **Point of Beginning**.

The above described parcel of land contains an area of 13,732 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance.

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8/11/09
Date



SURVEYOR'S STATEMENT:

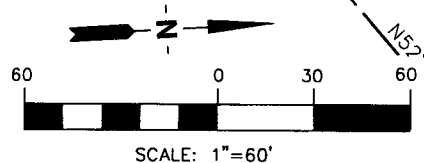
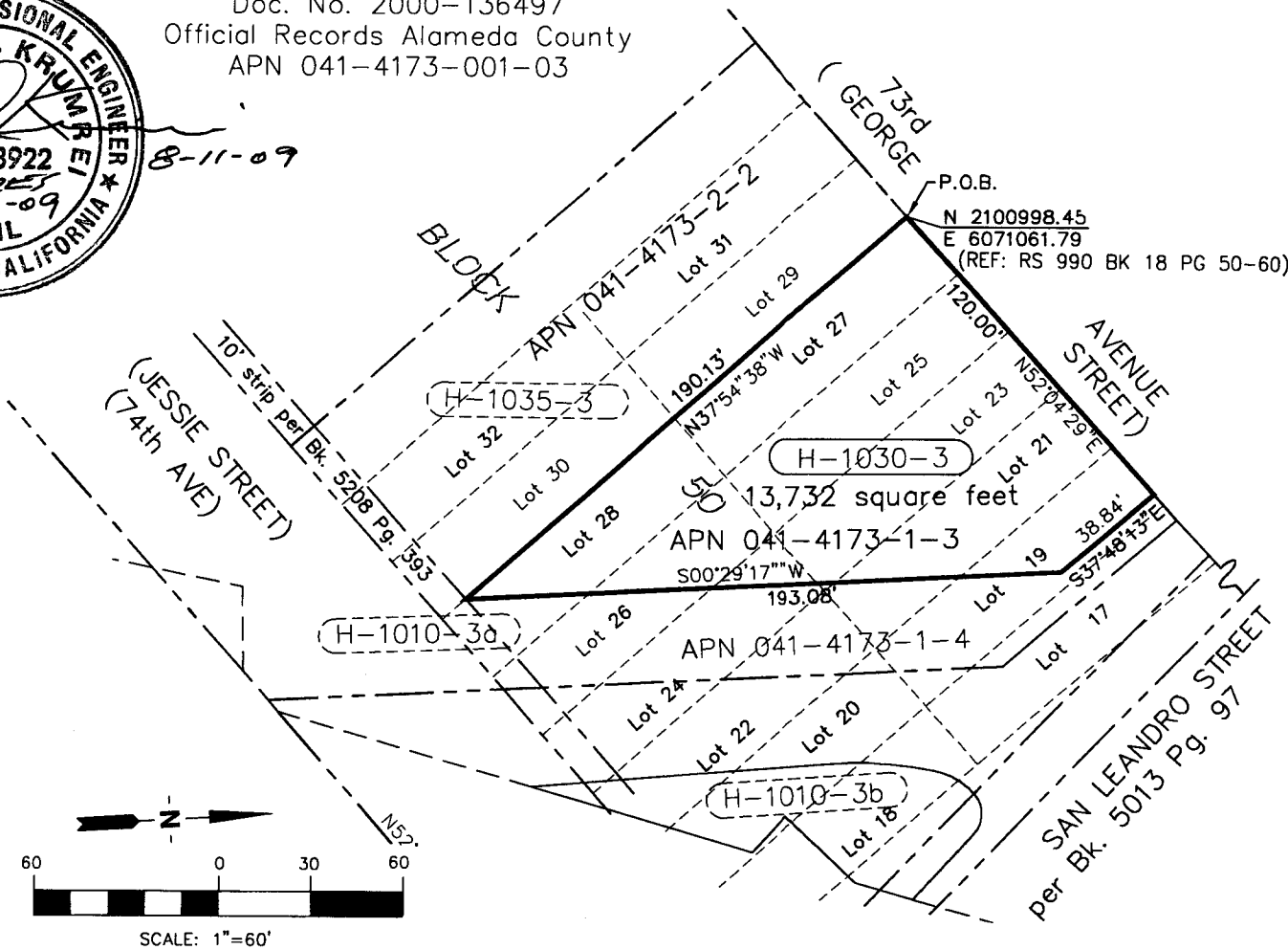
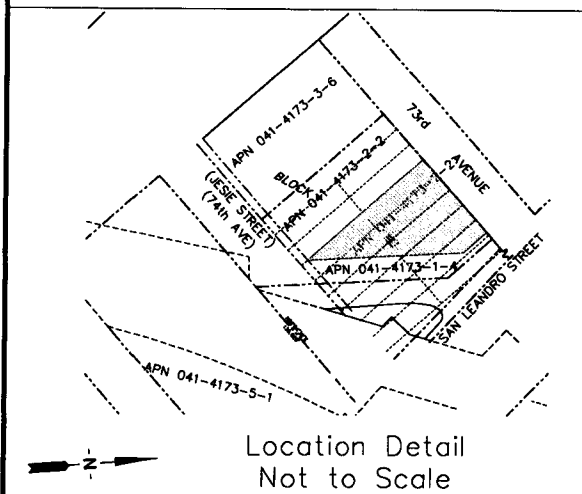
This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August, 2009.



Lands of Redevelopment Agency
of the City of Oakland
A Portion of Block 50, Resubdivision
of The Townsite of Fitchburg
Doc. No. 2000-136497
Official Records Alameda County
APN 041-4173-001-03

LEGEND:

- P.O.B. - Point of Beginning
APN - Assessor's Parcel No.
(H-1030-3) - OAC Parcel No.



COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83, EPOCH 1991.35. MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEROF, EXCEPT AS NOTED.



SCALE: 1"=60' DATE: 08-11-09

EXHIBIT "A"

ALAMEDA CO. RTE. OAK RRE/SL

DR.NO. H-1030-3

TEMPORARY CONSTRUCTION EASEMENT

This temporary construction easement is for a period during construction as part of the San Francisco Bay Area Rapid Transit District's Oakland International Airport Connector Project (OAC) in the city of Oakland, County of Alameda, State of California.

