

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

*****REVISED*****

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

August 13, 2009

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, August 13, 2009, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER
 - A. Roll Call.
 - B. Pledge of Allegiance.
 - C. Introduction of Special Guests.
Recognition of Sara Broski. (Director Murray's request.)

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of June 25, 2009 (Regular).* Board requested to authorize.
- B. Subsequent Resolution of Local Support American Recovery and Reinvestment Act of 2009 (ARRA) Transit Funding. * Board requested to adopt.

RECESS TO STANDING COMMITTEES

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

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Murray, Chairperson

- A-1. (CONTINUED from the July 23, 2009, Administration Committee Meeting)
Agreement with Data Ticket Inc. for Parking Citation Processing Services (Agreement No. 6M5018).* Board requested to authorize.
- A-2. Condemnation of Real Property for the Warm Springs Extension Project.*
 - a. BART Parcel No. J-1061-1A and J-1061-2A and J-1061-3A
 - b. BART Parcel No. J-2036-1A and J-2036-3ABoard requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- A-3. Actuarial Statement of Potential Change to Retirement and Postretirement Benefit for Money Purchase Pension Plan 1.627% (California Gov't Code Section 7507).* For information.
- A-4. Resolution for Citizen Oversight of the BART Police Department.* Board requested to adopt.
- A-5. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Agreement with Webco Sweeping, LLC, for Sweeping Services at Various BART Parking Lots and Garages (Agreement No. 6M3110A).* Board requested to authorize.
- B-2. Modification to Agreement No. 6M8015, Construction Management Services for the Earthquake Safety Program Parking Structures, with The Allen Group/Cooper Pugaeda Management, A Joint Venture, for Increase in Agreement Amount.* Board requested to authorize.

- B-3. Change Orders to Contract No. 15SU-120, Earthquake Safety Program – Aerial Structures – North Oakland, with California Engineering Contractors, Inc.*
 - a. Differing Site Conditions at Bents 3, 4, and 5 (C.O. No. 7).
 - b. Differing Site Conditions (C.O. No. 12).
 Board requested to authorize.
- B-4. Project Stabilization Agreement for the Oakland Airport Connector Project.* Board requested to adopt.
- B-5. Quarterly Performance Report, Fourth Quarter Fiscal Year 2009 - Service Performance Review.* For information.
- B-6. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE
Director Sweet, Chairperson
 NO REPORT.

RECONVENE BOARD MEETING

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

A-1. (CONTINUED from the July 23, 2009, Administration Committee Meeting)
 Agreement with Data Ticket Inc. for Parking Citation Processing Services (Agreement No. 6M5018).* Board requested to authorize.

A-2. Condemnation of Real Property for the Warm Springs Extension Project.*

- a. BART Parcel No. J-1061-1A and J-1061-2A and J-1061-3A
- b. BART Parcel No. J-2036-1A and J-2036-3A

 Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

A-3. Actuarial Statement of Potential Change to Retirement and Postretirement Benefit for Money Purchase Pension Plan 1.627% (California Gov't Code Section 7507).* For information.

A-4. Resolution for Citizen Oversight of the BART Police Department.*
 Board requested to adopt.

B. ENGINEERING AND OPERATIONS COMMITTEE

B-1. Agreement with Webco Sweeping, LLC, for Sweeping Services at Various BART Parking Lots and Garages (Agreement No. 6M3110A).*
 Board requested to authorize.

B-2. Modification to Agreement No. 6M8015, Construction Management Services for the Earthquake Safety Program Parking Structures, with The Allen Group/Cooper Pugeda Management, A Joint Venture, for Increase in Agreement Amount.* Board requested to authorize.

B-3. Change Orders to Contract No. 15SU-120, Earthquake Safety Program – Aerial Structures – North Oakland, with California Engineering Contractors, Inc.*

a. Differing Site Conditions at Bents 3, 4, and 5 (C.O. No. 7).

b. Differing Site Conditions (C.O. No. 12).

Board requested to authorize.

B-4. Project Stabilization Agreement for the Oakland Airport Connector Project.* Board requested to adopt.

B-5. Quarterly Performance Report, Fourth Quarter Fiscal Year 2009 - Service Performance Review.* For information.

C. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE
NO REPORT.

5. GENERAL MANAGER'S REPORT
NO REPORT.

6. BOARD MATTERS

A. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Johnson et al. vs. BART

Government Code Section: 54956.9 (b)(1)

B. CONFERENCE WITH LABOR NEGOTIATORS:

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

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

Government Code Section: 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter D. ...</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Todd Morgan Dept: Capital Development	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: TEM 8-4-09	<i>[Signature]</i> 8-5-09 []	<i>[Signature]</i> []	[]	<i>[Signature]</i> 8-5-09 []
Status: Routed		Date Created: 07/07/2009		

TITLE:

Subsequent Resolution of Local Support American Recovery and Reinvestment Act of 2009 (ARRA) Transit Funding

NARRATIVE:

Purpose:

To obtain BART Board approval of a Subsequent Resolution of Local Support for federal American Recovery and Reinvestment Act of 2009 (ARRA) funds. The BART Board is being asked to adopt a Subsequent Resolution of Local Support for submission to the Metropolitan Transportation Commission (MTC) as a prerequisite to receipt of \$5.9 million in ARRA funds and, should Tier 2 ARRA funding become available, receipt of up to \$16,972,051 for Coverboards Replacement, Capacity Interior Reconfiguration for 100 cars, Floor and Seat Cushion Replacement for 50 cars, Replacement of Auxiliary Power Supply Equipment (APSE) on 40 C-1 cars, and 48V Power Supplies for Station Communications.

Discussion:

On February 17, 2009, President Obama signed into law the ARRA, which enacted a \$787 billion economic recovery package calling for significant new spending, as well as tax cuts. The ARRA is an unprecedented effort to jumpstart the U.S. economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges so that our country can thrive in the 21st century. The ARRA is an extraordinary response to a crisis unlike any since the Great Depression. With much at stake, ARRA provides for unprecedented levels of transparency and accountability.

On March 26, 2009, the BART Board approved Resolution No. 5074 for \$65,368,239 in ARRA funding for the Capitalized Maintenance, 480V Switchgear Replacement, Central Contra Costa Crossover Project, Balboa Station Westside Walkway Safety Project, Replacement of anodes and anode cables on the Trans-Bay Tube, Coverboards Replacement, Capacity Interior Reconfiguration for 105 cars, Floor and Seat Cushion Replacement for 50 cars, Replacement of Auxiliary Power Supply Equipment (APSE) on 30 C-1 cars, Between-Car Barriers, and Concord Shop Wheel Truing Machine Concept Study.

Supplemental Funds - \$15.3 Million

On April 22, 2009 the MTC approved a program for ARRA Federal Highway Administration

(FHWA) funds authorized under AB3X 20 (MTC Resolution No. 3896). Since then, there have been changes in the funding of some projects, resulting in \$15.3 million being made available. On May 27th, 2009 the MTC approved programming of the \$15.3 million in supplemental funds to the category of Transit Rehabilitation Projects (without project-by-project detail) based on the state directing bond funds to the Marin 580/101 highway project.

On June 24, 2009 the MTC approved the programming of \$15.3 million in ARRA supplemental funds (MTC Resolution No. 3896, Revised) to a defined list of Transit Rehabilitation Projects of which \$5,856,326 will come to BART to pass-through and helps address the loss of State Transit Assistance (STA) funds for the BART Feeder and Transfer Payment program. The BART Feeder and Transfer Payment program establishes an account with MTC into which BART may contribute a portion of its general funds, if required, to support the feeder operators service that transports patrons to and from BART facilities. In addition, the Transfer Payment program establishes a process to guide MTC in transferring Transportation Development Act (TDA) and State Transit Assistance (STA) funds currently apportioned to BART to local bus operators to implement the transfer of feeder service to local transit operation. Based on current discussions, it is proposed that BART and Feeder operator shares be programmed to BART in exchange for BART directing an equivalent amount of their general fund revenues to the feeder bus operators for FY2010 operations. These funds must be in an obligated grant by November 30, 2009, and the work must be initiated by June 30, 2010. Like all ARRA funds, these funds expire in September 2015.

ARRA Tier 2 funding

Should additional ARRA funding become available regionally or nationally as provided in MTC Resolution No. 3885 and Title XII of the ARRA, BART's Tier 2 projects (Coverboards Replacement, Capacity Interior Reconfiguration for 100 cars, Floor and Seat Cushion Replacement for 50 cars, Replacement of Auxiliary Power Supply Equipment (APSE) on 40 C-1 cars, and 48V Power Supplies for Station Communications) will need to meet policy and funding agreement(s) conditions.

MTC requires Project Sponsors/Implementing Agencies to submit a Subsequent Resolution of Local Support approved by the Project Sponsor/ Implementing Agency's Board. Staff has prepared the attached Subsequent Resolution of Local Support for adoption by the BART Board of Directors to meet the MTC requirement for the ARRA funding.

Fiscal Impact:

Approval of the Resolution is a requirement for the District to receive an allocation of ARRA funding from the MTC in the amount of \$5,856,326 to pass through from MTC to the Express Bus operators and, subject to Tier 2 funding availability, up to \$16,972,051. These actions have no fiscal impact on unprogrammed District Reserves.

Alternatives:

Do not approve the Subsequent Resolution of Local Support. This will jeopardize BART's eligibility to receive \$5,856,326 in federal ARRA funds and potentially Tier 2 ARRA funds up to \$16,972,051.

Recommendation:

Adoption of the following Motion:

Motion:

Approve the attached Subsequent Resolution of Local Support.

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

**Subsequent Resolution of Local Support
American Recovery and Reinvestment Act of 2009 (ARRA) Transit Funding**

**Authorizing the filing of an application for federal
American Recovery and Reinvestment Act of 2009 (ARRA)
funding and stating the assurance to complete the project**

Resolution No. _____

WHEREAS, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$5,856,326 in funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) for Capitalized Maintenance and, should Tier 2 ARRA funding become available, \$16,972,051 for Coverboards Replacement, Capacity Interior Reconfiguration for 100 cars, Floor and Seat Cushion Replacement for 50 cars, Replacement of Auxiliary Power Supply Equipment (APSE) on 40 C-1 cars, and 48V Power Supplies for Station Communications (herein referred as PROJECT) for the MTC Regional ARRA Program (MTC Resolution No. 3896, Revised and No. 3885 respectively) (herein referred as PROGRAM); and

WHEREAS, pursuant to ARRA, and any regulations and/or guidance promulgated thereunder, eligible project sponsors wishing to receive Regional ARRA funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, ARRA funds for transit projects are provided through Federal Transit Administration (FTA) Formula Programs (49 U.S.C. §53); and

WHEREAS, APPLICANT is an eligible project sponsor for FTA Section 5307, Section 5309 FG, or Section 5311 funds; and

WHEREAS, APPLICANT is an eligible project sponsor for ARRA funds; and

WHEREAS, as part of the application for ARRA funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) that APPLICANT understands that the ARRA funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional ARRA or other MTC programmed funds; and
- 2) that PROJECT will comply with all project specific requirements as set forth in MTC's Regional ARRA Program (MTC Resolution No. 3885 and No. 3896, Revised); and PROJECT is as described in the application, and if approved, as included in MTC's TIP; and
- 3) that PROJECT will comply with all the project specific requirements as set forth in the federal ARRA and applicable regulations or guidance.

NOW, THEREFORE, BE IT RESOLVED that APPLICANT is authorized to execute and file an application for funding under the ARRA for PROJECT; and be it further

RESOLVED that the APPLICANT by adopting this Resolution does hereby state that:

1 APPLICANT understands that the ARRA funding for the PROJECT is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional ARRA or MTC programmed funds; and

2 APPLICANT understands the funding deadlines associated with these funds and will comply with the applicable provisions and requirements of the Regional ARRA Program (MTC Resolution No. 3885 and No. 3896, Revised); and

3 PROJECT will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP; and

4 PROJECT will comply with all the project specific requirements as set forth in the ARRA and appropriate applicable regulations or guidance; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its General Manager, or designee to execute and file an application with MTC for ARRA funding for the PROJECT as referenced in this Resolution; and be it further

RESOLVED that a copy of this Resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the Resolution and to include the PROJECT, if approved, in MTC's TIP.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: August 7, 2009

FROM: General Manager

SUBJECT: Parking Citation Processing Services - Agreement
#6M5018

At the July 23rd meeting of the Board of Directors, the subject item was continued to allow staff time to research information requested during the meeting. This memorandum provides the requested information, which will be discussed at the Board meeting on August 13.

What is the cost associated with bringing parking citation processing in house?

It is estimated that BART would need four employees to staff an in-house parking citation processing operation (1 supervisor, 3 clerks). Salary and fringe benefits for four positions has been estimated at \$468,658. Additional costs for hardware, software, and IT support are estimated at approximately \$200,000, annually. The total in-house cost estimate of \$668,658 compares to a maximum first year cost \$303,000 for the proposed contractor, which is a difference of \$365,658 to provide similar services.

What is the business background of Data Ticket, Inc.?

Data Ticket, Inc., a California Corporation, is a certified small and woman-owned business that has been providing parking citation services for over 20 years. For the last ten years, Data Ticket has processed over one million parking citations per year and currently provides services to over 200 agencies nationwide.

Why did the District only receive two bids for RFP 6M5018?

Contract Administration staff contacted the other 17 prospective bidders who received copies of the RFP and asked why they did not participate in the bid process. Only 12 of the 17 companies contacted replied. Three proposers said they got involved with the RFP too late to prepare a proposal, even though one proposer attended the Pre-Proposal Conference in April. One proposer indicated insufficient staff to prepare a proposal. One proposer decided not to bid based on its cost estimate of \$50,000 to \$100,000 to put new infrastructure in place to meet the RFP requirement that proposers have online capability. Two proposers did not bid because they specialize in delinquent collections rather than providing a turnkey operation required by the RFP. Six proposers did not bid because they felt they were not qualified to submit a proposal.

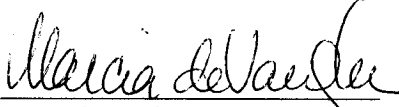
How do other agencies process parking citations and what are their costs for this function?

It is standard practice for agencies to contract with a parking citation processing company rather than provide the service in-house. San Francisco, Oakland, and Berkeley are just a few of the cities that outsource this function. Attachment I outlines information on parking citation processing for a number of agencies in the Bay Area.

Current Agreement pricing vs. proposed Agreement pricing:

The cost to process a manual citation under the current Agreement is \$1.12; the cost to process an electronic citation is \$0.65. The pricing for the proposed Agreement is \$1.03 per manual citation processed and \$0.45 per electronic citation. These citation processing costs, the cost of collecting in state and out of state delinquent fines and, other costs associated with citation processing under the current and proposed contract are outlined on Attachment 2. The pricing proposed by the second bidder in response to the RFP issued in March 2009 is also outlined on Attachment 2.

If you need additional information, please contact Police Administrative Supervisor Justin Morgan at (510) 464-7787 or jmorgan@bart.gov.


Dorothy W. Dugger

Attachments

cc: Board Appointed Officers
Deputy General Manager
Chief of Police

DATA TICKET INC. 2004 CURRENT AGREEMENT PRICING

DESCRIPTION	QTY	UNIT	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	
PROCESS HANDWRITTEN CITES	48,000	EA	\$1.08	\$1.08	\$1.10	\$1.10	\$1.12	
PROCESS ELECTRONIC CITES	12,000	EA	\$0.63	\$0.63	\$0.64	\$0.64	\$0.65	
1ST NOTICE MAILINGS	25,000	EA	\$0.64	\$0.64	\$0.65	\$0.65	\$0.66	
ADDITIONAL LETTERS	15,000	EA	\$0.74	\$0.74	\$0.75	\$0.75	\$0.77	
REVIEW AND SCHEDULING	700	EA	\$0.40	\$0.40	\$0.40	\$0.40	\$0.41	
LEASING OF 30 ELECTRONIC TICKET WRITERS	12	YR	\$21,000	\$6,732.00	\$6,504.00	\$6,504	\$6,636.00	
COLLECTION OF OUT OF STATE DELINQUENT FINES	500 @ \$25	12%	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	
COLLECTION OF IN STATE DELINQUENT FINES	12000@\$25	25%	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	
TOTALS FOR EACH YEAR			\$184,280	\$169,652	\$171,284	\$171,284	\$173,033	TOTAL CONTRACT \$869,533.00

DATA TICKET INC. 2009 PROPOSED AGREEMENT PRICING

DESCRIPTION	QTY	UNIT	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	
PROCESS HANDWRITTEN CITES	70,000	EA	\$1.03	\$1.03	\$1.03	\$1.03	\$1.03	\$1.03	
PROCESS ELECTRONIC CITES	70,000	EA	\$0.45	\$0.45	\$0.45	\$0.45	\$0.45	\$0.45	
1ST NOTICE MAILINGS	35,000	EA	\$0.68	\$0.69	\$0.70	\$0.71	\$0.72	\$0.73	
ADDITIONAL LETTERS	15,000	EA	\$0.75	\$0.76	\$0.77	\$0.78	\$0.79	\$0.80	
REVIEW AND SCHEDULING	12,000	EA	\$0.40	\$0.40	\$0.40	\$0.40	\$0.40	\$0.40	
LEASING OF 30 CELLULAR BASED TICKET WRITERS	30	YR	\$18,930.00	\$18,930.00	\$18,930.00	\$18,930.00	\$18,930.00	\$18,930.00	
COLLECTION OF OUT OF STATE DELINQUENT FINES	800 @ \$35	14%	\$3,920	\$3,920	\$3,920	\$3,920	\$3,920	\$3,920	
COLLECTION OF IN STATE DELINQUENT FINES	17000@\$35	23%	\$136,850	\$136,850	\$136,850	\$136,850	\$136,850	\$136,850	
TOTALS FOR EACH YEAR			\$303,150	\$303,650	\$304,150	\$304,650	\$305,150	\$305,650	TOTAL CONTRACT \$1,826,400.00

PROFESSIONAL ACCT. MGMT. 2009 PROPOSED AGREEMENT PRICING

DESCRIPTION	QTY	UNIT	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	
PROCESS HANDWRITTEN CITES	70,000	EA	\$1.750	\$1.750	\$1.803	\$1.803	\$1.803	\$1.857	
PROCESS ELECTRONIC CITES	70,000	EA	\$1.500	\$1.500	\$1.545	\$1.545	\$1.591	\$1.591	
1ST NOTICE MAILINGS	35,000	EA	\$0.535	\$0.545	\$0.545	\$0.555	\$0.570	\$0.575	
ADDITIONAL LETTERS	15,000	EA	\$0.500	\$0.510	\$0.520	\$0.530	\$0.540	\$0.550	
REVIEW AND SCHEDULING	12,000	EA	\$1.000	\$1.000	\$1.030	\$1.030	\$1.030	\$1.060	
LEASING OF 30 CELLULAR BASED TICKET WRITERS	30	YR	\$60,000.00	\$60,000.00	\$60,000.00	\$60,000.00	\$60,000.00	\$36,000.00	
COLLECTION OF OUT OF STATE DELINQUENT FINES	800 @ \$35	25%	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	
COLLECTION OF IN STATE DELINQUENT FINES	17000@\$35	25%	\$148,750.0	\$148,750.0	\$148,750.0	\$148,750.0	\$148,750.0	\$148,750.0	
TOTALS FOR EACH YEAR			\$481,475	\$481,975	\$489,345	\$489,845	\$490,345	\$474,205	TOTAL CONTRACT \$2,907,190.00

It should be noted that the pricing is based on estimated processing. Data Ticket's Agreement in 2004 was for the processing of 60,000 citations. The 2009 Agreement is for 140,000.

ATTACHMENT 1

Other Jurisdictions: Contract Services and Price Per Citation Processed.

CITY	CONTRACTOR	PRICE PER CITATION PROCESSED
BART	DATA TICKET INC.	\$1.03 PER HANDWRITTEN \$0.45 FOR ELECTRONIC
SAN FRANCISCO	PRWT SERVICES	\$2.89 PER CITATION
OAKLAND	INGLEWOOD (DUNCAN)	\$0.78 PER CITATION
BERKELEY	INGLEWOOD (DUNCAN)	\$1.58 PER CITATION
SAN MATEO COUNTY	TURBO DATA	\$1.82 PER CITATION
HAYWARD	SERVICES PERFORMED IN-HOUSE	City of Hayward processes its own parking citations. Staff includes: 1 Supervisor and 1 Clerk to process approximately 20,000 citations/year Hayward does not have a call center or on-line capabilities.
CONCORD	DATA TICKET INC	\$0.98 PER CITATION
NAPA	DATA TICKET INC	\$1.50 PER CITATION
PIEDMONT	DATA TICKET INC	\$1.02 PER CITATION
SAN RAFAEL	DATA TICKET INC	\$0.45 PER CITATION
FREMONT	DATA TICKET INC	\$1.00 PER CITATION



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malcolm Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board.		
DATE: 7/15/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Justin Morgan Dept: POLICE <i>Justin Morgan</i> Signature/Date: 7/15/09	General Counsel: <i>Andrew Kavanagh</i> 7/14/09	Controller/Treasurer: <i>[Signature]</i> 7/14/09	District Secretary: []	BARC: <i>Justin Morgan</i> 7-14-09
Status: Approved		Date Created: 06/01/2009		

TITLE:
AWARD AGREEMENT NO. 6M5018 FOR PARKING CITATION PROCESSING SERVICES

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Agreement No. 6M5018 with Data Ticket, Inc. to provide parking citation processing services for citations issued by the Police Department. The agreement is for a period of five (5) years with an option to renew for one (1) additional year, for a total compensation not to exceed \$1,826,400.

DISCUSSION:

Agreement No. 6M5018 (the "Agreement") will be for the period October 1, 2009 through September 30, 2014, in an amount not to exceed \$1,520,750. In the event that an option to extend the Agreement is exercised, a one (1) year extension will be in an amount not to exceed \$305,650. The total six (6) year cost will result in an amount not to exceed \$1,826,400.

Since 1993, the District has contracted for parking citation processing services. The District currently does not have the capability in-house to provide these services. The Sponsoring Department, BART Police, has determined that these services are necessary in order to continue to provide parking citation processing services to the District, and has determined that these services are not duplicative of any duties performed by District employees. Currently, the District contracts with Data Ticket, Inc. for all District parking citation processing services, pursuant to an Agreement entered into on October 1, 2004. This Agreement terminates on September 30, 2009.

The BART Police Department currently issues only handwritten parking citations, but would like to start issuing parking citations electronically. Electronic citation processing is less expensive and more efficient than the manual processing of handwritten citations. The Request for Proposals (RFP) for this Agreement required proposers to submit pricing for the leasing of electronic ticket writers as well as the processing of up

to 140,000 citations per year: 70,000 handwritten citations and 70,000 electronic citations. This allows for an anticipated increase in issued citations as well as the flexibility to use both handwritten and electronic citation methods.

Advance Notice was mailed to nineteen (19) prospective proposers on March 16, 2009. RFP No. 6M5018 was advertised on March 24, 2009. A Pre-Proposal Meeting was held on April 16, 2009 and seven (7) firms attended. On May 5, 2009, two (2) proposals were received, from Data Ticket, Inc. and Professional Account Management, LLC. These two proposals were evaluated by a Source Selection Committee (the Committee), which was chaired by Contract Administration, and included representatives from the Police Department, Customer Access, and Office of Civil Rights. The Committee reviewed and evaluated the technical proposals for responsiveness to solicitation requirements and compliance with the eight minimum technical requirements set forth in the RFP. Both proposals met the minimum technical requirements and were determined to be responsive. Thereafter, their price proposals were opened and ranked as follows:

Proposer	Proposal Price Total for 5 Year Agreement Plus 1 Year Extension
1. Data Ticket, Inc, Newport Beach, California	\$1,826,400.00
2. Professional Account Management, LLC , Milwaukee, Wisconsin	\$2,907,190.00

Based on the above ranking, the Committee determined that the proposal submitted by Data Ticket, Inc. was the lowest-priced technically-acceptable proposal. Data Ticket, Inc.'s price is considered to be fair and reasonable based on adequate price competition. Data Ticket Inc. is a financially responsible parking citation processing services company.

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

FISCAL IMPACT:

The BART Police Department issues approximately 70,000 parking citations per year and anticipates an increase in handwritten and electronic citations in the coming years. Parking fees will be implemented at eight (8) additional stations in FY10. Staff estimates that the BART General Fund will realize an increase in annual revenue from parking fines and forfeitures resulting from the anticipated increase in issuance of citations. Currently, annual revenues from parking fines and forfeitures amount to approximately \$1,600,000. Enforcement of fee parking at the eight (8) new parking locations will yield approximately \$261,000 in additional annual revenues in FY10 and an additional \$522,000 annually thereafter to the District. The expenses and contractor's fee will be paid from shares of the parking citation revenues.