BART will provide the property owner no less than thirty (30) written days notice prior to commencing actual construction in the temporary construction easement area ("Commencement Notice"). The temporary construction easement will expire three (3) years after BART commences construction pursuant to the Commencement Notice.

EXHIBIT 'A'

Certain real property situate in the City of Oakland, County of Alameda, State of California, described as follows:

Lots 29, 31, 33 and portions of Lots 30,32,34,35, and 36 of Block 50 of that certain Map entitled "Resubdivision of the Townsite of Fitchburg," filed May 18, 1892 in Map Book 17 at Page 9 in the Office of the County Recorder of Alameda County, California, said portions being more particularly described as follows:

BEGINNING at the northerly corner of said Lot 29 being located at North 2100998.45, East 6071061.79; thence along the common line between lots 29 and 27 and between Lots 30 and 28 S37°54'38"E, 190.13 feet more or less to the northeastern line of 74th Avenue (formerly Jessie Street) per the acceptance of Grant Deed recorded July 22, 1948 at Book 5208 Page 393 in the Office of the County Recorder of Alameda County, California; thence along last said line S52°03'26"W, 80.00 feet; thence leaving last said line 5' southwesterly of the common line between Lots 34 and 36 and between Lots 33 and 35 N37°54'38"W, 190.16 feet, more or less, to southeastern line of 73rd Avenue per said Map; thence along last said line N52°04'29"E, 80.00 feet to the **POINT OF BEGINNING**.

The above described parcel of land contains an area of 15,211 square feet, more or less.

Coordinates and bearings used in the above description are based on the California Coordinate System of 1983, Zone III, Epoch 1991.35 and distances are grid distances. Multiply distances described by 1.0000707 to obtain ground distance

This real property description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.


Professional Registered Engineer

8-31-09
Date



SURVEYOR'S STATEMENT:

This plat was prepared by me
or under my direction in
conformance with the Land
Surveyor's Act in August, 2009.

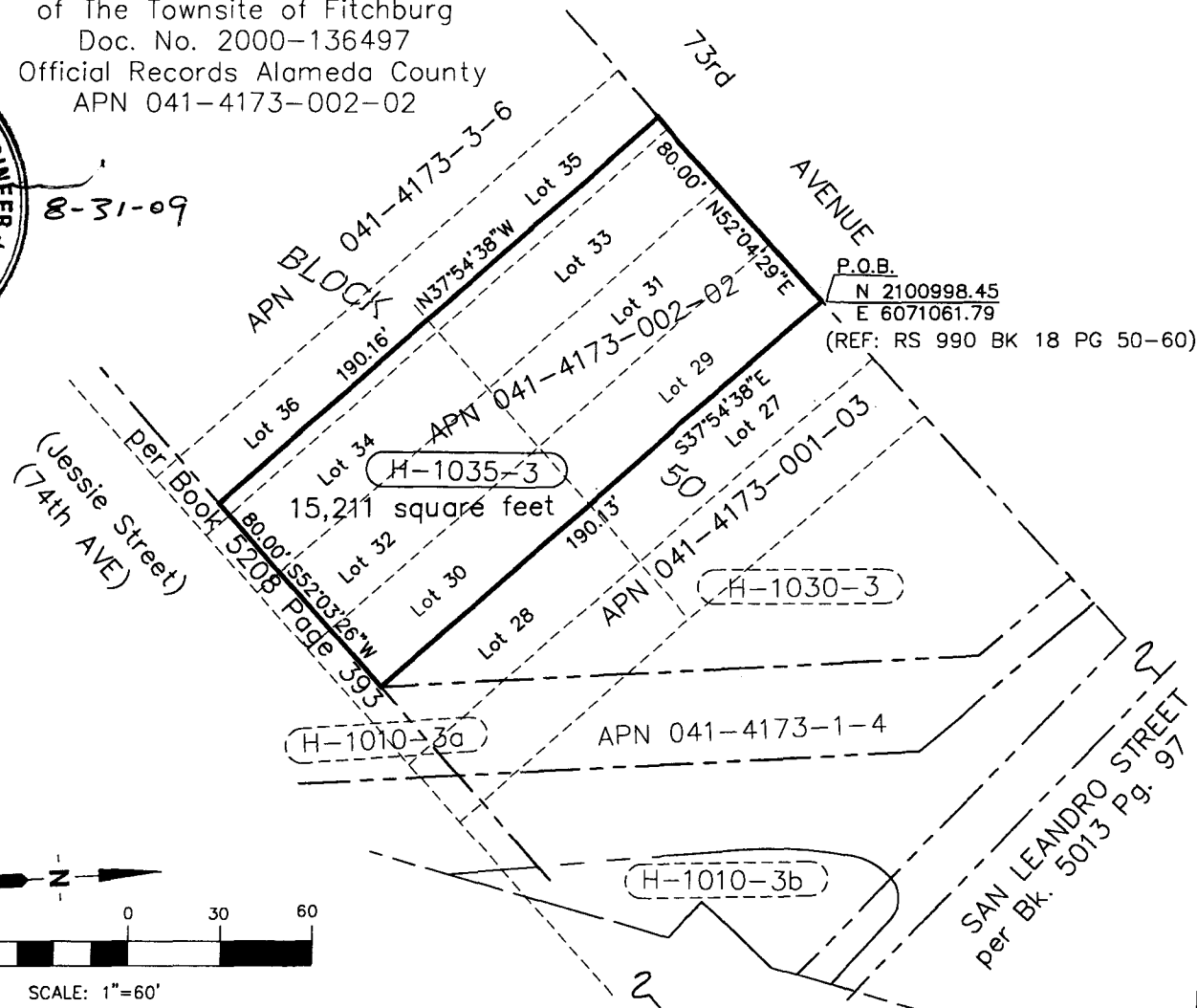
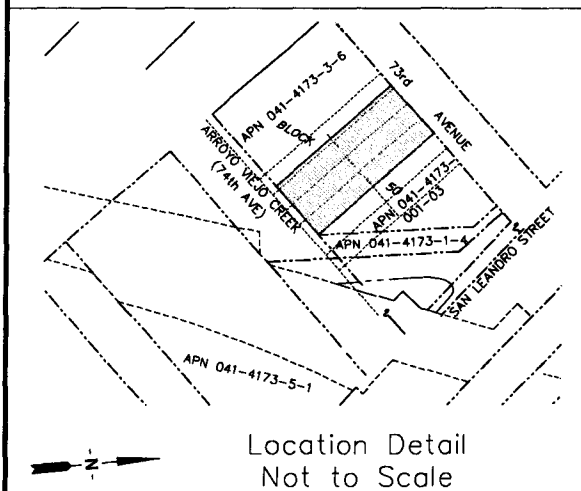
Lands of Redevelopment Agency
of the City of Oakland
A Portion of Block 50, Resubdivision
of The Townsite of Fitchburg
Doc. No. 2000-136497
Official Records Alameda County
APN 041-4173-002-02