Not having this Agreement in place would result in BART foregoing current revenues estimated at \$1,600,000 per year, additional revenues of approximately \$261,000 for the additional parking locations in FY10 and \$522,000 annually thereafter.

The cost of this Agreement is not to exceed \$1,826,400 for a period of up to six (6) years. The estimated cost for services is as follows: FY2010 cost is \$303,150, FY2011 cost is \$303,650, FY2012 cost is \$304,150, FY2013 cost is \$304,650, FY2014 cost is \$305,150, and FY2015 cost is \$305,650.

ALTERNATIVES:

(1) To initiate another Request for Proposals. Staff believes this would be unlikely to result in more competitive pricing.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The General Manager is authorized to execute Agreement No. 6M5018 with Data Ticket, Inc. to provide parking citation processing services for a period of five (5) years with an option to extend for one (1) additional year, under the same terms and conditions, for a total amount not to exceed \$1,826,400, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DelBene</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board.		
DATE: <i>8/5/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basulno Dept: Real Estate, ext. 6852 <i>Joseph Basulno</i> Signature/Date: <i>8/3/09</i>	General Counsel <i>Andrea Kavan</i> <i>8/5/09</i>	Controller/Treasurer <i>[Signature]</i> <i>8/5/09</i>	District Secretary []	BARC <i>[Signature]</i> <i>6-5-09</i>
Status: Routed		Date Created: 07/29/2009		

TITLE:

Condemnation of Real Property for WSX Project, BART Parcel # J-1061-1A, J-1061-2A and J-1061-3A

NARRATIVE:

PURPOSE:

To adopt by a two-thirds vote of the entire Board the attached Resolution of Necessity to Condemn fee simple, permanent access easement, and temporary construction easement interests in real property located at 3215 Skyway Court, Fremont, CA 94539-5045. This property is required for the Warm Springs Extension Project.

DISCUSSION:

The San Francisco Bay Area Rapid Transit District ("BART") proposes to purchase certain real property interests for the purpose of constructing a rail extension from the existing Fremont Station site south to Warm Springs ("WSX" or the "Project"). The Project requires the acquisition of approximately 4,209 square feet in fee, approximately 21,242 square feet in permanent access easement, and approximately 154 square feet in temporary construction easement of a 6.92± acre property owned by MEPT Skyway Court LLC, ("MEPT"). The property is located at (BART Parcel #J-1061-1A, J-1061-2A and J-1061-3A or the "Subject Parcel").

The Board certified a California Environmental Quality Act ("CEQA") Final Environmental Impact Report ("FEIR") on September 15, 1992, and a Supplemental Environmental Impact Report ("SEIR") on June 26, 2003, adopting the Project on those respective dates. Thereafter, the Federal Transit Administration ("FTA"), as lead federal agency, and BART released a Final Environmental Impact Statement ("FEIS") for the Warm Springs Extension Project in July 2006. The FTA issued a Record of Decision on October 24, 2006.

The proposed use of the Subject Parcel is for a Gap Breaker Station, a permanent access easement to provide ingress and egress to the Gap Breaker Station for its operation and maintenance, and for a temporary construction easement to construct the Gap Breaker Station. Project features proposed on or near this parcel have been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible.

The uses to be located on the Subject Parcel, particularly the Gap Breaker Station, are necessary for the successful construction of the Project and the safe and efficient operation of the BART system. The Subject Parcel is uniquely suited to support these Project purposes.

The offer required by Section 7267.2 of the Government Code has been made to the owners of record of the Subject Parcel on November 26, 2008. The estimated market value of the required property interests in the Subject Parcel is \$257,000.00.

To date, negotiations appear to be at an impasse. The property owners have been notified of the Board hearing on August 13, 2009.

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

1. The public interest and necessity require the proposed project;
2. The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The proposed property acquisition is necessary for said project; and
4. Whether the offer required by Government Code section 7267.2 has been made to all owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

FISCAL IMPACT:

The \$257,000 required for the acquisition of Parcel # J-1061-1A, J-1061-2A and J-1061-3A is proposed to come from Project 02EC, ROW Acquisition. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for the purchase will come from the following source:

CTC Traffic Congestion Relief Program (TCRP) –WSX Fund: 55N \$257,000

As of month end 5/24/09, \$45,131,543 is available for commitment from this Fund Source for this Project, and \$13,416,462 has been committed by BART to date. There are \$2,813,450 pending commitments in BART’s financial management system. This action will commit an additional \$257,000 leaving an uncommitted balance of \$28,644,631 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 construction when required and exposing BART to additional escalation on the capital cost of the WSX Project.

RECOMMENDATIONS: Adoption of the attached Resolution of Necessity to condemn the Real Property.

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 J-1061-1A, J-1061-2A and J-1061-3A; 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 J-1061-1A, J-1061-2A AND
J-1061-3A; 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 Warm Springs Extension Project (the “Project”). The BART Board of Directors (“Board”) certified a California Environmental Quality Act (“CEQA”) Final Environmental Impact Report (“FEIR”) on September 15, 1992. The District prepared a Supplemental Environmental Impact Report (“SEIR”) for the purpose of updating the 1992 FEIR due to changed circumstances and certain revisions to the Project since 1992. On June 26, 2003, following a public hearing, the Board certified the SEIR and adopted the Project.

2. The Federal Transit Administration (“FTA”) and BART released a Final Environmental Impact Statement (“FEIS”) for the Warm Springs Extension Project in July of 2006. The FTA issued a Record of Decision on October 24, 2006, which determined that the National Environmental Policy Act (“NEPA”) requirements and other federal requirements for the Project have been satisfied.

3. The Project requires the acquisition of certain property owned by MEPT Skyway Court LLC (“MEPT”) that is defined in paragraph 5 of these Recitals as the Subject Property.

4. The District has complied with all requirements of CEQA and NEPA for the Project.

5. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, to wit, fee title, permanent access easement, and temporary construction easement, together with all improvements situated thereon and together with all rights appurtenant thereto, to certain real property owned in fee simple by MEPT, as its interests appear of record, which real property, or interests in property, is located at 3215 Skyway Court, Fremont, CA 94539-5045, and is identified as BART Parcel Numbers J-1061-1A, J-1061-2A and J-1061-3A (Assessor's Parcel Number 519-1351-035), and is more particularly described and shown in Exhibits A, B and C, attached hereto and incorporated herein by this reference (the "Subject Property"). Parcel J-1061-1A is to be acquired in fee, together with any improvements thereon. Parcel J-1061-2A is to be acquired as a permanent access easement. Parcel J-1061-3A is to be acquired as a temporary construction easement.

6. 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.

7. 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 or owners written notice of the intent to adopt this resolution of necessity.

8. 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 proposed Project;
2. The proposed 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 proposed Project;
4. The offer required by Section 7267.2 of the California Government Code has been made to all owners of record of the Subject Property, or the offer has not been made because the owner cannot be located with reasonable diligence;
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.

Special counsel, Erickson, Beasley & Hewitt, 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 California Transportation Commission (CTC) Traffic Congestion Relief Program (TCRP)-WSX Fund 55N, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said 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.

###

**LEGAL DESCRIPTION
MEPT SKYWAY COURT LLC
PORTION OF APN 519-1351-035
ALAMEDA COUNTY
CITY OF FREMONT, CALIFORNIA**

August 4, 2009

Being a portion of Parcel 2 as shown on that certain map entitled "Parcel Map 7856" recorded November 21, 2001 in Book 262 of Parcel Maps at Page 17 as described in that certain Document No. 2008271042 recorded September 8, 2008 Official Records in the Office of the Recorder of Alameda County, State of California being more particularly described as follows:

BEGINNING at the southwesterly corner of said Parcel 2 (262 M 17) being a point on the easterly line of that certain parcel described as "Parcel 22" in that certain grant deed to the San Francisco Bay Area Rapid Transit District recorded July 19, 2007 as Document No. 2007265014 being also the northwesterly corner of that certain parcel of land as described in that certain grant deed to the Alameda County Flood Control & Water Conservation District, recorded June 20, 1989 as Document No. 89165238 Official Records in the Office of the Recorder of Alameda County, State of California; thence along the westerly line of said Parcel 2 (262 M 17) being the easterly line of said "Parcel 22" (2007265014) North 21° 29' 17" West 95.76 feet; thence through the interior of said Parcel 2 (262 M 17) North 68° 30' 46" East 31.11 feet to a point of non-tangency of a curve concave southwesterly to which a radial line bears North 53° 35' 49" East; thence along said curve concave southwesterly having a radius of 620.00 feet southeasterly through a central angle of 10° 00' 39" an arc length of 108.33 feet to a point on the southerly line of said Parcel 2 (262 M 17) being the northerly line of said Alameda County Flood Control & Water Conservation District (89165238); thence along said southerly line of said Parcel 2 (262 M 17) South 80° 46' 51" West 50.89 feet to the **POINT OF BEGINNING**.

Containing 4,209 square feet of land (0.097 acre) more or less.

A Plat Map is attached hereto and made a part hereof.

This description is based on record, on file documents and field survey measurements. Bearings and distances are based on the California Coordinate System of 1983 (CCS83) Zone III, 1998.5 Epoch. Distances are grid distances, to obtain ground level distances multiply by 1.0000611.





PARCEL 2
PM 7856
262 M 17

A.C.F.C. & W.C.D. ACCESS ESMT.
DOC. 2001442581

519-1351-035

J-1061

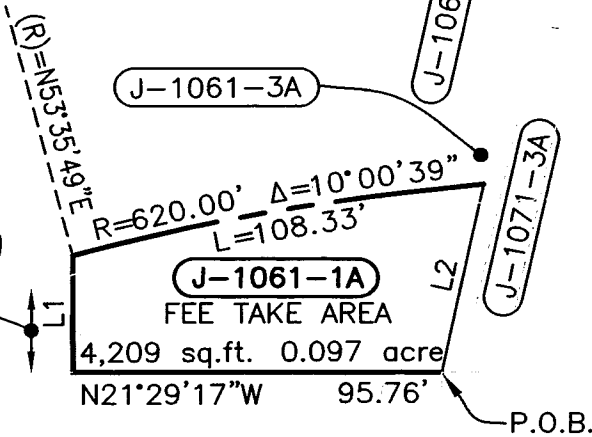
MEPT SKYWAY COURT LLC
DOC. 2008-271042

ABANDONED
SPUR TRACK ESMT.
RE: 75 IM: 820

10' S.S.E. 8390 O.R. 123

J-1525-1

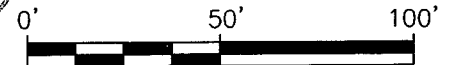
10' S.S.E.
8390 O.R. 129
PARCEL 1



J-1071

LINE TABLE		
LINE	BEARING	LENGTH
L1	N68°30'46"E	31.11'
L2	N80°46'51"E	50.89'

J-1071



CAD FILE NO. WSX_J-1061-1.DWG

MEPT SKYWAY COURT LLC (DOC. 2008-271042),
FEE TAKE AREA.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 1998.5 EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.0000611.



PLAT MAP

CO. ALA. RTE. WSX Sheet 1 of 1

SCALE: 1"=50' DATE: 08-04-09

DR. NO. WSX_J-1061-1A

**LEGAL DESCRIPTION
MEPT SKYWAY COURT LLC
PORTION OF APN 519-1351-035
ALAMEDA COUNTY
CITY OF FREMONT, CALIFORNIA**

August 4, 2009

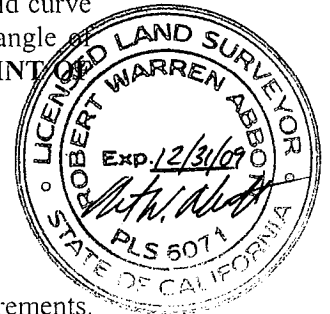
Being a portion of Parcel 2 as shown on that certain map entitled "Parcel Map 7856" recorded November 21, 2001 in Book 262 of Parcel Maps at Page 17 as described in that certain Document No. 2008271042 recorded September 8, 2008 Official Records in the Office of the Recorder of Alameda County, State of California being more particularly described as follows:

COMMENCING at the southwesterly corner of said Parcel 2 (262 M 17) being a point on the easterly line of that certain parcel described as "Parcel 22" in that certain grant deed to the San Francisco Bay Area Rapid Transit District recorded July 19, 2007 as Document No. 2007265014 being also the northwesterly corner of that certain parcel of land as described in that certain grant deed to the Alameda County Flood Control & Water Conservation District, recorded June 20, 1989 as Document No. 89165238 Official Records in the Office of the Recorder of Alameda County, State of California; thence along the southerly line of said Parcel 2 (262 M 17) North 80° 46' 51" East 50.89 feet to a point of non-tangency of a curve concave southwesterly to which a radial line bears North 63° 36' 28" East; thence through the interior of said Parcel 2 (262 M 17) the following ten (10) courses: along said curve concave southwesterly having a radius of 620.00 feet northwesterly through a central angle of 0° 29' 03" an arc length of 5.24 feet to the **POINT OF BEGINNING**; continuing along said curve concave southwesterly to which a radial line bears North 63° 07' 25" East having a radius of 620.00 feet northwesterly through a central angle of 03° 34' 55" an arc length of 38.76 feet; North 60° 11' 16" East 23.91 feet; South 29° 48' 44" East 4.00 feet to a point of curvature of a curve concave northeasterly; along said curve concave northeasterly having a radius of 25.00 feet southeasterly through a central angle of 69° 24' 25" an arc length of 30.28 feet; North 80° 46' 51" East 259.48 feet to a point of curvature of a curve concave northwesterly; along said curve concave northwesterly having a radius of 15.00 feet northeasterly through a central angle of 102° 16' 00" an arc length of 26.77 feet; North 21° 29' 09" West 347.48 feet; North 06° 17' 31" West 114.83 feet; North 68° 30' 35" East 42.09 feet to a point of non-tangency of a curve concave northeasterly to which a radial line bears South 64° 21' 45" West said point being on the cul-de-sac right of way line of Skyway Court; thence along said curve concave northeasterly having a radius of 75.00 feet southeasterly through a central angle of 19° 47' 10" an arc length of 25.90 feet; thence through the interior of said Parcel 2 (262 M 17) the following five (5) courses: South 68° 30' 35" West 29.22 feet; South 06° 17' 31" East 92.38 feet; South 21° 29' 09" East 344.15 feet to a point of curvature of a curve concave northwesterly; along said curve concave northwesterly having a radius of 40.00 feet southeasterly through a central angle of 102° 16' 00" an arc length of 71.40 feet; South 80° 46' 51" West 293.77 feet to the **POINT OF BEGINNING**.

Containing 21,242 square feet of land (0.488 acre) more or less.

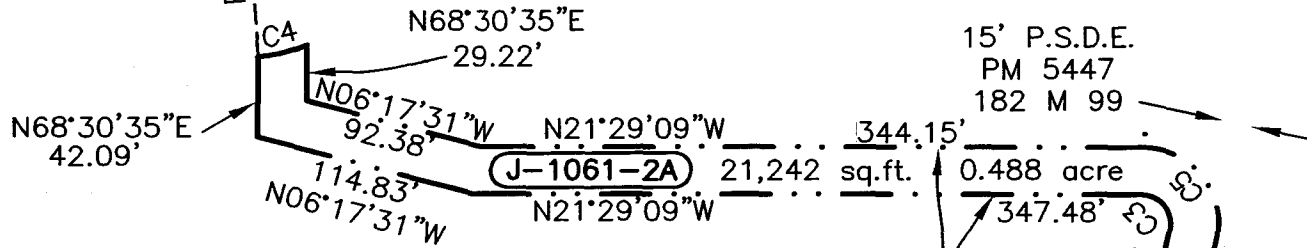
A Plat Map is attached hereto and made a part hereof.

This description is based on record, on file documents and field survey measurements. Bearings and distances are based on the California Coordinate System of 1983 (CCS83) Zone III, 1998.5 Epoch. Distances are grid distances, to obtain ground level distances multiply by 1.0000611.



SKYWAY COURT

SEE SHEET 2 FOR DATA TABLES.



PARCEL 2
PM 7856
262 M 17

A.C.F.C. & W.C.D. ACCESS ESMT.
DOC. 2001442581

519-1351-035

J-1061

MEPT SKYWAY COURT LLC
2008-271042

15' P.S.D.E.
PM 5447
182 M 99

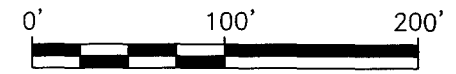
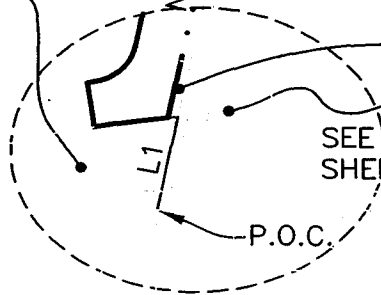
10' S.S.E.
8354 O.R. 293
8370 O.R. 185

J-1061-1A

J-1061-3A

J-1071-3A

SEE DETAIL
SHEET 2



CAD FILE NO. WSX_J-1061-2A.DWG

MEPT SKYWAY COURT LLC (DOC. 2008-271042),
PERMANENT EASEMENT.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 1998.5 EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.0000611.

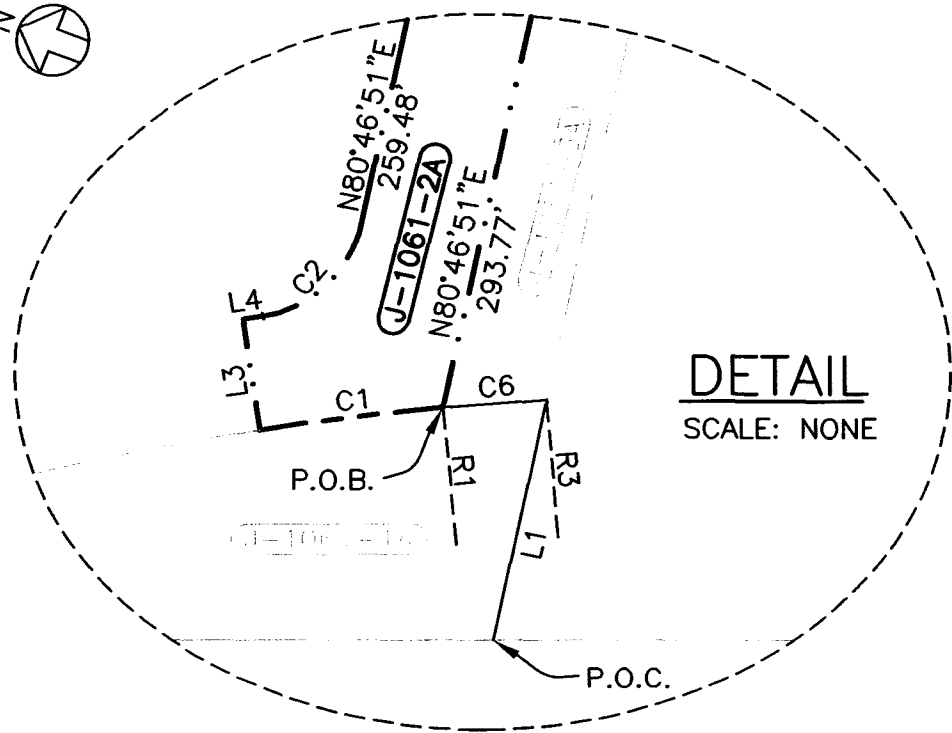


PLAT MAP

CO. ALA. RTE. WSX Sheet 1 of 2

SCALE: 1"=100' DATE: 08-04-09

DR. NO. WSX_J-1061-2A



DETAIL
SCALE: NONE

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	620.00'	3°34'55"	38.76'
C2	25.00'	69°24'25"	30.28'
C3	15.00'	102°16'00"	26.77'
C4	75.00'	19°47'10"	25.90'
C5	40.00'	102°16'00"	71.40'
C6	620.00'	0°29'03"	5.24'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N80°46'51"E	50.89'
L2	N09°13'09"W	5.00'
L3	N60°11'16"E	23.91'
L4	N29°48'44"W	4.00'

RADIAL LINE TABLE	
LINE	BEARING
R1	S63°07'25"W
R2	N64°21'45"E
R3	S63°36'28"W

Exhibit B Page 3 of 4

CAD FILE NO. | WSX_J-1061-2A.DWG

MEPT SKYWAY COURT LLC (DOC. 2008-271042),
PERMANENT EASEMENT.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 1998.5 EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.0000611.



PLAT MAP

CO. ALA.	RTE. WSX	Sheet 2 of 2
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SCALE: NONE | DATE: 08-04-09

DR. NO. | WSX_J-1061-2A

PERMANENT EASEMENT

A permanent non-exclusive access easement (the "Access Easement") and incidents thereto, for the purpose of vehicular and pedestrian ingress and egress on, over, across, and through that portion of the real property described in this Exhibit B located in the city of Fremont, County of Alameda, State of California, identified as Assessor's Parcel Number 519-1351-035.

**LEGAL DESCRIPTION
MEPT SKYWAY COURT LLC
PORTION OF APN 519-1351-035
ALAMEDA COUNTY
CITY OF FREMONT, CALIFORNIA**

August 4, 2009

Being a portion of Parcel 2 as shown on that certain map entitled "Parcel Map 7856" recorded November 21, 2001 in Book 262 of Parcel Maps at Page 17 as described in that certain Document No. 2008271042 recorded September 8, 2008 Official Records in the Office of the Recorder of Alameda County, State of California being more particularly described as follows:

COMMENCING at the southwesterly corner of said Parcel 2 (262 M 17) being a point on the easterly line of that certain parcel described as "Parcel 22" in that certain grant deed to the San Francisco Bay Area Rapid Transit District recorded July 19, 2007 as Document No. 2007265014 being also the northwesterly corner of that certain parcel of land as described in that certain grant deed to the Alameda County Flood Control & Water Conservation District, recorded June 20, 1989 as Document No. 89165238 Official Records in the Office of the Recorder of Alameda County, State of California; thence along the southerly line of said Parcel 2 (262 M 17) being the northerly line of said Alameda County Flood Control & Water Conservation District (89165238) North 80° 46' 51" East 50.89 feet to point of non-tangency of a curve concave southwesterly to which a radial line bears North 63° 36' 28" East being the **POINT OF BEGINNING**; thence through the interior of said Parcel 2 (262 M 17) the following three (3) courses: along said curve concave southwesterly having a radius of 620.00 feet northwesterly through a central angle of 0° 29' 03" an arc length of 5.24 feet; North 80° 46' 51" East 31.57 feet; South 09° 13' 09" East 5.00 feet to a point on said southerly line of said Parcel 2 (262 M 17) being the northerly line of said Alameda County Flood Control & Water Conservation District (89165238); South 80° 46' 51" West 30.00 feet to the **POINT OF BEGINNING**.

Containing 154 square feet of land (0.004 acre) more or less.

A Plat Map is attached hereto and made a part hereof.

This description is based on record, on file documents and field survey measurements. Bearings and distances are based on the California Coordinate System of 1983 (CCS83) Zone III, 1998.5 Epoch. Distances are grid distances, to obtain ground level distances multiply by 1.0000611.





PARCEL 2
PM 7856
262 M 17

519-1351-035

J-1061

MEPT SKYWAY COURT LLC
2008-271042

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	620.00'	0°29'03"	5.24'

J-1061-3A
TEMPORARY
CONSTRUCTION
EASEMENT
154 sq.ft.
0.004 acre

J-1061-2A

N09°13'09"W
5.00'

31.57'
N80°46'51"E

30.00'
N80°46'51"E

P.O.B.

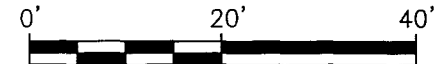
J-1071-3A

J-1061-1A

J-1071

P.O.C.

N80°46'51"E 50.89'
N63°36'28"E
(R)



CAD FILE NO. WSX_J-1061-3A.DWG

MEPT SKYWAY COURT LLC (DOC. 2008-271042),
TEMPORARY CONSTRUCTION EASEMENT.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 1998.5 EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.0000611.