8-31-09

LEGEND:

- P.O.B. - Point of Beginning
APN - Assessor's Parcel No.
(H-1030-3) - OAC Parcel No.



P.O.B.
N 2100998.45
E 6071061.79
(REF: RS 990 BK 18 PG 50-60)

COORDINATES, BEARINGS AND DISTANCES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III, NAD 83, EPOCH 1991.35. MULTIPLY DISTANCES SHOWN BY 1.0000707 TO OBTAIN GROUND LEVEL DISTANCES.
ALL DISTANCES ARE IN FEET AND/OR DECIMALS THEREOF, EXCEPT AS NOTED.



EXHIBIT "A"

ALAMEDA CO. RTE. OAK RRE/SL

SCALE: 1"=60'

DATE: 08-28-09

DR.NO. H-1035-3

TEMPORARY CONSTRUCTION EASEMENT

This temporary construction easement is for a period during construction as part of the San Francisco Bay Area Rapid Transit District's Oakland International Airport Connector Project (OAC) in the city of Oakland, County of Alameda, State of California.

BART will provide the property owner no less than thirty (30) written days notice prior to commencing actual construction in the temporary construction easement area ("Commencement Notice"). The temporary construction easement will expire three (3) years after BART commences construction pursuant to the Commencement Notice.





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia delBougle</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors	
DATE: c <i>6/25/10</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: Olga Perez Dept: TSD <i>9</i>	General Counsel <i>Andrew...</i> <i>6/25/10</i>	Controller/Treasurer <i>...</i> <i>6/25/10</i>	District Secretary <i>Paul...</i> <i>6/25/10</i>
Signature/Date: <i>MD 6/25/2010</i>		[] []	

**AUTHORITY TO AWARD PROFESSIONAL SERVICES AGREEMENT NO. 04SE-513
TO PROVIDE
FINAL PLANS, SPECIFICATIONS AND COST ESTIMATE FOR THE EAST CONTRA
COSTA COUNTY TRANSIT PROJECT
(eBART) HILLCREST PARKING LOT**

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Agreement No. 04SE-513 in an amount not to exceed \$450,000, for a term of one year, to AGS, Inc. for preparation of Final Plans, Specifications and Cost Estimate for the East Contra Costa County Transit Project (eBART) Hillcrest Parking Lot in support of the eBART Project (Project).

DISCUSSION:

On April 23, 2009, the Board adopted 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. The extended service will follow an alignment in the median of State Route 4 (SR4) from the Pittsburg/Bay Point BART Station to an end of line station (Hillcrest Station) east of the Hillcrest Avenue Overcrossing.

A parking lot will be provided to support the proposed end of line Hillcrest Station. Plans and Specifications for the parking lot have been prepared to a 35% level preliminary design by others. As a part of the eBART Project, BART issued a Request for Statement of Qualifications (RFSOQ) seeking professional engineering services to prepare the contract documents for this new parking lot near Hillcrest Avenue in Antioch, California.

An Advance Notice of the RFSOQ was mailed to 300 prospective consultants on May 24, 2010 from lists of known Architect & Engineering firms developed by the District which includes both prime and subconsultant firms made up of disadvantaged, minority and women-owned business entities. The RFSOQ was advertised in twelve publications, locally and nationally. A pre-submittal meeting was held on April 28, 2010 that was attended by 40 prospective proposers.

Nine Statement of Qualifications (SOQs) were received on May 11, 2010, from the following firms:

<u>Firm</u>	<u>Location</u>
AGS, Inc.	San Francisco
BKF Engineers	Pleasanton
Chow Engineering, Inc.	Oakland
HQE Incorporated	Oakland
KCA Engineers, Inc.	San Francisco
Kal Krishnan Consulting Services, Inc.	Oakland
KPFF Consulting Engineers	San Francisco
Permco Engineering & Management	Concord
WRECO	Walnut Creek

The SOQs were evaluated by a Selection Committee chaired by BART Contract Administration and composed of representatives from BART's Transit System Development department, BART's Office of Civil Rights, the City of Antioch and other external participants. SOQs were first reviewed to determine if the submittals were considered responsive to the requirements of the RFSOQ. Subsequently, the submittals were evaluated and scored on the basis of the criteria stated in the RFSOQ including the qualifications of the proposing firms and teams. As a result of the technical evaluation, all firms were short-listed and invited to participate in the oral presentations. Oral presentations were conducted on June 4 and 7, 2010.

The Selection Committee recommends the award of Professional Services Agreement No. 04SE-513 to provide Final Plans, Specifications and Cost Estimate for the eBART Hillcrest Parking Lot to AGS, Inc. based on its highest cumulative technical evaluation and oral presentation scores. Staff determined that the rate structure for a cost-plus-fixed-fee Agreement is fair and reasonable and that AGS, Inc. is a responsible organization.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 16% for MBEs and 20% for WBEs. AGS, Inc. committed to 45.5% MBE and 54.5% WBE. The Office of Civil Rights has determined that AGS, Inc. has exceeded both MBE and WBE availability percentages for this Agreement.