SCALE: 1"=20' DATE: 08-04-09

PLAT MAP

CO. ALA. RTE. WSX Sheet 1 of 1

DR. NO. WSX_J-1061-3A

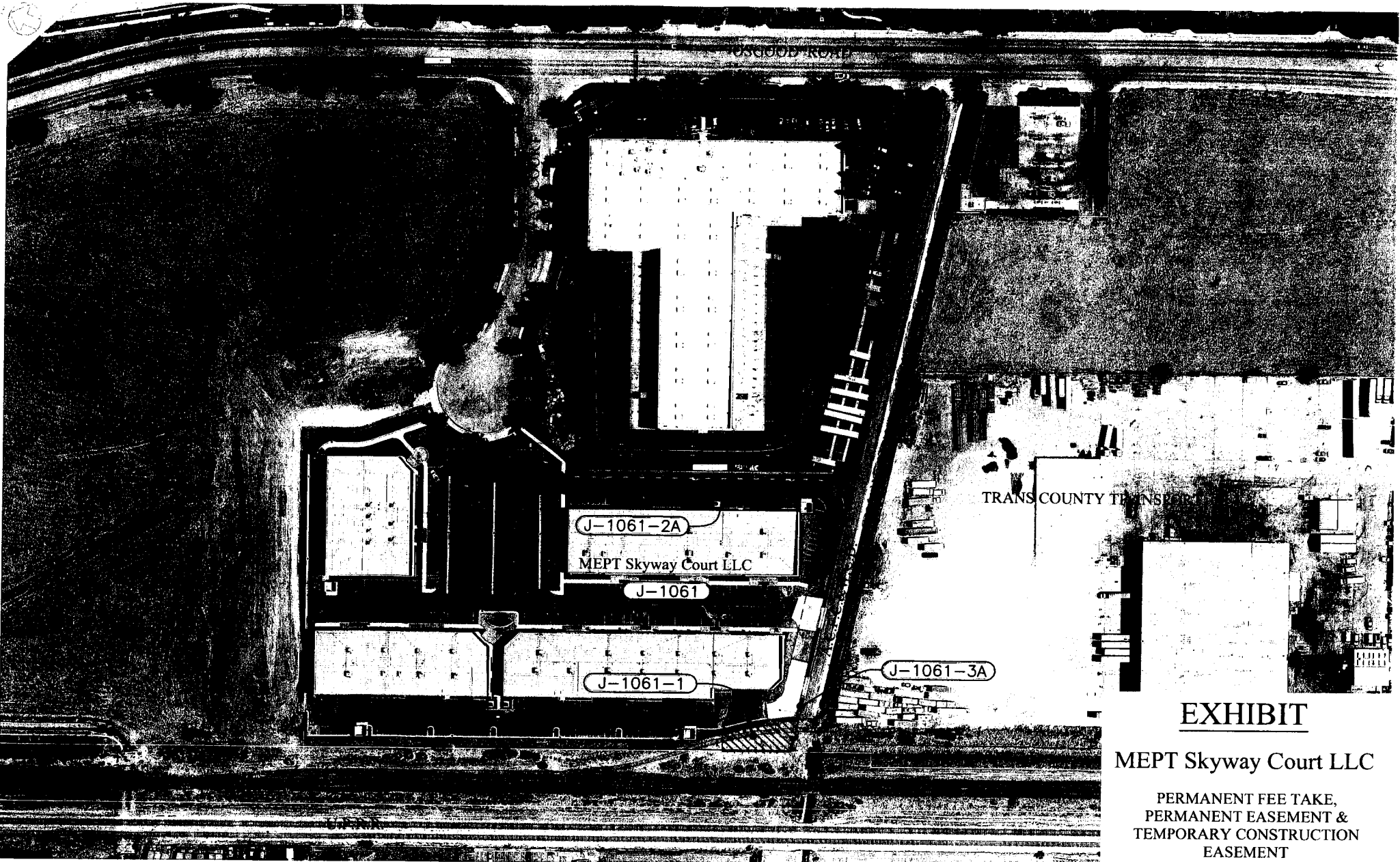
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FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast 8/4/09	REMARKS
<u>ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT</u>			
Design	\$59,312,460	\$63,958,436	
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	\$97,727,635	
<u>CONSTRUCTION</u>			
Fremont Subway	\$282,000,000	\$164,100,660	
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	
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<u>PROGRAM COSTS</u>			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	
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Contingency	\$2,776,319	\$88,036,136	
TOTAL PROGRAM COSTS	\$139,041,825	\$239,071,705	
TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXHIBIT

MEPT Skyway Court LLC

**PERMANENT FEE TAKE,
PERMANENT EASEMENT &
TEMPORARY CONSTRUCTION
EASEMENT**



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeLauger</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board.		
DATE: <i>8/5/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basuino Dept: Real Estate, ext. 6852 <i>Joseph M Basuino</i> Signature/Date: <i>8/5/09</i>	General Counsel <i>Audrey Kavanagh</i> <i>8/5/09</i>	Controller/Treasurer <i>[Signature]</i> <i>8/5/09</i>	District Secretary []	BARC <i>[Signature]</i> <i>8-5-09</i> []
Status: Routed		Date Created: 07/29/2009		

TITLE:

Condemnation of Real Property for WSX Project, BART Parcel # J-2036-1A and J-2036-3A

NARRATIVE:

PURPOSE:

To adopt by a two-thirds vote of the entire Board the attached Resolution of Necessity to Condemn fee simple and temporary easement interest in real property located at 2090 Warm Springs Court, Fremont, California 94539. This property is required for the Warm Springs Extension Project.

DISCUSSION:

The San Francisco Bay Area Rapid Transit District ("BART") proposes to purchase certain real property interests for the purpose of constructing a rail extension from the existing Fremont Station site south to the Warm Springs District in Fremont ("WSX" or the "Project"). The Project requires the acquisition of approximately 9,625 square feet in fee and of approximately 2,797 square feet in temporary construction easement of a 2.34± acre property owned by Pacifica Investments, Inc. ("Pacifica"). The property is located at 2090 Warm Springs Court, Fremont, California 94539 (BART Parcel #J-2036-1A and J-2036-3A or the "Subject Parcel").

The Board certified a California Environmental Quality Act ("CEQA") Final Environmental Impact Report ("FEIR") on September 15, 1992, and a Supplemental Environmental Impact Report ("SEIR") on June 26, 2003, adopting the Project on those respective dates. Thereafter, the Federal Transit Administration ("FTA"), as lead federal agency, and BART released a Final Environmental Impact Statement ("FEIS") for the Warm Springs Extension Project in July 2006. The FTA issued a Record of Decision on October 24, 2006.

The proposed use of the Subject Parcel is for BART system trackway and appurtenances. Project features proposed on or near this parcel have been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible.

The uses to be located on the Subject Parcel, particularly the trackway, are necessary for the successful construction of the Project and the safe and efficient operation of the BART system. The Subject Parcel is uniquely suited to support these Project purposes.

The offer required by Section 7267.2 of the Government Code has been made to the owners of record of the Subject Parcel on December 11, 2008. The estimated market value of the required property interests in the Subject Parcel is \$1,161,800.00.

To date, negotiations appear to be at an impasse. The property owners have been notified of the Board hearing on August 13, 2009.

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

1. The public interest and necessity require the proposed project;
2. The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The proposed property acquisition is necessary for said project; and
4. Whether the offer required by Government Code section 7267.2 has been made to all owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

FISCAL IMPACT:

The \$1,161,800.00 required for the acquisition of Parcel # J-2036-1A and J-2036-3A is proposed to come from Project 02EC, ROW Acquisition. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for the purchase will come from the following source:

CTC Traffic Congestion Relief Program (TCRP) –WSX 55N: \$1,161,800.00

As of month end 5/24/09, \$45,131,543 is available for commitment from this fund source for this Project, and \$13,416,462 has been committed by BART to date. There are \$1,908,650 pending commitments in BART’s financial management system. This action will commit an additional \$1,161,800.00, leaving an uncommitted balance of \$28,644,631 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 construction when required and exposing BART to additional escalation on the capital cost of the WSX Project.

RECOMMENDATIONS: Adoption of the attached Resolution of Necessity to condemn the Real Property.

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 J-2036-1A and J-2036-3A; 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 J-2036-1A AND J-2036-3A;
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 Warm Springs Extension Project (the “Project”). The BART Board of Directors (“Board”) certified a California Environmental Quality Act (“CEQA”) Final Environmental Impact Report (“FEIR”) on September 15, 1992. The District prepared a Supplemental Environmental Impact Report (“SEIR”) for the purpose of updating the 1992 FEIR due to changed circumstances and certain revisions to the Project since 1992. On June 26, 2003, following a public hearing, the Board certified the SEIR and adopted the Project.

2. The Federal Transit Administration (“FTA”) and BART released a Final Environmental Impact Statement (“FEIS”) for the Warm Springs Extension Project in July of 2006. The FTA issued a Record of Decision on October 24, 2006, which determined that the National Environmental Policy Act (“NEPA”) requirements and other federal requirements for the Project have been satisfied.

3. The Project requires the acquisition of certain property owned by Pacifica Investments, Inc. that is defined in paragraph 5 of these Recitals as the Subject Property.

4. The District has complied with all requirements of CEQA and NEPA for the Project.

5. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, to wit, fee title and temporary construction easement, together with all improvements situated thereon and together with all rights appurtenant thereto, to certain real property owned in fee simple by Pacifica Investments, Inc., as its interests appear of record, which real property, or interests in property, is located at 2090 Warm Springs Court., Fremont, California, 94539, and is identified as BART Parcel Numbers J-2036-1A and J-2036-3A (Assessor's Parcel Number 519-0850-003-02), and is more particularly described and shown in Exhibits A and B, attached hereto and incorporated herein by this reference (the "Subject Property"). Parcel J-2036-1A is to be acquired in fee, together with any improvements thereon. Parcel J-2036-3A is to be acquired as a temporary construction easement.

6. 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.

7. 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 or owners written notice of the intent to adopt this resolution of necessity.

8. 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 proposed Project;
2. The proposed 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 proposed Project;
4. The offer required by Section 7267.2 of the California Government Code has been made to all owners of record of the Subject Property, or the offer has not been made because the owner cannot be located with reasonable diligence;
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.

Special counsel, Erickson, Beasley & Hewitt, 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 California Transportation Commission (CTC) Traffic Congestion Relief Program (TCRP)-WSX Fund 55N, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said 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.

###

**LEGAL DESCRIPTION
PACIFICA INVESTMENTS, INC.
PORTION OF APN 519-0850-003-02
ALAMEDA COUNTY
CITY OF FREMONT, CALIFORNIA**

August 4, 2009

Being a portion of that certain real property described as Parcel One in Document No. 2008013661 recorded January 18, 2008 Official Records in the Office of the Recorder of Alameda County, State of California being more particularly described as follows:

BEGINNING at the southwesterly corner of said Parcel One (2008013661) being a point on the easterly line of that certain parcel described as "Parcel 24" in that certain grant deed to the Santa Clara Valley Transportation Authority recorded December 11, 2002 as Document No. 2002578558 Official Records in the Office of the Recorder of Alameda County, State of California; thence along the westerly line of said Parcel One (2008013661) being the easterly line of said "Parcel 24" (2002578558) North 22° 28' 20" West 158.37 feet to the northwesterly corner of said Parcel One (2008013661); thence along the northerly line of said Parcel One (2008013661) being the southerly line of that certain parcel of land described as "Parcel 2" in that certain grant deed to Radonich, Living Trust recorded July 01, 1996 as Document No. 96160146 and in that certain Quitclaim Deed Trust Transfer recorded August 20, 2001 as Document No. 2001309153 Official Records in the Office of the Recorder of Alameda County, State of California, North 52° 39' 17" East 61.58 feet to a point of non-tangency of a curve concave northeasterly to which a radial line bears South 69° 16' 01" West; thence through the interior of said curve concave northeasterly having a radius of 15,514.52 feet southeasterly through a central angle of 0° 36' 21" an arc length of 164.05 feet; thence South 25° 58' 56" East 19.13 feet to a point on the southerly line of said Parcel One (2008013661) being the northerly line of that certain parcel of land described in a Grant Deed to James Johns and Audrey E. Johns, Trustees, The Johns Family Trust, recorded December 30, 2008 as Document No. 2008362172 Official Records in the Office of the Recorder of Alameda County, State of California; thence along said southerly line of said Parcel One (2008013661) South 76° 44' 05" West 55.55 feet to the **POINT OF BEGINNING**.

Containing 9,625 square feet of land (0.221 acre) more or less.

A Plat Map is attached hereto and made a part hereof.

This description is based on record, on file documents and field survey measurements. Bearings and distances are based on the California Coordinate System of 1983 (CCS83) Zone III, 1998.5 Epoch. Distances are grid distances, to obtain ground level distances multiply by 1.0000611.





519-0850-002-09

J-2035

RADONICH, LIVING TRUSTS
DOC. 2001309153
DOC. 96160146
PARCEL 2

519-0850-003-02

J-2036

PACIFICA INVESTMENTS, INC.
DOC. 2008013661

519-0850-004

J-2037

JOHNS FAMILY TRUST
DOC. 2008-362172

J-2035-1

N69°16'10"E (R)
N52°39'17"E
61.58'

J-2036-3A

L=164.05' R=15514.52' Δ=0°36'21"

J-2036-1A

9,625 sq.ft.
0.221 acres

N25°58'56"W
19.13'

N76°44'05"E
55.55'

N22°28'20"W 158.37'

J-2037-1

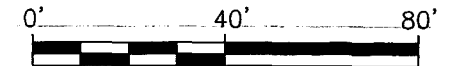
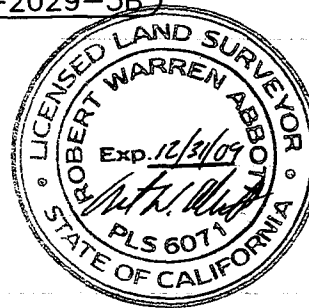
10' WIDE PIPELINE ESMT.
RE:1816 IM:69

J-2029-3B

P.O.B. V.T.A.