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

FISCAL IMPACT:

Funding of \$450,000 for the award of Agreement No. 04SE-513 is included in the total project budget for FMS #04SE - eBART Final Design. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this Agreement will come from the following source:

F/G 61T - RM2, Regional Traffic Relief Plan	\$450,000
---	-----------

As of month ending 5/30/2010, \$11,300,000 is available for commitment from this fund source

for this project and BART has committed \$3,387,239 to date. There is a pending commitment of \$4,883,993 in BART's financial management system. This action will commit \$450,000 leaving an uncommitted balance of \$2,578,768 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

Not to authorize award of the proposed Agreement. If the Agreement is not awarded, BART would seek other means of completing the final plans, specifications and cost estimate for the eBART Hillcrest Avenue parking lot.

RECOMMENDATION:

Staff recommends that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Agreement No. 04SE-513 to AGS, Inc. of San Francisco, California to provide Final Plans, Specifications and Cost Estimate for the eBART Hillcrest Parking Lot in an amount not to exceed \$450,000 for a term of one year, 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 DelBenedetto</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Keith Fullington Dept: <i>Keith Fullington</i>	General Counsel: <i>Andrew Rago</i>	Controller/Finance: <i>[Signature]</i>	District Secretary: <i>[Signature]</i>	BAO: <i>Paul [Signature]</i>
Signature/Date: <i>6/22/2010</i>	<i>6/22/10</i>	<i>6/22/10</i>	<i>6/23/10</i>	<i>6/23/10</i>
Status: Approved		Date Created: 05/12/2010		

TITLE:

**AUTHORIZE EXECUTION OF CHANGE ORDER NO. 2 - ADD
THREE ADDITIONAL STATIONS
480 VOLT SWITCHGEAR REPLACEMENT PROJECT - PHASE 2
CONTRACT NO. 15IB-120**

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 2 - Add Three Additional Stations to Contract No. 15IB-120; The 480 Volt Switchgear Replacement Project - Phase 2.

DISCUSSION:

On September 24, 2009 the Board of Directors authorized the General Manager to award Contract No. 15IB-120, 480 Volt Switchgear Replacement Project - Phase 2, to Blocka Construction, Inc. for the Base Bid amount of \$6,050,000. The General Manager was further authorized to exercise Option A - Three Additional Stations in the amount of \$810,000 and exercise Option B - Two Maintenance Shop Upgrades in the amount of \$1,240,000. The District had 180 days to exercise the Options.

On or about May 4, 2010, the Project Manager was preparing the Change Order to exercise Option A for the General Manager's signature when it was pointed out that the 180 days started at Notice of Award on October 7, 2009, not at Notice to Proceed on November 30, 2009, as had been thought. The time for exercising the Options had elapsed.

The Contractor, Blocka Construction, Inc., has agreed to stand by the price submitted in their original Bid Price for this work. This action seeks to authorize the General Manager to execute Change Order No. 2 to add Three Additional Stations to the Contract scope of work in the amount of \$810,000 and extend the Contract duration by 90 days as described in the scope of work for the expired Option A.

The 480 Volt Switchgear distributes electrical power from PG&E to operations-critical systems such as station lighting, ventilation, elevators, escalators, fare collection equipment,

and, through uninterruptible power supplies, feeds safety-critical loads such as train control and communication equipment. The existing equipment was installed with the original BART construction in the early 1970s and has exceeded its life expectancy. In a 2007 study, the 480 Volt Switchgear Replacement Project was identified as the number one priority in the Station Modernization Program. Contract No. 15IB-120 is the second of two contracts that will replace the 480 Volt Switchgear in the original BART stations.

Pursuant to Board Rule 5-2.4, Change Orders involving expenditures greater than \$200,000 require Board Approval

The Office of General Council will review and approve the Change Order as to form prior to execution.

The Procurement Department will review the Change Order prior to execution for compliance with Procurement guidelines.

Fiscal Impact:

None. The Treasurer/Controller has already certified funding is available for the entire Contract, including Options A and B.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

Do not re-authorize the General Manager to execute Change Order No. 2 - Add Three Additional Stations in the amount of \$810,000 and extend the Contract duration by 90 days. If this Change Order is not executed, the Project will forfeit its portion of ARRA funding.

RECOMMENDATION:

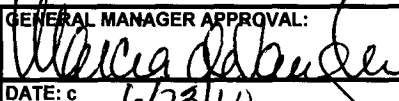
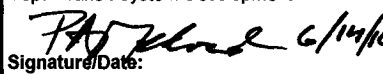
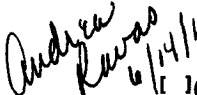

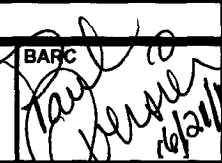
Adoption of the following motion.

MOTION:

The General Manager is authorized to execute Change Order No. 2 - Add Three Additional Stations in the amount of \$810,000 and extend the Contract duration by 90 days for Contract No. 15IB-120, 480 Volt Switchgear Replacement Project - Phase 2



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the E&O Committee		
DATE: c 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept. Transit System Development  Signature/Date: 6/14/10	General Counsel  6/14/10	Controller/Treasurer  6/14/10	District Secretary []	BARC  6/21/10

TITLE:
CHANGE ORDER NO. 2 TO CONTRACT NO. 02ED-110, WSX FREMONT CENTRAL PARK SUBWAY

NARRATIVE:

PURPOSE: To obtain Board authorization for the execution of Change Order No. 2 (Bid Item Quantity Variation) in the amount of \$258,500.00 to Contract No. 02ED-110, WSX Fremont Central Park Subway.

DISCUSSION: Award of Contract No. 02ED-110 to Shimmick Construction Co. Inc./Skanska USA Civil West California District Inc./ a Joint Venture, in the amount of \$136,750,550.00 was authorized by the Board on May 28, 2009. Notice to Proceed was issued on August 24, 2009.

The purpose of this Contract Change Order is to compensate the Contractor for a quantity variation associated with Bid Item #79, Lime Treated Subgrade, 12 Inches. The actual quantity associated with the work is significantly greater than the Engineer's estimated quantity for Bid Item #79. The Contract unit price for Lime Treated Subgrade, 12 Inches, is \$75.00/SY.

Lime treatment of subgrade is a means of ground stabilization prior to the placement of engineered fill and asphalt pavement as required in the construction of parking lots. Parking lots are required in this Contract primarily as replacement parking for the public in Fremont Central Park. Providing replacement public parking was critical path work for the Contractor in order to commence work on subway related activities. By agreement with the City of Fremont, replacement parking had to be provided before the existing parking lots could be taken out of service. Therefore in order to maintain project schedule, all of the necessary work associated with the replacement parking lots, including provision of approximately 9,000 SY of lime treated subgrade, was performed by the Contractor and provisionally paid for by the District at the original Contract unit price. In addition, approximately 5,000 SY of Lime Treated Subgrade will be required for another parking area to be constructed under this Contract. Therefore, the total estimated quantity of Lime Treated Subgrade to be constructed under this Contract is 14,000 SY (9,000 SY + 5,000 SY). In accordance with Contract General Condition GC4.5 governing increased quantities in excess of 125% of the Engineer's estimate, the parties negotiated an adjusted unit price for the excess in the amount of \$19.00/SY.

Through this Contract Change Order, BART will compensate the Contractor for the difference between the Engineer's original estimated quantity and the actual final quantity, using the Contract unit price for the first 125% of the Engineer's estimated quantity and the adjusted unit

price for the remainder. The District's payment to the Contractor for the quantity in excess of 125% that was paid at the original Contract unit price (now subject to the lower adjusted unit price) will be credited to the District. The net result is an increase in compensation due the Contractor in the amount of \$258,500.00.

Pursuant to Board Rule 5-2.4, any Change Order involving an expenditure greater than \$200,000 requires Board approval.

The Office of the General Counsel will approve this Change Order as to form prior to execution.

Contract Administration will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT: Funding of \$258,500 for Contract 02ED-110 for Change Order No. 2 is included in the total project budget for the WSX Fremont Central Park Subway. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds will come from the following:

<u>WSX RM2/Measure B</u>	<u>63K</u>	<u>\$258,500</u>
---------------------------------	-------------------	-------------------------

As of 05/02/10, \$189,398,000 is available for commitment from this fund source for Project 02ED, and \$152,185,390 has been committed by BART, to date. There is \$528,996 in pending commitments in BART's financial management system. This action will commit an additional \$258,500, leaving an uncommitted balance of \$36,425,114 in this fund source.

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

ALTERNATIVES: Not implementing Change Order No. 2 would prevent the District from fairly compensating the Contractor for work performed and prevent the District from recovering a credit due to the reduced unit rate associated with the portion of the work in excess of 125% of Bid Item #79.

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

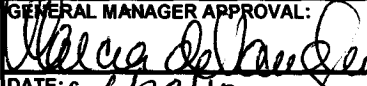



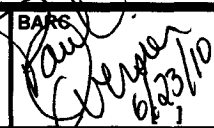
MOTION: The General Manager is authorized to execute Change Order No. 2 to Contract No. 02ED-110, WSX Fremont Central Park Subway, for the quantity variation associated with Bid Item #79, in the amount of \$258,500.00.

FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget 2007	Current Forecast 6/23/10	REMARKS
ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	<i>Completed</i>
TOTAL E, E & CM	\$92,958,175	\$97,987,009	
CONSTRUCTION			
Fremont Subway	\$282,000,000	\$164,100,660	Includes capacity for CO#2 (\$258,500)
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
TOTAL CONSTRUCTION	\$658,000,000	\$538,200,660	
BART SERVICES			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
TOTAL BART SERVICES	\$0	\$15,000,000	
PROGRAM COSTS			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	
Right-Of-Way Acquisitions	\$80,394,486	\$81,202,672	
Contingency	\$2,776,319	\$86,048,837	
TOTAL PROGRAM COSTS	\$139,041,825	\$238,812,331	
TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 6/23/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept. Transit System Development  Signature/Date: 6/23/10	General Counsel  6/23/10	Controller/Treasurer  6/23/10	District Secretary []	BART  6/23/10

TITLE:

PREQUALIFICATION OF PROPOSERS FOR THE WSX LINE, TRACK, STATION AND SYSTEMS CONTRACT NO. 02EE-120

NARRATIVE:

PURPOSE: To obtain Board approval of the list of Prequalified Prospective Design-Build Entities ("PDBEs") that have submitted Qualification Statements for the Warm Springs Extension ("WSX") Line, Track, Station and Systems Contract No. 02EE-120.

DISCUSSION: The WSX Project is being implemented primarily via two major construction contracts: the Fremont Central Park Subway Contract No. 02ED-110, which is presently underway, and the Line, Track, Station and Systems ("LTSS") Contract No. 02EE-120, which is currently being procured. The LTSS Contract is a design-build contract which will provide the District with final design services and construction of the trackway, systems and station in the Warm Springs district of Fremont. On October 9, 2003, the Board authorized the General Manager to implement the design-build process for the WSX Project pursuant to California Public Contract Code Sections 20209.5 *et seq.* (the "Design Build Statute"). The procurement process requires the prequalification of PDBEs and ultimately the selection of a preferred Proposer by means of a best-value award.

On April 6, 2010, the District issued Request for Qualification Statement ("RFQ") No. 02EE-120Q seeking submittal of Qualification Statements. The RFQ was advertised in 16 publications, and 86 interested parties obtained a copy from the District. An Addendum was issued on May 6, 2010.

The LTSS Contract has also been the subject of an extensive outreach effort by District staff. Most recently formal outreach sessions were held on November 4, 2009 and again on April 20, 2010 following the Pre-Submittal Meeting for the RFQ. Each meeting was attended by approximately 200 participants. Staff also sent flyers via email to over 2,200 MBE/WBE and small business firms providing information on the District's Non-Discrimination in Subcontracting Program and how the firms might participate on the LTSS Contract. Information was also posted to the BART WSX website including the RFQ, Pre-Submittal & Outreach Meeting Sign in Sheets, Pre-Submittal & Outreach Meeting PowerPoint Presentation, Interested Parties List for the RFQ, and the one Addendum to the RFQ. In addition, a series of "Frequently Asked Questions" was developed by staff and posted on the website along with responses to actual questions received from interested parties.

To comply with the prequalification requirement embodied in the Design Build Statute, BART specified that all PDBEs under the RFQ must prequalify the proposed Design-Build Entity, consisting of a Design-Builder, General Contractor, Principal Engineer, Architect of Record, and subcontractors for Traction Power Equipment Installation, Train Control Equipment Installation, Communications Equipment Installation, Systems Integration, as well as any Heavy and Highway Subcontractors that may be required for the work ("Mandatory Prequalification"). Prequalification of other subcontractors was optional under both the Design Build Statute and the RFQ ("Optional Prequalification").

On May 18, 2010, five Qualification Statement submittals were received.

In accordance with guidelines established by the District, a Qualification Statement Evaluation Committee ("Committee") was established to evaluate the Qualification Statements in a manner consistent with District guidelines and the requirements of the Design Build Statute. The Committee was comprised of staff from Transit System Development, Contract Administration, Office of Civil Rights and Maintenance and Engineering.

The Committee reviewed the Qualification Statements submitted, and determined that all five PDBEs met the prequalification requirements. The five recommended Prequalified PDBEs are:

1. Kiewit Pacific Co.
 2. Shimmick/Flatiron/Herzog, a Joint Venture
 3. Stacy and Witbeck, Skanska, Steiny, a Joint Venture
 4. Tutor Perini/Parsons, a Joint Venture
 5. The Whiting-Turner Contracting Company
- (See Attachment 1 for a complete listing of Prequalified PDBEs.)

Only Prequalified PDBEs will be eligible to propose in response to the Request for Proposals ("RFP"). Prequalified PDBEs may not substitute members of their prequalified teams without the District's approval according to the terms of the RFQ or RFP. Approval to substitute a firm prequalified pursuant to the Mandatory Prequalification process will be granted only if the replacement firm has been prequalified as part of another PDBE. The addition of firms for disciplines other than those requiring Mandatory Prequalification will not require prequalification. Where more than one firm is prequalified as a subcontractor for a particular type of work, the PDBE retains the right to include or not to include a given prequalified subcontractor in its actual proposal.

Following Board approval of the list of Prequalified PDBEs, the General Manager will transmit the Notice of Approved Prequalified PDBEs to all PDBEs that submitted Qualification Statements, subject to the District's protest procedures. The present schedule calls for the RFP to be issued to the Prequalified PDBEs in late July 2010, with Proposals expected in November and award expected in the second quarter of 2011.

The LTSS Contract will be funded with state and local funds. Accordingly, the RFP will include the District's Non-Discrimination in Subcontracting Program with availability percentages for

PREQUALIFICATION OF PROPOSERS FOR WSX CONTRACT NO. 02EE-120

different types of work as follows:

Design:	16% MBE and 20% WBE
Construction:	23% MBE and 12% WBE
Material Procurement:	10% MBE and 12% WBE

FISCAL IMPACT: There is no fiscal impact associated with approving the list of Prequalified PDBEs. The Board will be requested to authorize award of the LTSS Contract under a separate action.

ALTERNATIVES: Not approving the list of Prequalified PDBEs would result in having to repeat the prequalification process and thus delay receipt of Proposals and award of the LTSS Contract.

RECOMMENDATION: Recommend that the Board approve the list of Prequalified PDBEs for WSX Contract No. 02EE-120.

MOTION: The Board hereby approves the recommended list of Prequalified PDBEs for the Line, Track, Station and Systems Contract for the Warm Springs Extension, Contract No. 02EE-120, subject to compliance with the District's protest procedures.

FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget 2007	Current Forecast 6/23/10	REMARKS
<u>ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT</u>			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	<i>Completed</i>
TOTAL E, E & CM	\$92,958,175	\$97,987,009	
<u>CONSTRUCTION</u>			
Fremont Subway	\$282,000,000	\$164,100,660	Includes capacity for CO#2 (\$258,500)
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
TOTAL CONSTRUCTION	\$658,000,000	\$538,200,660	
<u>BART SERVICES</u>			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
TOTAL BART SERVICES	\$0	\$15,000,000	
<u>PROGRAM COSTS</u>			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	
Right-Of-Way Acquisitions	\$80,394,486	\$81,202,672	
Contingency	\$2,776,319	\$86,048,837	
TOTAL PROGRAM COSTS	\$139,041,825	\$238,812,331	
TOTAL FUNDING	\$890,000,000	\$890,000,000	

WSX RFQ No. 02EE-120Q
PREQUALIFIED PROSPECTIVE DESIGN-BUILD ENTITY

Design Builder:	Kiewit Pacific Co.		
General Contractor:	Kiewit Pacific Co.		
Principal Engineer:	HNTB		
Traction Power Equipment Installation Firm:	Mass Electric Construction Co.		
Train Control Equipment Installation Firm:	Mass Electric Construction Co.		
Communication Equipment Installation Firm:	Mass Electric Construction Co.		
Systems Integration Installation Firm:	HNTB Mass Electric Construction Co.		
Architect of Record:	HNTB		
Heavy & Highway:	Kiewit Pacific Co. Alaniz Construction Company Anderson Drilling Bay Cities Paving & Grading, Inc. Casey-Fogil Concrete CFT Concrete Pumping CTM Constr., Inc. Drill Tech Drilling & Shoring, Inc. Duran & Venables, Inc. Fanfa, Inc. J.A. Gonsalves & Son Construction, Inc. Harris Salinas Rebar	Landavazo Bros., Inc. Larios and Sons Mcguire & Hester Contractors, Inc. MF Maher Construction Co., Inc. OC Jones & Sons, Inc. Pacific Coast Steel (PCS) Penhall Company R&W Concrete Contractors, Inc. Sierra Mountain Construction, Inc. Silverado Contractors Soil Retention Systems Suarez & Munoz Construction, Inc.	
Other Subcontractors:	Abthai Engineering Mgmt Consultants DKS Associates FMG Architects Geomatics Transportation Svcs, Inc. Kal Krishnan Consulting Svcs, Inc. OLMM Consulting Engineers Parikh Consultants, Inc. Stevens & Associates V&A Consulting Engineers WRECO YEI Engineers, Inc. Alta Vista Solutions ANI Private Security & Patrol Blocka Construction, Inc. Bureau Veritas No. America, Inc. Cinquini & Passarino Inc.	CJC Trucking Co. CMC Regional Steel Corp. Cross Country Horizontal Drilling, Inc. Crusader Fence Drill Tech E&S Masonry Harris Salinas Rebar Inspection Services, Inc. Kleinfelder West Inc. Kwan Wo Ironworks, Inc. Lescure Company MAG Martinez Electric Transportation Co., Inc. Ninyo & Moore Pisor Fence RMT Landscape Contractors, Inc.	RBF Consulting RMA Group of No. CA S Kowk Engineers, Inc. Sandis Seville Constr. Svcs, Inc. TMI-CM Turner Group Constr. Webcor Builders

**WSX RFQ No. 02EE-120Q
PREQUALIFIED PROSPECTIVE DESIGN-BUILD ENTITY**

Design Builder: Shimmick/Flatiron/Herzog, a Joint Venture

General Contractor: Shimmick/Flatiron/Herzog, a JV

Principal Engineer: HDR Engineering, Inc.

**Traction Power Equipment
Installation Firm:** Aldridge Electric, Inc.

**Train Control Equipment
Installation Firm:** Aldridge Electric, Inc.

**Communication Equipment
Installation Firm:** Aldridge Electric, Inc.

**Systems Integration
Installation Firm:** Aldridge Electric, Inc.

Architect of Record: VBN Architects

Heavy & Highway: Shimmick/Flatiron/Herzog, a JV
Shimmick
Flatiron West, Inc.
Herzog Contracting Corp.
Bay Cities Paving & Grading, Inc.
OC Jones & Sons, Inc.
Top Grade Construction, Inc.
Sierra Mountain Construction, Inc.
Casey-Fogli Concrete Construction, Inc.
Joseph J. Albanese, Inc.
F. Ferrando & Company
CFT Concrete Pumping, Inc.

Other Subcontractors: Martinez Electric Transportation Company, Inc.
RWT Landscape Construction, Inc.
CMC Steel Fabricators, Inc.

**WSX RFQ No. 02EE-120Q
PREQUALIFIED PROSPECTIVE DESIGN-BUILD ENTITY**

Design Builder:	Stacy and Witbeck/Skanska/Steiny, a Joint Venture (SWSS)
General Contractor:	SWSS
Principal Engineer:	Hatch Mott McDonald
Traction Power Equipment Installation Firm:	SWSS
Train Control Equipment Installation Firm:	L.K. Comstock National Transit, Inc.
Communication Equipment Installation Firm:	L.K. Comstock National Transit, Inc. HSQ Technology SWSS
Systems Integration Installation Firm:	Hatch Mott McDonald L.K. Comstock National Transit, Inc. HSQ Technology SWSS
Architect of Record:	FMG Architects
Heavy & Highway:	SWSS Bay Area Concretes, Inc. Bay Cities Paving and Grading, Inc. OC Jones & Sons, Inc. O'Grady Paving, Inc. RGW Construction, Inc. R&W Concrete Contractors, Inc. Sierra Mountain Construction, Inc. Top Grade Construction
Other Subcontractors:	Acoustic Strategies, Inc. (dba ATS Consultants) BKF Engineers Chaudhary & Associates, Inc. DE Group Earth Mechanics, Inc. HQE Incorporated Lamoreaux Associates, Inc. Merrill Morris Partners Rutherford & Chekene Sierra Engineering Group V&A Consulting Engineers, Inc. Y&C Transportation Consultants, Inc. YEI Engineers, Inc.

**WSX RFQ No. 02EE-120Q
PREQUALIFIED PROSPECTIVE DESIGN-BUILD ENTITY**

Design Builder:	Tutor Perini/Parsons, a Joint Venture
General Contractor:	Tutor Perini Corporation
Principal Engineer:	Parsons Transportation Group Inc.
Traction Power Equipment Installation Firm:	Powerco Electric Corporation, a Tutor Perini Company
Train Control Equipment Installation Firm:	Powerco Electric Corporation, a Tutor Perini Company
Communication Equipment Installation Firm:	Powerco Electric Corporation, a Tutor Perini Company
Systems Integration Installation Firm:	Parsons Transportation Group Inc.
Architect of Record:	Parsons Transportation Group Inc.
Heavy & Highway:	H&H Engineering Construction, Inc. So Pac Rail, Inc.
Other Subcontractors:	The Allen Group Bello & Associates Chaudhary & Associates, Inc. CHS Consulting Group Cordoba Corporation Earth Mechanics, Inc. Elcon Associates, Inc. Golden Associates NBA Engineering, Inc. Parikh Consultants, Inc. Stevens & Associates WAU & Company YEI Engineers, Inc.

**WSX RFQ No. 02EE-120Q
PREQUALIFIED PROSPECTIVE DESIGN-BUILD ENTITY**

Design Builder:	The Whiting-Turner Contracting Company
General Contractor:	The Whiting-Turner Contracting Company Granite Construction Company
Principal Engineer:	Lockwood Andrews & Newnam, Inc.
Traction Power Equipment Installation Firm:	Rosendin Electric, Inc. Contra Costa Electric, Inc. Blocka Construction, Inc.
Train Control Equipment Installation Firm:	Rosendin Electric, Inc. Contra Costa Electric, Inc. Rail Signal Systems
Communication Equipment Installation Firm:	Rosendin Electric, Inc. Contra Costa Electric, Inc. Rail Signal Systems
Systems Integration Installation Firm:	Rail Signal Systems Transdyn, Inc.
Architect of Record:	Kwan Henmi
Heavy & Highway:	Granite Construction Company So Pac Rail, Inc.
Other Subcontractors:	KKCS



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors	
DATE: 6/23/10		BOARD INITIATED: No	
Originator/Prepared by: Shirley J. Ng Dept: TSD Signature/Date: 6/17/10	General Counsel: 6/18/10	Controller/Treasurer: 6/21/10	District Secretary: 6/21/10
Status: Approved		Date Created: 05/28/2010	

Award of Contract 15PD-110, Earthquake Safety Program, Aerial Structures - C Line

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15PD-110, for BART Earthquake Safety Program, Aerial Structures - C Line, to William P. Young Construction, Inc.

DISCUSSION:

The BART Earthquake Safety Program determined that the aerial structures on the Concord line require seismic strengthening. Contract No. 15PD-110 will provide for additional reinforced concrete for pier foundations and pier caps, fiber encasement of pier columns and associated utilities and structural work.

An Advance Notice to Bidders was mailed on April 5, 2010 to 173 firms and Bid Documents were sent to 23 plan rooms. The Contract was advertised on April 5, 2010. A total of 51 firms purchased copies of the Bid Documents. A pre-Bid meeting and site tour were conducted on April 28, 2010 with a total of 25 potential Bidders in attendance. Fourteen bids were received and publicly opened on May 25, 2010.

Review of the Bids by District staff revealed that the Bids submitted by Zovich Construction, Alten Construction, Inc., T. B. Penick & Sons and C. Overaa had arithmetical errors in the Bid Item totals and/or in the total Bid Price. Article 13.B, Evaluation, of the Instructions to Bidders in the Contract clearly states that item totals are provided by the Bidder for the convenience of the District, and that the District will calculate such prices based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations shall govern. Tabulation of the corrected Bids, including the Engineer's Estimate, is as follows:

<u>BIDDER</u>	<u>LOCATION</u>	<u>TOTAL AMOUNT</u>
1. William P. Young Construction, Inc.	San Leandro, CA	\$10,606,641.10
2. Zovich & Sons Construction, Inc.	Hayward, CA	\$11,187,347.87
3. Robert A. Bothman, Inc.	San Jose, CA	\$11,204,634.00
4. West Bay Builders, Inc.	Novato, CA	\$11,990,904.21
5. Golden State Bridge, Inc.	Martinez, CA	\$12,658,905.12

6. R & L Brosamer, Inc.	Walnut Creek, CA	\$12,768,530.00
7. Alten Construction, Inc.	Richmond, CA	\$12,773,103.04
8. Diablo Contractors, Inc.	San Ramon, CA	\$13,883,348.00
9. S.J. Amoroso Construction Co. Inc.	Redwood Shores, CA	\$14,997,000.00
10. Disney Construction, Inc.	Pacifica, CA	\$15,260,164.00
11. Proven Management, Inc.	San Francisco, CA	\$16,450,751.86
12. T. B. Penick & Sons, Inc.	San Diego, CA	\$16,450,751.86
13. C. C. Myers, Inc.	Rancho Cordova, CA	\$18,581,191.00
14. C. Overaa & Co.	Richmond, CA	\$19,110,353.20

Engineer's Estimate \$13,480,000.00

The apparent low Bid submitted by William P. Young Construction has been deemed to be responsive to the solicitation. Furthermore, examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible, and that the low Bid of \$10,606,641 is fair and reasonable.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for MBEs and 12% for WBEs. The Bidder committed to 28% MBE and 7% WBE. The Bidder did not meet the WBE percentage therefore the Bidder was requested to provide the District with information to determine if it had discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT:

Funding for \$10,606,641 for award of Contract No. 15PD-110 is included in the total project budget for the FMS #15PD, ESP – Aerial Structures - C Line. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F – Earthquake Safety G.O. Bond: \$10,606,641

As of month ending 5/2/2010, \$21,700,000 is available for commitment from this fund source for this project and BART has committed \$220,568 to date. There are no pending commitments in BART's financial management system. This action will commit \$10,606,641 leaving an uncommitted balance of \$10,872,791 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic retrofit of the Concord aerial structures.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15PD-110, Earthquake Safety Program, Aerial Structures - C line to William P. Young Construction, Inc. for the Bid amount of \$10,606,641.10, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 6/9/10	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$226,200,000	
CM	\$61,498,000	\$79,000,000	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$307,398,237	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$76,030,000	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$90,000,000	
Fremont	\$178,224,000	\$117,800,000	
Concord	\$36,500,000	\$10,606,641	
Richmond	\$80,155,000	\$75,800,000	
San Francisco/Daly City	\$36,590,000	\$9,991,645	
Stations (18)	\$126,961,000	\$118,896,318	
Other Structures			
LMA	\$5,529,000	\$5,267,440	
Yds & Shops	\$12,436,000	\$17,757,437	
Parking Structures	\$14,437,000	\$13,500,000	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$40,000,000	
Systems	\$7,066,000	\$9,868,000	
TOTAL CONSTRUCTION	\$909,469,000	\$603,025,424	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$101,208,733	
TOTAL PROGRAM COSTS	\$191,998,204	\$343,010,496	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING		\$1,253,434,157	
			\$1,221,275,376 Adopted Funding \$32,158,781 Outside Adopted Funding