J-2029

DOC. 2002578558
PARCEL TWENTY-FOUR
(U.P.R.R. V-11/2, NO. 10-15)



CAD FILE NO. WSX_J-2036-1.DWG

PACIFICA INVESTMENTS, INC. (DOC. 2008013661),
FEE TAKE AREA.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 1998.5 EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN GROUND LEVEL DISTANCES MULTIPLY BY 1.0000611.



PLAT MAP

CO. ALA.

RTE. WSX

Sheet 1 of 1

SCALE: 1"=40'

DATE: 08-04-09

DR. NO. WSX_J-2036-1A

**LEGAL DESCRIPTION
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PORTION OF APN 519-0850-003-02
ALAMEDA COUNTY
CITY OF FREMONT, CALIFORNIA**

August 4, 2009

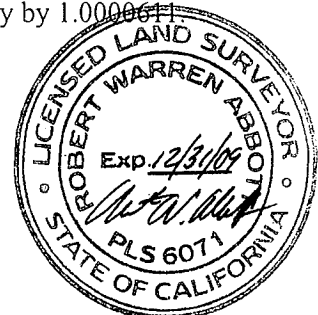
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519-0850-003-02

J-2036

PACIFICA INVESTMENTS, INC.

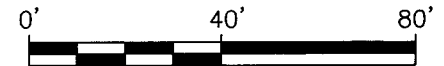
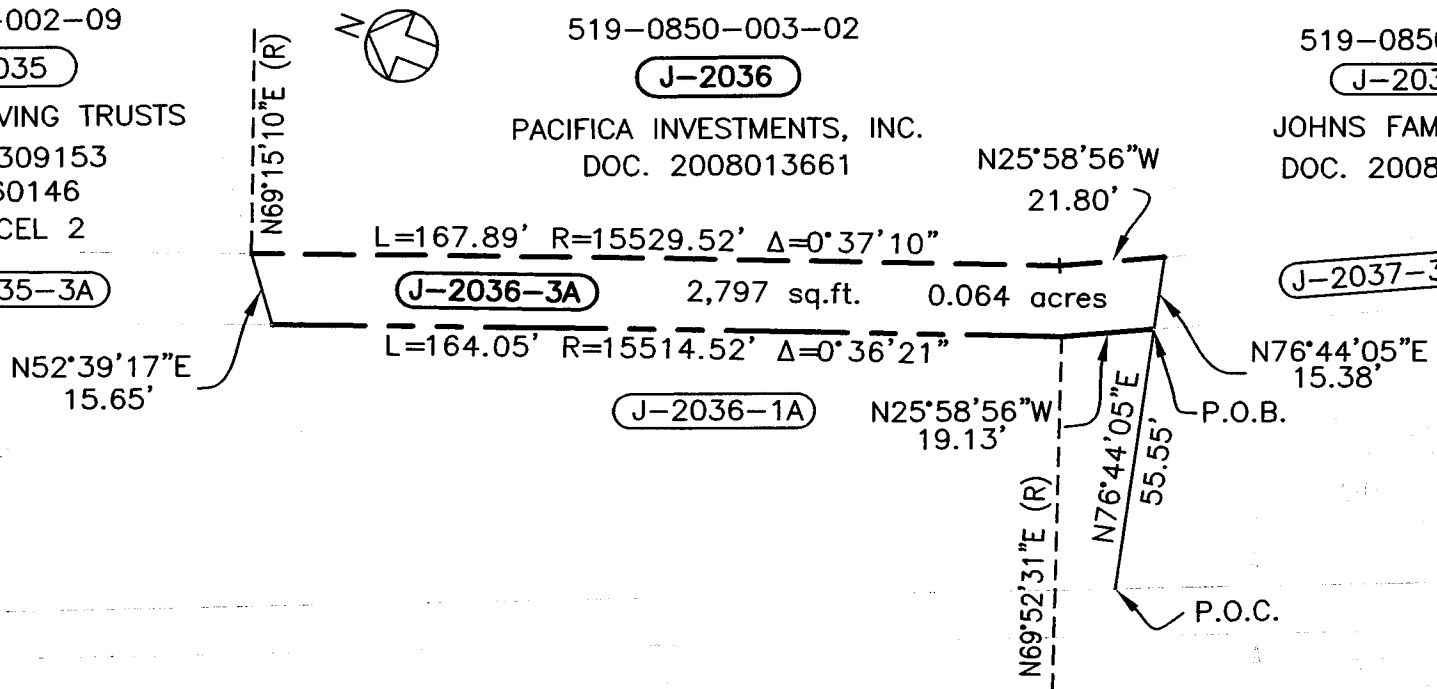
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CAD FILE NO. WSX_J-2036-3A.DWG

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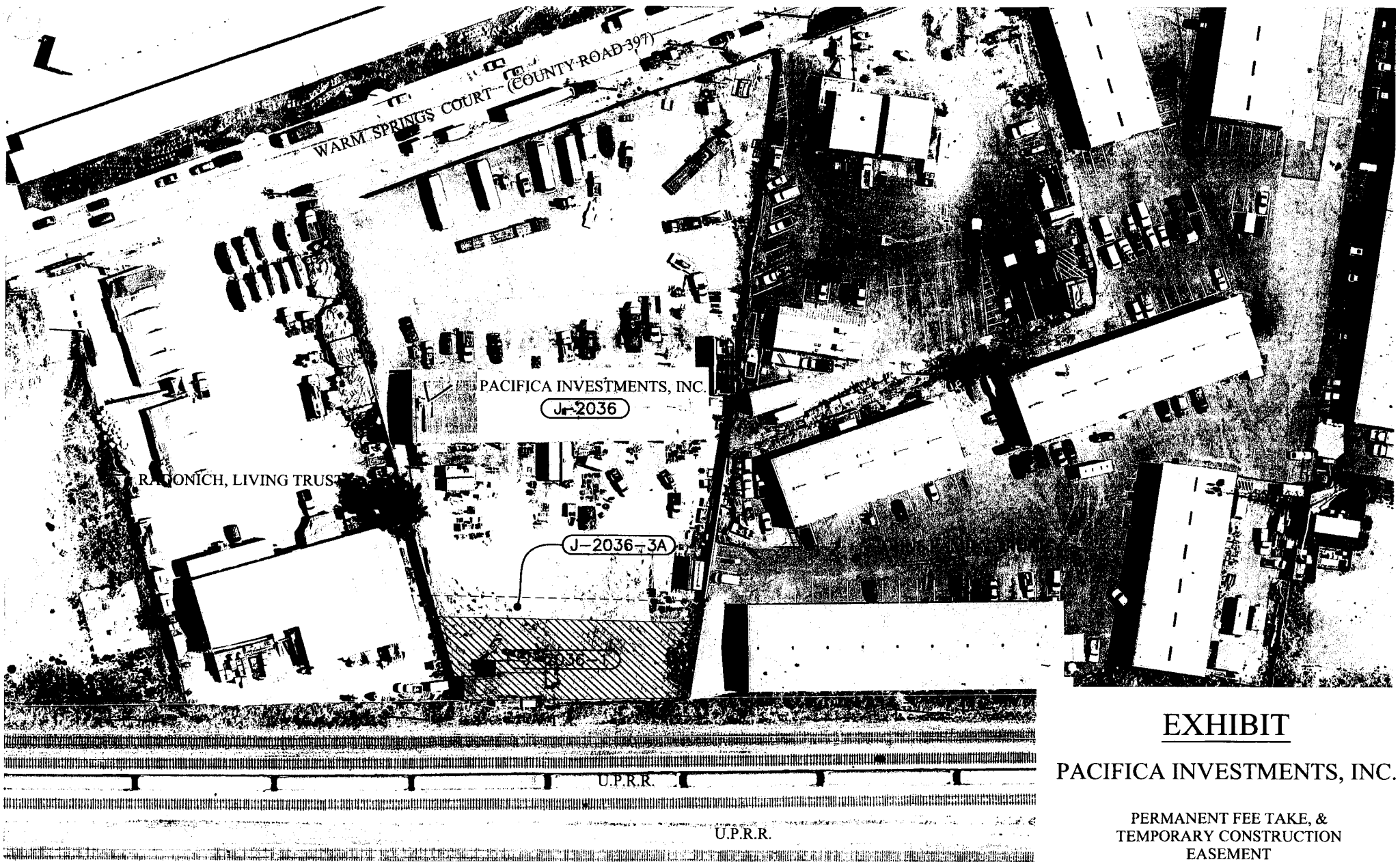
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TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXHIBIT

PACIFICA INVESTMENTS, INC.

PERMANENT FEE TAKE, &
TEMPORARY CONSTRUCTION
EASEMENT



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marice DeBurger</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 8/7/09		BOARD INITIATED/ITEM: No		
Originator/Prepared by: Peter Y Horikoshi Dept: Human Resources Signature: <i>Peter Y Horikoshi</i> Date: 8/7/09	General Counsel <i>Andrea Lewis</i> 8/7/09	Controller/Treasurer <i>[Signature]</i> 8/7/09	District Secretary []	BARC []

Actuarial Statement of Potential Change to Retirement and Postretirement Benefit for District Employees for Money Purchase Pension Plan 1.627% (California Gov't Code Section 7507). (For information.)

NARRATIVE:

Suspension of Money Purchase Pension Plan 1.627% Contribution.

This is an informational item. No action is required at this time.

This item is being introduced today because the District is considering a suspension of the so-called 1.627% portion of the Money Purchase Pension Plan contribution for represented and non-represented employees through FY13. This change would trigger California Government Code Section 7507, which requires that the legislative body have, "secure[d] the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal costs and any additional accrued liability," and that the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, "be made public at a public meeting at least two weeks prior to the adoption of any changes." Today's meeting is to satisfy that requirement.

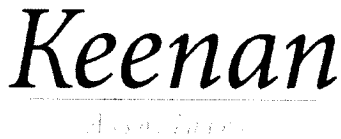
The actuaries have calculated the impact of the suspension for each of these groups within the District. As shown in the chart on the attached actuarial study, the changes contemplated impact only FY 13 for AFSCME and non-sworn members of BPOA and BPMA, FY 12 and 13 for SEIU and ATU, and FY 10 – 13 for non-represented employees. This change will reduce costs to the District in those years.

Suspension of District 1.627% Contribution to the Money Purchase Pension Plan (MPPP)

The District currently makes a contribution of 1.627% of eligible earnings for each employee into a tax-favored savings plan called the Money Purchase Pension Plan (MPPP). The plan itself is subject to IRS regulations that reinforce its intended use as retirement savings. Balances already accrued in MPPP accounts would, of course, be untouched, and the accounts would remain open to receive annual contributions that can be elected by employees as an optional disposition for certain accrued sick leave, holiday, and vacation balances.

Actuarial Analysis and Cost/Savings

An actuarial statement for the suspension of the District 1.627% contribution to the Money Purchase Pension Plan for all groups described above has been provided from Keenan & Associates (Keenan), the District's actuary for benefits issues. Future annual costs beyond the term of the proposed 4-year labor contracts are not provided in the actuarial statement that has been made available to the public since the contribution is being suspended but not eliminated. An actuary from Keenan & Associates will be available to answer questions about the analysis at a future meeting when the Board will be asked to consider adopting this change in benefits.



2355 Crenshaw Blvd.
Suite 200
Torrance, CA 90501

310 212-3344
800 444-9995
310 212-0360 fax
www.keenan.com
License No. 0451271

August 7, 2009

Mr. Peter Horikoshi
Supervisor, Human Resources Programs, Benefits
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 20th Floor
Oakland, CA 94612

RE: Work Directive #6 – Money Purchase Pension Plan - Additional Contribution

Dear Peter:

We have calculated the present value of the additional Money Purchase Pension Plan (MPPP) contribution as of July 1, 2009 for the next four fiscal years ending on June 30.

The calculation was based on the following:

- Census data received on August 4, 2009
- Plan document for the San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan (As Amended and Restated Effective January 1, 2006)
- Additional contribution formula of 1.627% of Payroll
- Eligible Payroll for the Union as determined under Section 3.01(b) of the Plan
- The following received salary increases:
 - Non-reps in January 2009
 - Others in July 2008
- Salary remains constant in the projection period
- Inflation rate of 3.0%, same as OPEB. This rate was used to index the salary limitation under Code Section 401(a)(17).
- All other assumptions were the same as those used in the OPEB valuation as shown in the Mercer report as of June 30, 2008

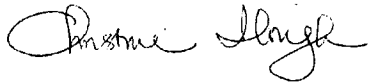
The following table shows the results of our analysis:

	Number of Employees	Present Value as of July 1, 2009 of the Additional Employer Contribution				
		FY 2009/2010	FY 2010/2011	FY 2011/2012	FY 2012/2013	TOTAL
AFS	206	-	-	-	193,894	\$ 193,894
ATU	894	-	-	614,848	539,328	\$ 1,154,176
BPM	5	-	-	-	5,980	\$ 5,980
BPO	76	-	-	-	42,844	\$ 42,844
BPMS	43	-	-	-	-	\$ 0
BPOS	145	-	-	-	-	\$ 0
NON	399	652,402	566,686	489,585	422,867	\$ 2,131,540
SEI	1444	-	-	1,116,462	971,273	\$ 2,087,735
Total	3212	\$ 652,402	\$ 566,686	\$ 2,220,895	\$ 2,176,186	\$ 5,616,169

Peter Horikoshi
August 7, 2009
Page 2

Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Christine Hough".

Christine S. Hough, FSA, EA, MAAA
Assistant Vice President

cc: Ju Anderson, Keenan & Associates
Jovita Juanillo, Keenan & Associates
Peter McNamara, Keenan & Associates
Steve Gedestad, Keenan & Associates

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: August 7, 2009

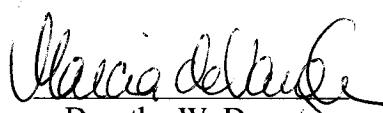
FROM: General Manager

SUBJECT: Resolution to Adopt Citizen Oversight for the BART Police Department

Public comment on the draft citizen oversight model (the "Model") for the BART Police Department that was discussed at the Special Board Meeting on July 30 will be accepted through Friday, August 7, 2009. The BART Police Department Review Committee and its Subcommittee are scheduled to meet on Monday, August 10 to consider comments submitted by the public and to make any final revisions to the Model. The final draft Model will be considered for adoption at the BART Board of Directors meeting on Thursday, August 13.

The final draft Model, a proposed Resolution in the Matter of Creating Citizen Oversight of the BART Police Department and, draft legislative language to amend the BART Act will be forwarded to the Board by next Tuesday. The public will be able to view these documents on the BART website by noon on Tuesday, August 11. The website can be accessed by using the following link: <http://www.bart.gov/about/bod/meetings.aspx>

Please contact me or Marcia deVaughn at (510) 464-6126 if you need additional information.


Dorothy W. Duggér

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia E deVaughn</i>		GENERAL MANAGER ACTION REQ'D: No		
DATE: 8/7/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Marcia E deVaughn Dept: General Manager	General Counsel <i>Andrew Purvis</i> 8/7/09	Controller/Treasurer <i>[Signature]</i> 8/7/09	District Secretary []	BARC <i>[Signature]</i> 8-7-09
Signature/Date:		[]	[]	[]
Status: Routed		Date Created: 08/04/2009		
TITLE:				

Resolution to Adopt Citizen Oversight for the BART Police Department

NARRATIVE:

PURPOSE: To obtain Board authorization to seek necessary legislative changes to Public Utilities Code Section 28500 et. seq. (the "BART Act") that are required in order to implement the recommended citizen oversight model for the BART Police Department (the "Model"), and subject to successful amendment of the BART Act, adoption of the citizen oversight for the BART Police Department. Legislative changes include amending Public Utilities Code Section 28767 to allow the Board to create a sixth position of Independent Police Auditor that reports directly to the Board of Directors. Additionally, the BART Act would be amended to incorporate a role for the Independent Police Auditor, the Citizen Board and the Board of Directors in instituting discipline of BART police officers.

DISCUSSION: On January 12, 2009, the Board of Directors established the BART Police Department Review Committee (the "Committee") in response to the fatal shooting by a BART police officer that occurred at Fruitvale Station on New Year's Day. One of several priorities the Committee was tasked to advance by the Board was to research citizen oversight of police departments and seek public input on a model of citizen oversight that could be implemented at BART.

To become educated about citizen oversight models, the Committee reviewed literature and met with citizen oversight professionals as well as other interested stakeholders. On May 2, the Committee hosted a community forum on citizen oversight where professionals discussed the topic and presented information regarding oversight systems in five Northern California jurisdictions. The Committee also presented its first draft model and sought public comment at the meeting. On May 6, the Committee convened a Subcommittee (the "Subcommittee") to revise the draft model with input from the public. The Subcommittee included two BART Directors, the General Manager, three members of the community at large, a consultant to the Committee, and the presidents of the two BART Police Associations.

After discussing the elements of a BART model in numerous open meetings, the Subcommittee finalized a revised draft model for presentation to the public at a Special Board Meeting on the evening of July 30 and began a public comment period that extended to August 7. The revised

draft model includes the creation of a Board appointed Independent Police Auditor position and a Citizen Board. The Office of the Independent Police Auditor will investigate and make recommendations regarding citizen complaints against BART police officers to the Citizen Board. The Independent Police Auditor, in consultation with the Citizen Board will also review the procedures, practices and training of the Police Department and recommend changes, as appropriate. The model also incorporates roles for the Independent Police Auditor, Citizen Board and the BART Board of Directors in instituting discipline for police officers.

Legislative changes to the BART Act are required to establish the Independent Police Auditor position with a direct reporting relationship to the Board of Directors and to provide a role for the Auditor, Citizen Board and Board of Directors in the disciplinary process for police officers. In order to advance the process of amending the BART Act to effectuate these changes, the Board must adopt a Resolution to create citizen oversight of the BART Police Department and authorizes staff to seek changes to the BART Act.

FISCAL IMPACT: The FY10 Operating Budget includes \$499,781 to establish the Office of the Independent Police Auditor (3 FTE) and to support Citizen Board related expenses.

ALTERNATIVES: Do not adopt the attached Resolution to create citizen oversight of the BART Police Department as outlined in the attached draft model or authorize staff to seek amendment to the BART Act.

RECOMMENDATION: Adopt the following motion.

MOTION: Approve the attached Resolution in the Matter of Creating Citizen Oversight of the BART Police Department.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeBenedictis</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to E&O Committee		
DATE: <i>8/15/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept: <i>[Signature]</i>	General Counsel <i>Andrew Rawas</i> 8/3/09	Controller/Treasurer <i>[Signature]</i> 8/3/09	District Secretary []	BARC <i>Paul Covatta</i> 8/3/09
Signature/Date: <i>[Signature]</i> 8/3/09		[] [] []		
Status: Routed		Date Created: 07/21/2009		

TITLE:

Sweeping Services at Various BART Parking Lots and Garages, RFP No. 6M3110A

NARRATIVE:

PURPOSE:

Request the Board to authorize the General Manager to execute Agreement No. 6M3110A, to Provide Sweeping Services at various BART Parking Lots and Garages (Zone 1 and/or Zone 2), with Webco Sweeping, LLC. for a total compensation not to exceed \$1,351,107.40 for a five year period.

DISCUSSION:

This Agreement will provide for sweeping services for station parking lots, parking structures, driveways, access roads, bus lanes, vehicular underpasses, yard and shop parking lots. The District facilities maintained under this agreement were divided into two zones for bidding purposes. The zones were essentially C and R lines for Zone 1 and A, K, L, M, and W lines for Zone 2. This would allow smaller firms to bid on only one zone. Advance Notices were mailed to five (5) prospective proposers that had submitted technical proposals under the original Request for Proposals (RFP) No. 6M3110. The technical proposals received under the original RFP No. 6M3110 were deemed to be non-responsive and the sweeping services were re-bid under RFP No. 6M3110A. RFP No. 6M3110A was advertised in various local publications on June 6, 2009. The Request for Proposals was mailed to six (6) firms that had requested the documents. A pre-bid meeting and site visits were conducted on June 17, 2009 with all six prospective proposers attending. Proposals for this agreement were received on July 14, 2009 from three companies, Webco Sweeping, LLC; Universal Sweeping Services; and Universal Building Services.

A Selection Committee, including representatives from Contract Administration, Maintenance Support, and Office of Civil Rights departments, conducted technical evaluations and price analysis of the proposals. Proposers submitted technical and price proposals separately. Only those proposers whose technical qualifications met the District's requirements were eligible for review of their price proposals by the Committee. Technical proposals were reviewed for compliance with the minimum technical requirements set forth in the RFP. These requirements included items such as experience, personnel qualifications, possession of equipment in good order and availability of operating crews to perform work simultaneously in multiple locations. All three proposals were determined to have met the District's minimum technical requirements. The committee then opened and evaluated the three price proposals, as shown:

Proposer	Zone 1	Zone 2	Total
Webco Sweeping, LLC., Morgan Hill, CA	\$567,480.30	\$783,627.10	\$1,351,107.40
Universal Building Services, Richmond, CA	\$645,880.00	\$1,061,310.00	\$1,707,190.00
Universal Sweeping, San Jose, CA	\$745,962.14	\$1,221,406.04	\$1,967,368.18

Webco Sweeping was identified as the proposer with the lowest price proposal for each of Zones 1 and 2,

and therefore the Committee recommends award for services in both Zones 1 and 2 to Webco Sweeping.

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

FISCAL IMPACT:

Funding for this Agreement will include the following estimated expenditure:

FY10	\$225,184.56
FY11	\$270,221.48
FY12	\$270,221.48
FY13	\$270,221.48
FY14	\$270,221.48
FY15	\$ 45,036.92

Funding for this agreement will be provided from FY10 Interim Operating Budget for Cost Center 648, Maintenance Support. Funding for the subsequent years FY11-FY15 will be requested in future operating budget cycles.

ALTERNATIVE:

Failure to award this Agreement would disrupt the continuity of the parking lot sweeping program. Failure to sweep the parking lots would create unacceptable conditions for our patrons and surrounding neighbors. Station appearance and general safety would be degraded.

RECOMMENDATION:

On the basis of evaluation by the Selection Committee, staff recommends that the Board of Directors adopt the following motion:

MOTION:

That the General Manager is authorized to enter into Agreement No. 6M3110A, to Provide Sweeping Services at Various BART Parking Lots and Garages (Zone 1 and/or 2), with Webco Sweeping, LLC., for an amount not to exceed \$1,351,107.40 for a period of five years, subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeLaRosa</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 8/5/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD Signature/Date: <i>sj</i>	General Counsel <i>Andrew Raval</i> 7/30/09	Controller/Treasurer <i>[Signature]</i> 7/30/09	District Secretary []	BARC <i>Taylor</i> 8/31/09 []
Status: Approved		Date Created: 07/03/2009		

TITLE:

Increase of Contract Value - Agreement No. 6M8015 Construction Management Services for the Earthquake Safety Program Parking Structures

NARRATIVE:

PURPOSE:

To obtain the Board's approval for the General Manager to execute a modification to Agreement No. 6M8015, Construction Management Services for the Earthquake Safety Program Parking Structures, with The Allen Group/Cooper Pugeda Management, A Joint Venture. The value of the Agreement would increase the not-to-exceed amount to \$4,000,000.

DISCUSSION:

The Board authorized award of Agreement No. 6M8015 in October 25, 2007 to The Allen Group/Cooper Pugeda Management, a Joint Venture, in an amount not to exceed \$2,000,000. The retrofit of six parking structures was awarded September 25, 2008. Construction management staffing was based on the premise of working on three garages concurrently, and then moving onto the next as each of the original three was completed. To date, the Contractor on the retrofit work has encountered differing site conditions at each parking structure. As the field conditions do not match the as-built information, additional design and modification of the retrofit of each structure is resulting in additional construction management coordination, oversight and documentation. As differing site conditions are affecting the overall construction schedule, the Contractor has mobilized at all of the parking structures in advance of completing a garage to minimize the overall impact to the schedule. Working six locations at one time with the potential for differing site conditions at each parking structure will require additional construction management services.

Consequently, staff is requesting a \$2,000,000 increase to the Agreement for construction management services, increasing the Agreement to an amount not-to-exceed \$4,000,000.

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

FISCAL IMPACT:

After execution of this modification, Agreement No. 6M8015 will have a not-to-exceed amount

of \$4,000,000. District financial obligations under the Agreement will be subject to Annual Work Plans (AWPs). Each AWP will have a defined scope of services and separate schedule and budget. Any AWP assigned for funding under a State or federal grant will include State or federal requirements. AWP's will be approved only if BART Capital Development and Control certifies the eligibility of identified funding sources and the Controller/Treasurer certifies the availability of funding prior to execution of each AWP.

BART's Manager, Earthquake Safety Program, will have the authority to issue AWP's and to administer Agreement No. 6M8015.

Funding for individual AWP's will be provided from BART's Capital Budget accounts as evidenced by the issuance of related work orders.

ALTERNATIVES:

The Board could decline to authorize the Agreement modification. Staff would have to seek other means of furnishing the required construction management services. This would entail additional time, cost and risk to the Program as minimal construction management oversight on an active construction contract would occur in the interim.

RECOMMENDATION:

Staff recommends that the Board adopt the following motion:

MOTION:

The General Manager is authorized to execute a modification to Agreement No. 6M8015, Construction Management Services for the Earthquake Safety Program Parking Structures, with The Allen Group/Cooper Pugeda Management, a Joint Venture to increase the not-to-exceed amount to \$4,000,000.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 5/26/09	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	\$66,570,729	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$294,968,966	
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	\$5,605,380	
Marine Vibro Demo	\$101,285,000	\$74,896,965	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$101,496,835	
Fremont	\$178,224,000	\$124,519,000	
Concord	\$36,500,000	\$67,400,000	
Richmond	\$80,155,000	\$85,700,000	
San Francisco/Daly City	\$36,590,000	\$33,800,000	
Stations (18)	\$126,961,000	\$127,693,208	
Other Structures			
LMA	\$5,529,000	\$5,265,226	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$8,828,646	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$687,375,789	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$236,770,524	
Contingency	\$32,104,000	\$119,661,582	
TOTAL PROGRAM COSTS	\$191,998,204	\$356,432,106	
BASELINE FUNDING			
	\$1,350,486,000		
REVISED FUNDING (1)			
		\$1,338,776,861	

(1) BART funding/costs reduced by \$11.5M



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeVandri</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 8/7/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Horton Dept: TSD <i>Thomas Horton</i> Signature/Date: 8/5/09	General Counsel <i>Dudley Rowland</i> 8/4/09	Controller/Treasurer <i>[Signature]</i> 8/4/09	District Secretary []	BARC <i>Paul Gessner</i> 8/7/09
Status: Approved		Date Created: 07/27/2009		

TITLE:

Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, Change Order No. 7

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Change Order No. 7, Differing Site Conditions at Bents 3, 4 and 5, in an amount not to exceed \$340,000, to Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, with California Engineering Contractors, Inc.

DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, to California Engineering Contractors, Inc., on October 9, 2008. The Contractor began its work on Bents 3, 4 and 5 near Sycamore and 27th Streets in Oakland, and encountered numerous differing site conditions. These included excess concrete on foundations, differing rebar configurations in concrete foundations, and differing pile layouts.

The Contract included an Allowance for Delays Due to Differing Site Conditions in the amount of \$100,000 to address issues such as those that the Contractor encountered. The differing site conditions are more than anticipated, and the Allowance has now been exhausted. Staff is requesting this Change Order in an amount not to exceed \$340,000 to compensate the Contractor for the additional work created by the differing site conditions.

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

The Office of the General Counsel will approve this Change Order as to form prior to execution. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT:

Funding for this Change Order No. 7 is included in the total project budget for the FMS No. 15SU Earthquake Safety Program Aerial Structures – North Oakland. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this purpose will come from the following sources:

F/G 49S – Seismic LSSRP – Fed only \$256,799

As of 7/27/2009, \$35,859,648 is available for commitment from this fund source for this project. BART has committed \$25,427,747 to date. There are pending commitments of \$4,997,333 in BART's financial management system. This action will commit \$256,799 leaving an uncommitted balance of \$5,177,769 in this fund source.

F/G 55U – LSSRP Local Match \$33,271

As of 7/27/2009, \$4,645,999 is available for commitment from this fund source for this project. BART has committed \$3,294,813 to date. There are pending commitments of \$646,981 in BART's financial management system. This action will commit \$33,271 leaving an uncommitted balance of \$670,934 in this fund source.

F/G 55S – FY07-08 PTMISEA Prop 1B State \$49,930

As of 7/27/2009, \$8,000,000 is available for commitment from this fund source for this project. BART has committed \$4,964,351 to date. There are pending commitments of \$447,231 in BART's financial management system. This action will commit \$49,930 leaving an uncommitted balance of \$2,538,488 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. The District will likely receive a claim from the Contractor for costs related to addressing the differing site conditions.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 7, Differing Site Conditions at Bents 3, 4 and 5, in an amount not to exceed \$340,000, to Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, with California Engineering Contractors, Inc.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 5/26/09	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	\$66,570,729	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$294,968,966	
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	\$5,605,380	
Marine Vibro Demo	\$101,285,000	\$74,896,965	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$101,496,835	
Fremont	\$178,224,000	\$124,519,000	
Concord	\$36,500,000	\$67,400,000	
Richmond	\$80,155,000	\$85,700,000	
San Francisco/Daly City	\$36,590,000	\$33,800,000	
Stations (18)	\$126,961,000	\$127,693,208	
Other Structures			
LMA	\$5,529,000	\$5,265,226	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$8,828,646	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$687,375,789	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$236,770,524	
Contingency	\$32,104,000	\$119,661,582	
TOTAL PROGRAM COSTS	\$191,998,204	\$356,432,106	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING (1)		\$1,338,776,861	

(1) BART funding/costs reduced by \$11.5M

San Francisco Bay Area Rapid Transit District

EXECUTIVE DECISION DOCUMENT

Date:

**ATTACHMENT #2
CONTRACT NO. 15SU-120**

CO No: 7

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Earthquake Safety Program
Name of Contractor:	California Engineering Contractors, Inc.
Contract No./NTP:	15SU-120/November 30, 2008
Contract Description:	Aerial Structures – North Oakland
Percent Complete as of 7/31/09 – Dollars	19.37%
Percent Complete as of 7/31/09 – Time	30.38%

COST

% of Award

CO Totals

Contract Amount

Original Contract Award Amount

\$33,395,185.00

Change Orders:

Other than Board Authorized CO's
003A, 003B, 003C

0.37%

\$ 124,872.36

This Change Order No. 7

1.02%

\$ 340,000.00

Subtotal of all Change Orders

1.39%

\$ 464,872.36

Revised Contract Amount:

\$33,860,057.36

SCHEDULE

Original Contract Duration:	800 days
Time Extension to Date:	0 days
Time Extension Due to Approved COs:	0 days
Revised Contract Duration	800 days



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wanda Oberdorfer</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 8/07/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Horton Dept: FSD <i>Thomas Horton</i> Signature/Date: 8/5/09	General Counsel <i>Andrew Rivas</i> 8/4/09	Controller/Treasurer <i>[Signature]</i> 8/4/09	District Secretary []	BART <i>[Signature]</i> 8/11/09
Status: Approved		Date Created: 07/23/2009		

TITLE:

Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, Change Order No. 12

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Change Order No. 12, Increase in Allowance for Differing Site Conditions, in the amount of \$3 million, to Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland with California Engineering Contractors Inc.

DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland, to California Engineering Contractors, Inc., on October 9, 2008. The Contract included Bid Item 44, an Allowance for Delays Due to Differing Site Conditions, in the amount of \$100,000. District staff included this Allowance due to the unique conditions of the Contract, which include extensive excavation, work on an existing operating system, and only partial knowledge of existing structural conditions. The Allowance was designed to facilitate rapid response when the Contractor encountered differences in site conditions.

The Contractor has encountered numerous differing site conditions, including excess concrete on foundations, differing rebar configurations in concrete foundations, and differing pile layouts. These conditions are more extensive than anticipated, have exhausted the current Allowance of \$100,000, and incurred an additional \$340,000 in costs as described in Change Order No. 7 that was presented to the Board earlier today. Based on the number of aerial structures still to be retrofitted and the additional costs incurred so far in addressing the site conditions, the total cost to address site conditions for the remainder of the Contract is estimated to increase by an additional \$3 million. Change Order No. 12 will increase Bid Item 44 (the Allowance) by that amount.

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

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

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

FISCAL IMPACT:

Funding for this Change Order #12 is included in the total project budget for the FMS No. 15SU Earthquake Safety Program Aerial Structures – North Oakland. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this purpose will come from the following sources:

F/G 49S – Seismic LSSRP – Fed only \$2,265,874
As of 7/27/2009, \$35,859,648 is available for commitment from this fund source for this project. BART has committed \$25,427,747 to date. There are pending commitments of \$2,988,258 in BART's financial management system. This action will commit \$2,265,874 leaving an uncommitted balance of \$5,177,769 in this fund source.

F/G 55U – LSSRP Local Match \$293,568
As of 7/27/2009, \$4,645,999 is available for commitment from this fund source for this project. BART has committed \$3,294,813 to date. There are pending commitments of \$386,684 in BART's financial management system. This action will commit \$293,568 leaving an uncommitted balance of \$670,934 in this fund source.

F/G 55S – FY07-08 PTMISEA Prop 1B State \$440,558
As of 7/27/2009, \$8,000,000 is available for commitment from this fund source for this project. BART has committed \$4,964,351 to date. There are pending commitments of \$56,603 in BART's financial management system. This action will commit \$440,558 leaving an uncommitted balance of \$2,538,488 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board can elect not to increase the Allowance. This would require staff to execute Change Orders to the Contract for each time that differing site conditions are encountered, increasing administrative and Contract costs and delaying completion of the work.

RECOMMENDATION:

Recommend that the Board approve the following motion.

MOTION:

The General Manager is authorized to approve Change Order No. 12, Increase in Allowance for Differing Site Conditions, in the amount of \$3 million, to Contract No. 15SU-120, BART Earthquake Safety Program Aerial Structures - North Oakland with California Engineering Contractors Inc.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 5/26/09	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	\$66,570,729	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$294,968,966	
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	\$5,605,380	
Marine Vibro Demo	\$101,285,000	\$74,896,965	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$101,496,835	
Fremont	\$178,224,000	\$124,519,000	
Concord	\$36,500,000	\$67,400,000	
Richmond	\$80,155,000	\$85,700,000	
San Francisco/Daly City	\$36,590,000	\$33,800,000	
Stations (18)	\$126,961,000	\$127,693,208	
Other Structures			
LMA	\$5,529,000	\$5,265,226	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$8,828,646	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$687,375,789	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$236,770,524	
Contingency	\$32,104,000	\$119,661,582	
TOTAL PROGRAM COSTS	\$191,998,204	\$356,432,106	
BASELINE FUNDING			
	\$1,350,486,000		
REVISED FUNDING (1)			
		\$1,338,776,861	

(1) BART funding/costs reduced by \$11.5M

San Francisco Bay Area Rapid Transit District

EXECUTIVE DECISION DOCUMENT

Date:

**ATTACHMENT #2
CONTRACT NO. 15SU-120**

CO No: 12

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Earthquake Safety Program
Name of Contractor:	California Engineering Contractors, Inc.
Contract No./NTP:	15SU-120/November 30, 2008
Contract Description:	Aerial Structures – North Oakland
Percent Complete as of 7/31/09 – Dollars	19.37%
Percent Complete as of 7/31/09 – Time	30.38%

COST

% of Award

CO Totals

Contract Amount

Original Contract Award Amount

\$33,395,185.00

Change Orders:

Change Order No. 7

1.02%

\$ 340,000.00

Other than Board Authorized CO's
003A, 003B, 003C

0.37%

\$ 124,872.36

This Change Order No. 12

8.98%

\$3,000,000.00

Subtotal of all Change Orders

10.38%

\$3,464,872.36

Revised Contract Amount:

\$36,860,057.36

SCHEDULE

Original Contract Duration:	800 days
Time Extension to Date:	0 days
Time Extension Due to Approved COs:	0 days
Revised Contract Duration	800 days

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

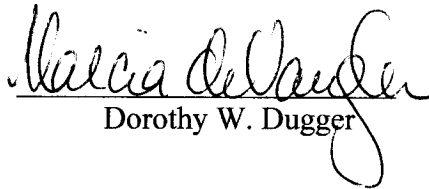
TO: Board of Directors

DATE: August 7, 2009

FROM: General Manager

SUBJECT: Project Stabilization Agreement for the Oakland Airport Connector Project

As the Board is aware, staff is working on a Project Stabilization Agreement for the Oakland Airport Connector. Significant progress has been made and remaining issues are expected to come to closure in time for Board consideration at your meeting on August 13. An EDD on this subject will be mailed to the Board as soon as details are finalized next week.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff