

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

BOARD MEETING AGENDA

November 17, 2011

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, November 17, 2011, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of August 25, 2011, October 13, 2011, and October 27, 2011.* Board requested to authorize.
- B. Resolution of Local Support for a State Transportation Improvement Program (STIP) Grant for the East Contra Costa County BART Extension (eBART) Project.* Board requested to adopt.
- C. Agreement with Able Building Maintenance Company for Agreement No. 6M4142 for Carpet Cleaning Services.* Board requested to authorize.
- D. Change Order to Professional Services Agreement No. 6H3098, General Engineering Services for BART's Warm Springs Extension Project, with PB Americas, Inc., for Extension of Time (C.O. No. 29).* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson
NO REPORT.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Award of Invitation for Bid No. 8899, Cushion and Cover Assemblies.* Board requested to authorize.
- B. Non-Competitive Procurement of Services: Agreement with Paramedics Plus for Stand-by Paramedic Services at West Oakland and Downtown Oakland Stations.* Board requested to authorize.
- C. Sole Source Procurement with General Electric Transportation Systems, Global Signaling for Train Control Microprocessor-Based Interlocking Equipment to Replace the Concord Yard Legacy Train Control Relay Interlocking Equipment.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

- D. Proposed Buy America Bid Preference Policy for Federally Funded Rolling Stock Procurements.* Board requested to authorize.
 - E. Proposed Late Night Service Demonstration.* For information.
 - F. Quarterly Performance Report, First Quarter Fiscal Year 2012 - Service Performance Review.* For information.
5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS
Director Murray, Chairperson
- A. Three Agreements to Provide General Environmental and Planning Services for BART Projects.*
 - a. Agreement No. 6M6047, with Nelson/Nygaard Consulting Associates
 - b. Agreement No. 6M6048, with Arup
 - c. Agreement No. 6M6049, with AECOMBoard requested to authorize.
6. GENERAL MANAGER'S REPORT
NO REPORT.
7. BOARD MATTERS
- A. Resolution for a Policy Requiring Project Stabilization Agreements with Local Hire Provisions on Transit-Oriented Development Projects.* Board requested to adopt. (President Franklin's request.)
 - B. Resolution in Support of Right to Organize at Doppelmayer.* Board requested to adopt. (Director Fang's request.)
 - C. Board Member Reports. For information.
 - D. Roll Call for Introductions.
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)
8. GENERAL DISCUSSION AND PUBLIC COMMENT



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeLuca</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 11/10/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control <i>Stacey Perkins</i> Signature/Date: 11/8/11	General Counsel <i>Audrea Paray</i> Signature/Date: 11/9/11 []	Controller/Treasurer <i>[Signature]</i> Signature/Date: []	District Secretary []	BARC <i>[Signature]</i> Signature/Date: 11-10-11 []
Status: Approved		Date Created: 10/28/2011		

TITLE:

Adoption of a Resolution of Local Support for a Regional Transportation Improvement Program application for the eBART Project

NARRATIVE:

Purpose:

To request that the Board of Directors adopt the attached Resolution of Local Support for a \$13 million application to the Metropolitan Transportation Commission ("MTC") for a Regional Transportation Improvement Program ("RTIP") grant for construction of the eBART Project ("Project").

Discussion:

MTC Resolution No. 4028 "Policies and Project Selection Criteria for the 2010 Regional Transportation Improvement Program (RTIP)", requires that a project sponsor approve a resolution of Local Support when the project sponsor submits an application for RTIP funds. Staff have prepared the attached resolution of Local Support for \$13 million in RTIP funding for the eBART Project. MTC is responsible for developing the region's funding priorities for the RTIP and for submitting the proposed projects to the California Transportation Commission ("CTC") for adoption into the State Transportation Improvement Program ("STIP").

The eBART Project, currently in construction, will expand the existing BART system by ten miles. The Project will extend transportation services to communities in east Contra Costa County that are currently not served by rail transit. Diesel Multiple Unit ("DMU") trains will operate on tracks to be constructed in the median of SR 4 between the existing Pittsburg/Bay Point BART Station and the vicinity of the Hillcrest Avenue interchange in the City of Antioch. One transfer platform and one station, with provisions for a second future station at Railroad Avenue, will be constructed along the 10-mile corridor. Stations within the SR4 median are designed to provide intermodal regional links to bus, shuttle, automobile, bicycle, and pedestrian networks. The Project will enhance the public's access to jobs, education, shopping, and social activities throughout the Bay Area.

Staff are applying for \$13 million of RTIP funds for the construction of the Project. These funds are included within the \$463 million total project budget and are necessary for completion of the

Project. Although this application is due to MTC in November, the RTIP funds are expected to be available in fiscal year 2016.

Fiscal Impact:

Approval of the Resolution of Local Support, Project Programming Request ("PPR"), and Certification of Assurances is a requirement for the District to apply for an RTIP grant for the eBART project. There is no direct fiscal impact on the District; no BART funds will be used to match this grant.

Alternatives:

Do not adopt the attached Resolution of Local Support. The Project would then be ineligible for RTIP funding and would have a \$13 million deficit in the project budget.

Recommendation:

Approve the attached Resolution of Local Support, required for completion of a \$13 million application of RTIP funds to the MTC.

Motion:

That the Board adopt the Resolution of Local Support and its attachments in order to receive \$13 million in RTIP funds for the eBART Project.

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

**In the Matter of the Approval of a
Resolution of Local Support for a
RTIP Project Application for the
eBART 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 \$13,000,000 (Thirteen Million Dollars) in funding from the 2012 Regional Transportation Improvement Program (RTIP) for construction of the eBART Project (herein referred to as "PROJECT"), as authorized by MTC by Resolution No. 4028 (herein referred to as "PROGRAM"); and

WHEREAS, Senate Bill (SB) 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

WHEREAS, as part of that process, MTC is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the RTIP, and submission to the California Transportation Commission, for inclusion in the State Transportation Improvement Program (STIP); and

WHEREAS, MTC will review and include, if approved, 2012 RTIP projects in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC has requested eligible transportation project sponsors to submit applications nominating projects to be programmed for Regional Improvement Program funds in the RTIP; and

WHEREAS, applications to MTC must be submitted consistent with procedures, conditions, and forms it provides transportation project sponsors; and

WHEREAS, APPLICANT is a transportation project sponsor eligible for Regional Improvement Program funds; and

WHEREAS, the RTIP Project Programming Request (PPR) form of the project application, attached hereto and incorporated herein as though set forth at length, lists the project, purpose, schedule and budget for which APPLICANT is requesting that MTC program Regional Improvement Program funds for inclusion in the RTIP; and

WHEREAS, Part 2 of the project application, attached hereto and incorporated herein, includes the certification by APPLICANT of assurances required by SB 45 in order to qualify the project listed in the RTIP project nomination sheet of the project application for programming by MTC; and

WHEREAS, as part of the application for 2012 RTIP funding, MTC requires any Resolution adopted by the responsible implementing agency to state that the project will comply with the procedures specified in the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 4028, Attachment 1, Page 15, and as may be further amended).

NOW, THEREFORE, BE IT RESOLVED, that APPLICANT approves the assurances set forth in Part 2 of the project application, attached to this resolution; and be it further

RESOLVED, that APPLICANT will comply with the provisions and requirements of the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 4028, Attachment 1, Page 15, and as may be further amended), that 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, that APPLICANT and PROJECT will comply with the requirements as set forth in the 2012 RTIP Policies and Procedures (MTC Resolution No. 4028); and therefore be it further

RESOLVED, that APPLICANT will comply with the provisions and requirements of the Transit Coordination Implementation Plan, as set forth in MTC Resolution No. 3866; and be it further

RESOLVED, that APPLICANT has reviewed the project and has adequate staffing resources to deliver and complete the project within the schedule set forth in the RTIP Project Programming Request (PPR) form of the project application, attached to this Resolution; and be it further

RESOLVED, that APPLICANT is an eligible sponsor of projects in the State Transportation Improvement Program; and be it further

RESOLVED, that APPLICANT is authorized to submit an application for State Transportation Improvement Program funds for PROJECT; and be it further

RESOLVED, that APPLICANT has and will retain the expertise and knowledge necessary to deliver STIP and federally-funded projects, and has assigned a single point of contact for all STIP and FHWA-funded projects to work with the CMA, MTC, and Caltrans on any questions or issues that may arise during the STIP and/or federal programming and delivery process; and be it further

RESOLVED, that there is no legal impediment to APPLICANT making applications for Regional Improvement Program funds; and be it further

RESOLVED, that there is no pending or threatened litigation which 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 Executive Director, General Manager, or designee to execute and file an application with MTC to program Regional Improvement Program funds into the RTIP, for the projects, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the APPLICANT application referenced herein, along with the name and contact information for the APPLICANT's single point of contact.

RTIP Project Application
Part 2: Certification of Assurances

The implementing agency certifies that the project for which Regional Improvement Program funding is requested meets the following project screening Criteria. **Please initial each.**

1. The project is eligible for consideration in the RTIP. Pursuant to Streets and Highways Code Section 164 (e), eligible projects include improving state highways, local roads, public transit, intercity rail, pedestrian, and bicycle facilities, and grade separation, transportation system management, transportation demand management, soundwall projects, intermodal facilities, and safety. _____
2. For the funds requested, no costs have/will be incurred prior to adoption into the STIP by the CTC.

3. A Project Study Report (PSR) or PSR equivalent has been prepared for the project. _____
4. The project budget included in Part 2 of the project application reflects current costs updated as of the date of application and escalated to the appropriate year. _____
5. The project is included in a local congestion management program (CMP). (Note: For those counties that have opted out of preparing a CMP in accordance with Government Code Section 65088.3, the project must be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation planning agency.) _____
6. The year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project. _____
7. The project is fully funded. _____
8. For projects with STIP federal funds, the implementing agency agrees to contact Caltrans and schedule and complete a field review within six months of the project being adopted or amended into the TIP. _____
9. For STIP construction funds, the implementing agency agrees to send a copy of the Caltrans LPP 01-06 "Award Information for STIP Projects – Attachment A" to MTC and the CMA, upon award.

10. The implementing agency agrees to be available for an audit of STIP funds, if requested. _____

The implementing agency also agrees to abide by all statutes, rules and regulations applying to the State Transportation Improvement Program (STIP), and to follow all requirements associated with the funds programmed to the project in the STIP. _____

These include, but are not limited to:

1. Environmental requirements: NEPA standards and procedures for all projects with Federal funds; CEQA standards and procedures for all projects programmed with State funds.
2. California Transportation Commission (CTC) requirements for transit projects, formerly associated with the Transit Capital Improvement (TCI) program. These include rules governing right-of-way acquisition, hazardous materials testing, and timely use of funds.
3. Federal Transit Administration (FTA) requirements for transit projects as outlined in FTA regulations and circulars.

4. Federal Highway Administration (FHWA) and Caltrans requirements for highway and other roadway projects as outlined in the Caltrans Local Programs Manual.
5. Federal air quality conformity requirements, and local project review requirements, as outlined in the adopted Bay Area Conformity Revision of the State Implementation Plan (SIP).

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 6/11)

General Instructions

<input checked="" type="checkbox"/> New Project		<input type="checkbox"/> Amendment (Existing Project)			Date:	10/05/11
District	EA	Project ID	PPNO	MPO ID	TCRP No.	
				MTC	12.1	
County	Route/Corridor	PM Bk	PM Ahd	Project Sponsor/Lead Agency		
CC				BART/CCTA		
				MPO	Element	
Project Mgr/Contact		Phone		E-mail Address		
Stacey Perkins		510-464-6160		sperkin@bart.gov		
Project Title						
eBART Project						
Location, Project Limits, Description, Scope of Work, Legislative Description						
The eBART Project is located between the Pittsburg/Bay Point BART Station and the vicinity of Hillcrest Avenue in the City of Antioch. It will travel in the median of SR4, following the widening of SR4 by Caltrans and CCTA. The schedule of eBART is contingent on the scheduled widening of SR4 east of Somersville Road.						
Component	Implementing Agency				Reimbursements	
PA&ED	BART					
PS&E	BART AND CCTA					
Right of Way	BART AND CCTA					
Construction	BART AND CCTA					
Legislative Districts						
Assembly:	11			Senate:		
Congressional:						
Purpose and Need						
The purpose of the eBART Project is to bring commute relief to the eastern portion of Contra Costa County in a reasonable period of time and at a reasonable cost. Eastern Contra Costa County is the fastest growing part of the Bay Area, expecting population growth of 53% and job growth of 135% between 2000 and 2025. The area needs frequent, reliable, high quality transit service to connect the homes in the area with jobs in areas by existing public transit using BART. CCTA and BART have identified the SR4 median as the preferred route for transit expansion.						
Project Benefits						
The eBART Project will expand the existing BART system by 10 miles, and extend transportation services to communities in eastern Contra Costa County that are currently not served by rail transit. Stations within the SR4 median would be designed to provide intermodal regional links to bus, shuttle, automobile, bicycle and pedestrian networks. The eBART Project would enhance the public's access to jobs, education, shopping and social activities throughout the Bay Area. DMU trains would operate on tracks to be constructed in the median						
Project Milestone						Proposed
Project Study Report Approved						
Begin Environmental (PA&ED) Phase						06/01/05
Circulate Draft Environmental Document				Document Type	N/A	
Draft Project Report						
End Environmental Phase (PA&ED Milestone)						04/30/09
Begin Design (PS&E) Phase						01/01/08
End Design Phase (Ready to List for Advertisement Milestone)						11/30/12
Begin Right of Way Phase						06/27/05
End Right of Way Phase (Right of Way Certification Milestone)						07/31/12
Begin Construction Phase (Contract Award Milestone)						01/01/11
End Construction Phase (Construction Contract Acceptance Milestone)						12/31/16
Begin Closeout Phase						12/31/16
End Closeout Phase (Closeout Report)						06/30/17

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 6/11)

Date: 10/05/11

District	County	Route	EA	Project ID	PPNO	TCRP No.
	CC					12.1
Project Title: eBART Project						

Proposed Total Project Cost									Notes
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	
E&P (PA&ED)	26,500							26,500	
PS&E	33,600							33,600	
R/W SUP (CT)	93,400	26,000						119,400	
CON SUP (CT)	75,850	17,842						93,692	
R/W									
CON	96,900	80,158			13,000			190,058	
TOTAL	326,250	124,000			13,000			463,250	

Fund No. 1:	PTMISEA Proposition 1B								Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)									
PS&E	9,000							9,000	Caltrans
R/W SUP (CT)									
CON SUP (CT)	28,000							28,000	
R/W									
CON									
TOTAL	37,000							37,000	

Fund No. 2:	Regional Measure 2 Bridge tolls								Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)	20,250							20,250	
PS&E	13,600							13,600	MTC
R/W SUP (CT)	44,400							44,400	
CON SUP (CT)	17,750							17,750	
R/W									
CON									
TOTAL	96,000							96,000	

Fund No. 3:	Regional Measure 1 Bridge Tolls								Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)									
PS&E									MTC
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON	52,000							52,000	
TOTAL	52,000							52,000	

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 6/11)

Date: 10/05/11

District	County	Route	EA	Project ID	PPNO	TCRP No.
	CC					12.1
Project Title: eBART Project						

Fund No. 4: AB1171 Bridge Tolls									Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)									MTC
PS&E	11,000							11,000	
R/W SUP (CT)	49,000							49,000	
CON SUP (CT)	10,100							10,100	
R/W									
CON	44,900							44,900	
TOTAL	115,000							115,000	

Fund No. 5: STIP									Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)									Caltrans/CCTA
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON					13,000			13,000	
TOTAL					13,000			13,000	

Fund No. 6: Contra Costa Measure J Sales tax									Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)									Contra Costa Transportation Authority
PS&E									
R/W SUP (CT)		26,000						26,000	
CON SUP (CT)	20,000	17,842						37,842	
R/W									
CON		71,158						71,158	
TOTAL	20,000	115,000						135,000	

Fund No. 7: TCRP, ECCRFA, TPLUS, STA									Program Code
Proposed Funding									
Component	Prior	12/13	13/14	14/15	15/16	16/17	17/18+	Total	Funding Agency
E&P (PA&ED)	6,250							6,250	State, Local, MTC
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON		9,000						9,000	
TOTAL	6,250	9,000						15,250	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeStefano</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 11/9/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Fola DaSilva Dept. <i>DeSilva</i>	General Counsel <i>Audrey Rawas</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>[Signature]</i>
Signature/Date: <i>[Signature]</i> 11/7/11	<i>[Signature]</i> 11/7/11	<i>[Signature]</i> 11/7/11	<i>[Signature]</i> 11/7/11	<i>[Signature]</i> 11/7/11
Status: Approved		Date Created: 09/28/2011		

TITLE:

AWARD OF AGREEMENT No. 6M4142 FOR CARPET CLEANING SERVICES

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Agreement No. 6M4142 to provide carpet cleaning services for District offices, to Crown Building Maintenance Co., Inc. (dba Able Building Maintenance Company) of Foster City, California.

DISCUSSION

The Agreement consists of providing carpet cleaning services for twelve (12) District floors at the 300 Lakeside Drive Headquarters and the Board Room. The Agreement is for a period of three (3) years, with options to renew for two (2) additional one (1) year periods. This type of service, although normally conducted by the building owner, would be more expensive if paid for by the building. Therefore, the District has received permission to contract for these services on its own. The District currently does not have the capability in-house to provide these services. The Sponsoring, Real Estate and Property Development Department, have determined that these services are necessary and are not duplicative of any duties performed by District employees.

The District issued Request for Proposals ("RFP") No. 6M4142 to 37 prospective proposers. The RFP was advertised on July 22, 2011. A pre-proposal meeting and site tour were held on August 11, 2011 with twenty-two (22) firms in attendance. Twelve (12) proposals were received on August 30, 2011 and evaluated.

The proposal submitted by Pino Building Maintenance was determined to be non-responsive due to submission of non-responsive proposal certifications. The remaining eleven (11) technical proposals were reviewed by a Source Selection Committee, chaired by Contract Administration, consisting of representatives from the Real Estate and Property Development Department, and the Office of Civil Rights. The Committee reviewed the technical proposals for compliance with the five (5) minimum technical requirements set forth in the RFP. Eight (8) proposals were determined to be technically acceptable. The proposals from Zero Waste Solutions, Inc., Universal Building Maintenance and Supply Company, and Central Maintenance Company were determined to be technically unacceptable, as they did not meet the RFP five (5) minimum technical requirements.

The eight (8) remaining price proposals for the 3-year base period and 2 additional option years were evaluated and ranked as follows:

PROPOSER	LOCATION	TOTAL PROPOSAL PRICE
Able Building Maintenance Company	Foster City, CA	\$183,491.00
DFS Green, Inc.	Foster City, CA	\$196,710.36
Coit Cleaning and Restoration Services	Burlingame, CA	\$200,888.00
Corporate Care by Hoem, LLC	So. San Francisco	\$215,795.00
Quality Clean, LLC	Brentwood, CA	\$225,000.00
Back on Track Services	Oakland, CA	\$284,566.00
Aim to Please Janitorial Services	San Francisco, CA	\$285,916.00
McNevin Cleaning Specialists, Inc.	So. San Francisco	\$373,923.47

Staff has determined that the proposal submitted by Able Building Maintenance Company is technically acceptable and responsive to the solicitation. Staff has also determined upon review of the proposer's business experience and financial capabilities that the proposer is responsible and that the \$183,491 proposal price submitted by Able Building Maintenance Company is fair and reasonable based on sufficient price competition.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Agreement are 16% for MBEs and 20% for WBEs. The proposer will not be subcontracting any work and will do all work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

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

FISCAL IMPACT:

The cost for this Agreement is not to exceed \$183,491. This amount covers the 3-year base period (\$35,281 per year for a total of \$105,843) and options to renew for two (2) additional one (1) year periods (option year 1 - \$38,824; option year 2 - \$38,824). The term of the Agreement will commence on the second quarter of fiscal year 2012 and expire the second quarter of fiscal year 2017.

Funding for FY2012 expenditures of \$23,520.00 is included in the FY2012 operating budget of Real Estate and Property Development Department's Common Expense. Funding for the future years will be included in the same Department's future operating budgets.

ALTERNATIVES:

1. To initiate another Request for Proposal (RFP) which is unlikely to result in more competitive pricing.
2. The discontinuance of carpet cleaning services which would compromise the appearance of District offices as well as the health of District employees.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager is authorized to award Agreement No. 6M4142 for carpet cleaning services to Crown Building Maintenance Co., Inc. (dba Able Building Maintenance Company), including the exercise of options to renew the Agreement for two (2) additional one (1) year periods, for a total compensation amount not to exceed \$183,491, 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>Walter D. Blumberg</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board		
DATE: c <i>11/9/11</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Transit System Development	General Counsel <i>Angela Rivas</i> 11/4/11 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Paul Cresner</i> 11/7/11 []
Signature/Date: <i>Paul Medved</i> 11/4/11				

TITLE:

PROFESSIONAL SERVICES AGREEMENT No. 6H3098, GENERAL ENGINEERING SERVICES FOR BART'S WARM SPRINGS EXTENSION PROJECT, CHANGE ORDER NO. 29 FOR PERIOD OF PERFORMANCE (TIME EXTENSION)

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute a Change Order to Agreement No. 6H3098 with PB Americas, Inc. extending the period of performance for approximately five years, from January 9, 2012 to December 31, 2016. This Change Order will ensure continued support to the BART Warm Springs Extension project.

DISCUSSION:

On October 25, 2001 the Board authorized the award of Agreement No. 6H3098 with Parsons Brinckerhoff Quade & Douglas, Inc. (currently PB Americas, Inc.) to provide General Engineering Services for BART's Warm Springs Extension Project (WSX Project) for a period of performance of ten years and in the amount not to exceed \$75,000,000.

Due to slower than anticipated emergence of full funding for construction of the WSX Project, utilization for this Agreement has been lower than anticipated at the time of award. It is anticipated that less than \$51 Million will have been committed to this Agreement through the end of FY12. Funding availability for construction of the WSX Project has improved considerably over the past three years and allowed the District to award both the WSX Fremont Central Park Subway contract, which is over 75% complete, and the WSX Line, Track, Station and Systems contract, which is just commencing. Technical support provided by PB Americas, Inc. for both contracts as well as the overall integration of the extension into the operating system remains critical to the success of this major undertaking. PB Americas, Inc. has developed an in-depth knowledge of the WSX Project which cannot be easily or readily duplicated.

The M/WBE availability percentages, 12% and 15% respectively, in the originally awarded Agreement will continue to be effective under this Change Order.

FISCAL IMPACT:

None. Time extension only.

ALTERNATIVE:

One alternative to the proposed Change Order would be to initiate a new procurement or utilize existing On Call consultants for General Engineering Services on the WSX Project. Either of these scenarios would involve a significant loss of project background, understanding and continuity with potentially adverse consequences to the project going forward.

A second alternative would be to utilize BART staff to perform the work. There exists insufficient BART staff resources available to provide adequate technical support given the magnitude and complexity of this extension project and the on-going demands of other District activities.

RECOMMENDATION:

It is recommended that the Board adopt the following Motion:

MOTION:

The General Manager is authorized to execute Change Order No. 29 to Agreement No. 6H3098 extending the period of performance by approximately five years through December 31, 2016.



EXECUTIVE DECISION DOCUMENT

GENERAL-MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:	
<i>John McCormick</i>		Approve and Forward to the Board of Directors	
DATE: c	11/9/11	BOARD INITIATED/ITEM: No	
Originator/Prepared by: John McCormick Dept. RS&S, (ext 7557)	General Counsel	Controller/Treasurer	District Secretary
<i>John McCormick</i> Signature Date: 11/9/2011	<i>John McCormick</i> 11/11/11	<i>John McCormick</i> 11/11/11	<i>John McCormick</i> 11/11/11
TITLE:			BARC

Invitation for Bid No. 8899: Procurement of Cushion and Cover Assemblies

NARRATIVE:

Purpose: To obtain Board authorization to award Invitation For Bid (IFB) No. 8899 to Sedia, Inc., of Glendale, Wisconsin, for the purchase of 100 carsets of cushion and cover assemblies and an option to purchase an additional 100 carsets of cushion and cover assemblies, exercisable by the District in its sole discretion and subject to availability of funding.

Discussion: As part of the District's on-going effort to improve the interior appearance of transit vehicles, the District intends to purchase 100 carsets of seat cushion and cover assemblies. Unlike previous seat covering procurements which included wool-based fabric seat covers, this procurement is for a 100 car trial of vinyl seat covers. Vinyl offers advantages of improved maintainability and germ resistance, as well as lower cost. The base quantity of 100 carsets is to enable evaluation of this new product. Should customer surveys indicate that this material is preferred over the current wool-based fabric, this contract includes an Option to purchase an additional 100 carsets which may be exercised by the District in its sole discretion within 90 days from production delivery of the first carset of seat cushion and cover assemblies.

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

A notice requesting bids was published on October 6, 2011 and bid requests were mailed to nine (9) prospective bidders. Bids were opened on November 1, 2011 and four (4) bids were received. In accordance with the terms of the IFB, the District did not include the Option price in its evaluation of the bids, However, Option prices are shown below for information.

<u>Bidder</u> <u>Tax</u>	<u>Unit Price (base)</u>	<u>Base 100 cars</u> <u>Incl. 8.75% Tax</u>	<u>Option 100 cars</u> <u>Incl. 8.75% Tax</u>	<u>TOTAL</u> <u>Incl. 8.75%</u>
Sedia, Inc. Glendale, WI	100 carsets each \$8943.60	\$972,617	\$972,617	\$1,945,234
Kustom Seating, Inc. Bellwood, IL	100 carsets each \$9189.60	\$999,369	\$999,369	\$1,998,738
National Transit Interiors, Inc. San Carlos, CA	100 carsets each \$10,378.80	\$1,128,695	\$1,128,695	\$2,257,390
Fellfab Corp. College Park, GA	100 carsets each \$12,425.40	\$1,351,262	\$1,387,868	\$2,739,130

Independent cost estimate by BART staff: \$2,628,100 for 100-car base order plus 100-car option.

Staff has determined that the apparent lowest bidder, Sedia, Inc., submitted a responsive bid, and that the bid pricing is fair and reasonable based on an independent cost estimate by BART staff. The independent cost estimate was considerably higher than the successful Bid because this purchase represents the first time that BART has procured seat cushions and covers that were not constructed of wool-based fabric. The bids exhibited the significant savings in labor and material costs related to vinyl seat materials.

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

Fiscal Impact:

Funding of \$1,945,234 for the procurement of the estimated Base Bid and Option quantities of cushion and cover assemblies will come from project budget 93GJ000 Revenue Vehicle Interior Maintenance – Car Seats. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Procurement of additional quantities will be subject to the availability of funding.

As of 11/8/2011, \$2,376,000 is available in the PROCU activity for this project from the following sources:

<u>F/G 851W – FY07 – 11 Capital Alloc.</u>	<u>\$576,000</u>
<u>F/G 8524 – FY12 Operating Cap. Alloc.</u>	<u>\$1,800,000</u>
	<u>Total</u>
	<u>\$2,376,000</u>

BART has expended \$0, encumbered \$0, and pre-encumbered \$0 to date. This action will encumber \$1,945,234 leaving an available fund balance of \$430,766. There is no fiscal impact on available un-programmed District Reserves.

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

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

Motion: The Board authorizes the General Manager to award IFB No. 8899, an estimated quantity contract, Procurement of Cushion and Cover Assemblies, to Sedia, Inc. for the total Bid price of \$1,945,234, including the Option Bid item and all applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/9/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Anita C Sanchez Dept: Signature/Date: <i>Anita C Sanchez 11/7/11</i>	General Counsel <i>[Signature]</i> Signature/Date: 11/7/11 []	Controller/Treasurer <i>[Signature]</i> Signature/Date: []	District Secretary []	BARC <i>[Signature]</i> Signature/Date: 11/7/11
Status: Approved		Date Created: 10/13/2011		

Award of 6M8059 -Non-Competitive Procurement for Stand-by Paramedic Services at West Oakland and Downtown Oakland BART

NARRATIVE:

PURPOSE: To request the Board to authorize the General Manager to execute Agreement No. 6M8059 to provide stand-by emergency medical response staff and equipment to perform patient assessment and disposition as required for stations and underground trackway between West Oakland Station and the downtown Oakland Stations with Paramedics Plus for a term of one year with options for four (4) additional one-year terms.

DISCUSSION: In 1980, the State Legislature adopted a statewide system of regulating advanced life support (ALS) emergency medical services (EMS). This level of ambulance services involves the use of highly skilled paramedics who are under the direct supervision of a central base emergency room/trauma hospital physician. Each County prepares an EMS plan that is approved by the State EMS Authority. The State has authorized "exclusive operating areas," for pre-hospital ALS ambulance providers, such as Paramedics Plus. Effective November 1, 2011, Paramedics Plus will be recipient of the competitive ALS ambulance franchise for the County of Alameda and will be the only state-authorized provider of pre-hospital emergency medical ambulance services throughout Alameda County. The existing Agreement for these services with the previously authorized provider, American Medical Response, expired on October 31, 2011. As with the previous Agreement, this Agreement with Paramedics Plus will be awarded on a non-competitive basis to provide services at the West Oakland BART Station through October 31, 2012 with the option to extend the Agreement for four (4) additional one-year terms in an amount not to exceed \$922,749.14.

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

FISCAL IMPACT: Assuming all options are exercised, the estimated expenditures by fiscal year are as followed:

- FY 12 - \$117,300.00
- FY 13 - \$176,036.25
- FY 14 - \$181,144.41
- FY 15 - \$189,388.29

FY 16 - \$193,379.94

FY 17 - \$65,500.25

The funding for FY 12 expenditures of \$117,300.00 is available in the FY 12 operating budget of the Transportation Department, Professional & Technical Services account 681300. Funding for subsequent years will be provided in Transportation Department's future operating budgets.

ALTERNATIVE: Do not authorize the proposed Agreement with Paramedics Plus and end the stand-by medical services currently being provided at West Oakland Station.

RECOMMENDATIONS: Adoption of the following motion.

MOTION: The General Manager is authorized to enter into Agreement No. 6M8059 with Paramedics Plus to provide stand-by emergency medical response staff and equipment to perform patient assessment and disposition as required for stations and underground trackway between West Oakland Station and the downtown Oakland Stations for a cost of \$176,640.00 through October 2012 with the option to renew the Agreement for up to four (4) additional one-year terms for a total cost not to exceed \$922,749.14, subject to certification by the Controller-Treasurer that funds are available.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Valencia Hernandez</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 11/9/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Carlyle Potts Dept: Computer Systems Engineering <i>Carlyle Potts</i> Signature/Date: 11/07/11	General Counsel <i>Audrey Paras</i> 11/7/11 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Paul Xavier</i> 11/9/11 []

TITLE:

Permission to Negotiate and Execute a Sole Source Procurement for Train Control Interlocking Equipment (Two-Thirds Vote Required)

NARRATIVE:

PURPOSE: To request permission to negotiate and execute a sole source contract with General Electric Transportation Systems, Global Signaling (GETS GS) for Train Control Microprocessor-Based Interlocking Equipment to replace the Concord Yard Legacy Train Control Relay Interlocking Equipment.

DISCUSSION: Concord Yard is the last legacy relay interlocking plant to be replaced under the Relay Replacement Initiative. To date, all 26 legacy main line interlocking relay plants have either been replaced, or are scheduled to be replaced, with the GETS GS microprocessor-based system otherwise known as the Vital Harmon Logic Controller (VHLC). In addition, both Richmond and Hayward Yard relay interlocking plants have been replaced with VHLC.

The Richmond and Hayward Yard equipment was acquired as change orders to Contract No. 20LL-210 for the replacement of legacy mainline interlocking equipment. Contract No. 20LL-210 has expired and is being closed out. This sole source purchase request is to equip the Concord Yard with VHLC.

The main function of the interlocking subsystem is to provide for the safe movement of trains as they traverse switch machines, to maintain traffic control, and to provide protection from opposing traffic and conflicting train movements. Replacement of the existing Concord Yard relay interlocking plant is necessary as most of these relays are either obsolete or extremely expensive to repair. Also, needed functional improvements to the interlocking subsystem cannot be effected within the existing relay plant without prohibitive expense.

The GETS GS microprocessor-based interlocking system has significantly improved system reliability, maintainability, and operational flexibility. It also provides a seamless interface to BART's existing Occupancy Detection Multiplexing System (MUX). The GETS GS microprocessor based interlocking system is available only from GETS GS.

Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment, or material without observance of normal competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement therefore, and that the purchase is for the sole purpose of duplicating or replacing supply, equipment or material in use. Accordingly, authority to negotiate and execute a sole source contract with GETS GS for the procurement of train control Microprocessor-Based Interlocking Equipment for Concord Yard is sought. The negotiated price for equipment for the Concord Yard site will not exceed \$450,000 plus applicable taxes. Staff has determined that the price is fair and reasonable based upon prior purchase history and

further price and/or cost analysis.

The Office of Civil Rights did not set availability percentages for this contract. The District's Disadvantage Business Enterprise Program does not apply to Emergency Contracts, Sole Source Contracts and Contracts under \$50,000 or any Invitation for Bid.

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

FISCAL IMPACT:

Fiscal Impact:

Funding of \$476,432 for train interlocking equipment will come from project budget 22AB000 Concord Tower Control System Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 10/27/11, funding of \$3,600,000 available for this project came from the following sources:

<u>F/G 347X – FTA FY06 Capital Improvements</u>	<u>\$640,000</u>
<u>F/G 347Z – FTA FY07 Capital Improvements</u>	<u>\$640,000</u>
<u>F/G 353K – FTA FY09 Capital Improvements</u>	<u>\$1,600,000</u>
<u>F/G 6213 – Regional Measure 2 08382301</u>	<u>\$160,000</u>
<u>F/G 851W – FY07 – 11 Capital Allocation</u>	<u>\$400,000</u>
<u>F/G 8523 – Cap Surcharge Statn 2 ST</u>	<u>\$160,000</u>
<u>Total</u>	<u>\$3,600,000</u>

BART has expended \$235,519 and encumbered \$236,676 to date. There is no pre-encumbrance in BART's Financial Management System. This action will encumber \$476,432 leaving an available fund balance of \$2,651,373.

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

ALTERNATIVES: 1) Continue to maintain the existing Concord Yard system. Maintenance costs will increase as the old technology ages and replacement parts become harder to find. 2) Use normal competitive bidding to procure this equipment and incur substantial additional cost and risk to develop compatible interfaces to the wayside equipment.

RECOMMENDATION: Adopt the following motion.

Permission to Negotiate and Execute a Sole Source Procurement for Train Control Interlocking Equipment (Two-Third

MOTION: That the Board finds, pursuant to Public Contract Code Section 20227, that GETS GS is the single source for procurement of train control interlocking equipment; and that the purchase is for the sole purpose of duplicating equipment in use; and the General Manager is authorized to negotiate and execute a contract for the purchase of such equipment for Concord Yard from GETS GS, for a total price not to exceed \$450,000 plus applicable taxes. (Two-Thirds Vote Required)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 11/9/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: RICHARD WIECZOREK Dept: Procurement	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>[Signature]</i> 11-4-11	<i>[Signature]</i> 11/4/11 []	<i>[Signature]</i> []	[]	<i>[Signature]</i> 11/9/11
Status: Routed		Date Created: 10/31/2011		

TITLE:

BUY AMERICA BID PREFERENCE POLICY FOR FEDERALLY FUNDED ROLLING STOCK PROCUREMENTS

NARRATIVE:

PURPOSE: To request that the Board adopt the proposed Buy America Bid Preference Policy for Federally Funded Rolling Stock Procurements.

DISCUSSION: Federal Buy America laws and regulations support the important goal of promoting American manufacturing. The Federal Transit Administration (FTA) requirements applicable to rolling stock, including rail vehicles, dictate that the cost of components and subcomponents produced in the United States total at least 60 percent of the cost of all components in the rolling stock, and that final assembly of the rolling stock occur in the United States (49 U.S.C. Section 5323(j)(2)(C)).

FTA regulations governing Buy America compliance for rolling stock are set forth in 49 C.F.R. Parts 661 and 663. States are allowed to impose contracting preference provisions based on more stringent domestic content requirements than those set forth in the federal law, but the FTA will not participate in the funding of state and local contracts with those preference provisions if they are not explicitly set out under state law (49 C.F.R. 661.21).

In an effort to promote American manufacturing in its rolling stock procurements in a manner consistent with FTA requirements, the District sponsored AB 1097 (Assemblywoman Nancy Skinner (D-Berkeley)). AB 1097, signed by the Governor on October 2, 2011, and effective on January 1, 2012, adds Section 14031.1 to the California Government Code. The new statute gives state and local agencies receiving federal funds for transit purposes the discretion to provide bid preferences for proposals that exceed applicable federal Buy America requirements. The statute provides that, as to state agencies, the State Department of General Services shall have the sole authority to establish policies and procedures. There is no similar limitation on local agencies.

The new law provides an opportunity for the District to adopt the attached proposed Buy America Bid Preference Policy for Federally Funded Rolling Stock Procurements (the "Policy"). The proposed Policy, which would become effective on January 1, 2012, would authorize the application of a bid preference on federally funded rolling stock procurements that are

competitively negotiated under California Public Contract Code Section 20229.1, for which price is not the only factor in evaluation of proposals. The preference would be implemented as described below.

A bid preference would be applied to price proposals for rolling stock in which the cost of components and subcomponents produced in the United States exceeds the minimum FTA requirement of 60% of the cost of all components and subcomponents. For each percentage point by which a proposal exceeds the 60% domestic content requirement, a credit of .25 percent would be given, resulting in reduction of the proposal price for evaluation purposes only. Under this approach, if a proposal has 100% domestic content, a maximum of 10% credit would be applied to such price proposal.

The credit would affect calculation of the price proposal only for evaluation purposes; the prices paid to the successful proposer (the "Supplier") would be based on the Supplier's proposal prices. The application of the preference would not affect the weighting of price as an evaluation criterion nor would it affect technical and other non-price evaluation factors or weights.

The first procurement that would be subject to the Policy would be the pending rail vehicle procurement. The District is in the process of preparing a modification of the RFP No. 40FA-110 for the Procurement of Transit Vehicles in order to solicit Best and Final Offers ("BAFOs"). Assuming that the Board adopts the proposed Policy, provisions relating to the Buy America bid preference would be incorporated into the modified RFP for BAFOs, including, but not limited to, a liquidated damages provision that would be applicable in the event that a Supplier does not meet its contractual commitment to provide a specified percentage of domestic content beyond the applicable minimum FTA Buy America requirement. The modified RFP also will include technical and commercial changes resulting from negotiations with the proposers in the competitive range. The date for submission of BAFOs would be after the effective date of the Policy and of AB 1097.

Staff has received verbal confirmation from FTA that AB 1097 provides authority for the District to apply a Buy America bid preference without putting federal funding at risk. Staff has also sought written confirmation that the incorporation of a preference at this point in the procurement process for the rail vehicle procurement does not create any issues for FTA. Staff is requesting Board approval of the Policy at this time due to the need to proceed on a timely basis with that procurement and to give proposers adequate time to respond to all modifications to the RFP for BAFOs. In the event that the FTA raises concerns that warrant a different approach, the Board will be advised.

The proposed Policy reflects a balancing of important interests. It is important to provide an incentive that supports American manufacturing in a manner that does not unduly affect the primary goal of obtaining the best quality rolling stock available at reasonable prices.

The proposed Policy does not address non-federally funded procurements of rolling stock, or federally funded procurements other than for rolling stock.

FISCAL IMPACT: Factors other than price are considered in evaluating proposals for competitively negotiated rolling stock procurements. Therefore, the preference set forth in the proposed Policy may or may not result in award to the proposer offering the highest domestic content in its proposal. The increased costs to each proposer offering additional domestic content will vary depending on each proposer's current facilities, domestic component manufacturing capabilities, and sub-vendor availability. Each proposer will take those factors, along with others, into consideration in determining how much domestic content can be added while maintaining competitive prices. To the extent that adoption of the proposed Policy and application of the preference to a rolling stock procurement results in proposals offering higher domestic content than would otherwise have been the case, it is estimated that the District may pay between 5% and 10% more for the cost of materials.

ALTERNATIVES: Do not adopt the attached Policy, or adopt a different Policy. A delay in the adoption of a Policy, or a modification of the Policy to have a more significant effect on the evaluation of proposals, may result in the infeasibility of applying a Buy America preference to RFP No. 40FA-110.

RECOMMENDATION: Adoption of the attached Policy.

MOTION: The Board hereby adopts the attached Buy America Bid Preference Policy for Federally Funded Rolling Stock Procurements.

Attachment

San Francisco Bay Area Rapid Transit District

BUY AMERICA BID PREFERENCE POLICY FOR FEDERALLY FUNDED ROLLING STOCK PROCUREMENTS

Background: As a recipient of federal funds for rolling stock procurements, the San Francisco Bay Area Rapid Transit District (District) has routinely included Federal Transit Administration (FTA) Buy America requirements in its Requests for Proposals (RFPs) for such procurements. The laws and regulations applicable to rolling stock, including but not limited to rail vehicles, require that the cost of components and subcomponents produced in the United States total at least 60 percent of the cost of all components in the rolling stock, and that final assembly of the rolling stock occur in the United States (49 U.S.C. Section 5323(j)(2)(C)). FTA regulations governing Buy America compliance for rolling stock are set forth in 49 C.F.R. Parts 661 and 663. States are allowed to impose contracting preference provisions based on more stringent domestic content requirements than those set forth in the federal law, but the FTA will not participate in the funding of state and local contracts with those preference provisions if they are not explicitly set out under state law (49 C.F.R. 661.21).

In an effort to promote American manufacturing in its rolling stock procurements in a manner consistent with FTA requirements, the District sponsored AB 1097 (Assemblywoman Nancy Skinner, D-Berkeley). AB 1097, signed by the Governor on October 2, 2011, and effective on January 1, 2012, adds Section 14031.1 to the California Government Code. The new statute gives state and local agencies receiving federal funds for transit purposes the discretion to provide bid preferences for proposals that exceed applicable Buy America requirements.

Consistent with the new legislation, staff has prepared the specific bid preference formula described below, which provides an incentive that supports American manufacturing in a manner that does not unduly affect the primary goal of obtaining the best quality rolling stock available at reasonable prices. The description of the specific bid preference formula, plus all additional text in this document, comprise the Buy America Bid Preference Policy for Federally Funded Rolling Stock Procurements (the "Policy").

General Statement of Policy: It is the policy of the District to support American manufacturing by offering a specified bid preference to proposers who submit proposals for rolling stock that include domestic content that exceeds FTA Buy America requirements.

Bid Preference Formula and Effect on Evaluation Factors: A bid preference shall be applied to price proposals for rolling stock in which the cost of components and subcomponents produced in the United States exceeds the minimum FTA requirement of 60% of the cost of all components. For each percentage point by which a proposal

exceeds the 60% domestic content requirement, a credit of .25 percent will be given, resulting in reduction of the proposal price for evaluation purposes only. Under this formula, if a proposal has 100% domestic content, a maximum of 10% credit will be applied to such price proposal.

The application of the preference shall not affect the weighting of price as an evaluation factor, nor shall it affect technical and other non-price evaluation factors or weights.

Applicability of Preference: The bid preference shall be applied only to federally funded rolling stock procurements that are competitively negotiated pursuant to California Public Contract Code Section 20229.1, for which price is not the only factor in the evaluation of proposals. It shall be applied only to responsive proposals of responsible proposers. Nothing in this Policy shall affect the ability of the District to establish a competitive range either after receiving initial proposals or each set of BAFOs, consistent with the provisions of each RFP.

Buy America Laws and Regulations and Contractual Provisions: As referenced in each RFP for procurement of FTA-funded rolling stock, 49 U.S.C. 5323 and 49 C.F.R. Parts 661 and 663 shall govern Buy America compliance by proposers and the successful proposer (the "Supplier"). It is not the intent of this Policy to affect the applicability of those laws and regulations to such procurements. The District's contract with the Supplier shall include provisions relating to the Buy America bid preference, including, but not limited to, a liquidated damages provision that would be applied in the event that the Supplier does not meet its contractual commitment to provide a specified percentage of domestic content beyond the minimum FTA Buy America requirement.

Effective Date: January 1, 2012.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Val Menotti</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c <i>11/9/11</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Val Menotti Dept: Planning <i>Val Menotti</i>	General Counsel <i>Andrea Ravas</i> 11/7/11 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> []
Signature/Date: <i>Val Menotti</i> 11.9.11 []				

TITLE:

Professional Services Agreement Nos. 6M6047, 6M6048 and 6M6049 to Provide General Environmental and Planning Services for BART Projects

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Agreement No. 6M6047 to Nelson\Nygaard Consulting Associates, Agreement No. 6M6048 to Arup, and Agreement No. 6M6049 to AECOM to provide General Environmental and Planning Services in support of BART projects.

DISCUSSION: In February 2007, the BART Board authorized the award of two agreements to consultant teams to provide on-call Environmental, Conceptual Design, and Planning Services for BART Projects. These agreements were for a term not to exceed five years, and expire in spring 2012.

In anticipation of the expiration of these agreements, a consultant Outreach Meeting was held on February 17, 2011 for multiple upcoming District procurements, notifying interested parties of the upcoming General Environmental and Planning Services RFP. On July 27, 2011, the District issued Request for Proposal ("RFP") No. 6M6047 to obtain general on-call environmental and planning services in support of the District's station area planning, system expansion, and strategic and policy planning efforts. The RFP indicated that the services would be obtained through agreements with up to three (3) firms, and that each agreement would have a term of up to five (5) years.

A Notice to Proposers was emailed to environmental, conceptual design and planning consultant firms having expertise in the pertinent technical fields, and information was posted on BART's website. Advertisements soliciting interest were placed in a number of publications including Disadvantaged Business Enterprise ("DBE"), Minority Business Enterprise ("MBE"), and Women Business Enterprise ("WBE") publications. The RFP was emailed to all interested potential Proposers. A pre-proposal meeting for the RFP was held on August 10, 2011. In an effort to maximize the participation of small businesses, potential subconsultants were afforded the opportunity to discuss individual subcontracting opportunities with potential Prime Proposers at a Matchmaking Session held on August 17, 2011. On September 6, 2011, timely proposals were received from the following nine firms:

- Wilbur Smith Associates, of San Francisco, CA;

- HNTB, of Oakland, CA;
- Arup, of San Francisco, CA;
- Nelson\Nygaard Consulting Associates of San Francisco, CA;
- Atkins, of San Francisco, CA;
- HDR, of Walnut Creek, CA;
- Parsons Brinckerhoff, of San Francisco, CA;
- AECOM of Oakland, CA; and
- IBI Group, of San Jose, CA.

The proposals were reviewed by a Selection Committee (“Committee”) consisting of BART staff from Planning, Office of Civil Rights, and Contract Administration, as well as planning staff representatives from the Alameda County Transportation Commission, the Contra Costa County Transportation Authority and the San Francisco County Transportation Authority. Proposals were first reviewed to determine if the Proposals were considered responsive to the requirements of the RFP. Subsequently, the proposals were evaluated and scored on the basis of the criteria contained in the RFP with respect to qualifications of the firm and key personnel. Five proposals were short-listed for oral presentations: Wilbur Smith Associates; HNTB.; Arup; Nelson\Nygaard Consulting Associates; and AECOM. The Committee conducted oral interviews on September 21 and 23, 2011.

Based on the oral and written evaluations, the Committee determined that the three most qualified firms are Nelson\Nygaard Consulting Associates, Arup, and AECOM. After making this determination, BART began negotiations with Nelson\Nygaard Consulting Associates in connection with Agreement No. 6M6047, with Arup in connection with Agreement No. 6M6048, and with AECOM in connection with Agreement No. 6M6049. With support from Internal Audit and Planning, Contract Administration evaluated the rates and mark-ups received from each Proposer for a cost plus fixed fee agreement. Caltrans currently requires a pre-award audit, the results of which will be incorporated into the agreements, as appropriate, prior to execution. Staff determined that the rate structures of all three firms are fair and reasonable and that all three firms are responsible organizations. Negotiations between BART and the firms concluded on mutually favorable terms.

Accordingly, the Committee recommends the award of three Agreements: Agreement No. 6M6047 to Nelson\Nygaard Consulting Associates for an amount not to exceed \$6,000,000, Agreement No. 6M6048 to Arup for an amount not to exceed \$6,000,000, and Agreement No. 6M6049 to AECOM for an amount not to exceed \$6,000,000. Work Plans (WPs) under the Agreements will define individual assignments in each case subject to funding availability. Each WP will have its own scope, schedule and budget.

Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for professional services agreements. Therefore, no DBE participation goal was set. Although no DBE goal was set, AECOM committed to 18% DBE participation; ARUP committed to 22% DBE participation and Nelson Nygaard committed to 15% DBE participation.

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

FISCAL IMPACT: These agreements have a total combined limit not to exceed \$18,000,000. District obligations will be subject to a series of WPs. Each WP will have a defined scope of services, and a separate schedule and budget. Any WP assigned for funding under a State or Federal grant will include State or Federal requirements. Capital Development and Control will certify the eligibility of identified capital funding sources and the Controller/Treasurer will certify availability of such funding prior to incurring project costs against these Agreements, and the execution of each WP. While most WPs are expected to have capital funding sources, some may have operating funds. The Planning Department's adopted FY12 operating budget includes \$116,777 to support operating budget work for the current fiscal year. Each WP will be subject to the availability of funding in the Planning budget, or other department budgets as requested, for future years.

ALTERNATIVES: Reject all of the proposals and re-solicit new proposals. The amount of time necessary to reissue the RFP would adversely impact planning activities underway in support of the implementation of the District's Strategic Plan.

RECOMMENDATION: It is recommended that the Board adopt the following motions:

MOTIONS:

a) The General Manager is authorized to award Agreement No. 6M6047 to Nelson\Nygaard Consulting Associates to provide General Environmental and Planning Services in support of BART projects, in an amount not to exceed \$6,000,000, subject to satisfaction of the Caltrans pre-award audit requirements, as appropriate, and pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and FTA's requirements related to protest procedures.

b) The General Manager is authorized to award Agreement No. 6M6048 to Arup to provide General Environmental and Planning Services in support of BART projects, in an amount not to exceed \$6,000,000, subject to satisfaction of the Caltrans pre-award audit requirements, as appropriate, and pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and FTA's requirements related to protest procedures.

c) The General Manager is authorized to award Agreement No. 6M6049 to AECOM to provide General Environmental and Planning Services in support of BART projects, in an amount not to exceed \$6,000,000, subject to satisfaction of the Caltrans pre-award audit requirements, as appropriate, and pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and FTA's requirements related to protest procedures.

ENVIRONMENTAL AND PLANNING SERVICES FOR BART PROJECTS

- **Introduction**

The San Francisco Bay Area Rapid Transit (BART) District requires general on-call environmental and planning services over the next five years to support its BART Projects.

Professional services to be provided by the Consultants under the three awarded Agreements include environmental, conceptual design, and planning activities and related issues associated with the District's station area planning, system expansion, and policy development efforts. Consultants shall manage and work in conjunction with other consultant team members and BART staff to support BART projects. Services provided shall comply with the latest edition of all applicable codes, ordinances, criteria, standards, regulations, and other applicable laws.

The District currently has two active Environmental, Conceptual Design and Planning Services Agreements in place administered by BART's Planning Department. The two Agreements are 6G7906 awarded to Nelson\Nygaard Consulting Associates, and 6G7910 to Wilbur Smith Associates. Both of these Agreements expire in Spring 2012.

Request for Proposal No. 6M6047 was issued to provide the District with the required services. The RFP:

- described the detailed, objective selection process to be used;
- indicated the criteria for making the selection;
- stated the District intended to award up to three agreements for these services.

- **Scope of Services**

Station Area Planning	System Expansion and Regional Rail	Strategic & Policy Planning
a. Comprehensive Station Plans;	a. BART Metro Studies;	a. Annual Report;
b. Access Plans;	b. Transit Corridor Studies;	b. Strategic Plan;
c. Station Capacity Analysis;	c. Regional Studies;	c. Performance Measure Development;
d. Station Area Brochures / Profiles;	d. Environmental Assessment;	d. Performance Monitoring;
e. Urban Design / Architecture;	e. Infill BART Stations Studies;	e. Policy Development;
f. Public Participation and Facilitation;	f. System Expansion Studies;	f. Policy Advancement;
g. Travel Behavior and Demand;	g. Regional Rail Studies;	g. Demand Management;
h. Economics and Real Estate;	h. Express Bus / Bus Rapid Transit;	h. Climate Change Policy and Analysis;
i. Traffic Studies;	i. Other non-BART transit technologies;	i. Prioritization Tools, Processes and Strategies;
j. Parking Demand and Management.	j. Transit Ridership Forecasting;	j. Equity Policy & Analysis (including Title VI);
	k. Transit Operational Analysis;	k. Fare Policy.
	l. Conceptual Design.	

- **Selection Process**

Followed California Government Code and Federal Brooks Act regulations related to the procurement of Architectural & Engineering services in which:

- Proposers are first evaluated on the basis of their qualifications, both written and oral;
- Upon determining the most qualified proposers, terms and conditions of the agreement are then negotiated.

Terms and conditions favorable to the District have been successfully negotiated with the most qualified proposers; therefore, staff recommends awarding three Agreements as outlined on the following pages.

RECOMMENDED AWARD

- **Agreement No. 6M6047**
Nelson\Nygaard Consulting Associates, San Francisco, California for a five year period for a total not to exceed amount of \$6,000,000.
- **Subconsultants**
Name and Location

NAME	LOCATION	ROLE IN THIS AGREEMENT
John Atkinson	San Francisco, CA	Shuttle Planning
Bay Area Council Economic Institute	San Francisco, CA	Economic and Policy Analysis
BMS Design Group	San Francisco, CA	Street and Station Design
Buneman Rail Partners LP	Los Altos, CA	Modeling
Cambridge Systematics, Inc.	Oakland, CA	Transportation Analysis
Community Design + Architecture, Inc.	Oakland, CA	Land Use and Urban Design
Corey, Canapary & Galanis Research	San Francisco, CA	Surveys
Elizabeth Deakin	Berkeley, CA	Transportation and land use Planning, Policy and Analysis
Donald J. Dean	Benicia, CA	Environmental Coordinator
Dowling Associates, Inc.	Oakland, CA	Traffic Engineering and Simulation Modeling
Economic + Planning Systems	Berkeley, CA	Economic Analysis
Eisen / Letunic (DBE)	Berkeley, CA	Planning, Policy and Outreach
Fehr & Peers	Walnut Creek, CA	Traffic Analysis
FMG Architects (DBE)	Oakland, CA	Architecture
Freedman Tung & Sasaki	San Francisco, CA	Urban Design
Gearbox Partners, LLC	Benicia, CA	Strategic Communications
Gilbert & Associates (DBE)	Napa, CA	Graphics
Golden Associates	Oakland, CA	Landscape Architecture
ICF International	San Francisco, CA	Environmental Engineering
LTK Engineering Services	Oakland, CA	Rail Engineering
M. Lee Corporation (DBE)	San Francisco, CA	Construction Management
Newlands & Company, Inc.	Portland, OR	Graphics Design
Noll & Tam Architects	Berkeley, CA	Architecture
Parsons Transportation Group Inc.	San Francisco, CA	Environmental Analysis
Perkins + Will	San Francisco, CA	Station Design and Architecture
Reconnecting America	Oakland, CA	Economic and Real Estate

Robin Chiang & Co. (DBE)	San Francisco, CA	Urban Design
Sally Swanson Architects, Inc. (DBE)	San Francisco, CA	Architecture
Sherwood Design Engineers	San Francisco, CA	Civil Engineering and Sustainable Design
Strategic Economics	Berkeley, CA	Economic Analysis
SwitchPoint Planning (DBE)	San Francisco, CA	Multimodal Analysis
The Office of Cheryl Barton	San Francisco, CA	Landscape Architecture
TransACT	San Francisco, CA	TOD Advisory Services
transMETRO, Inc.	San Francisco, CA	TDM and Implementation
Urban Advantage, Inc.	Berkeley, CA	Graphic Design
URS Group, Inc.	San Francisco, CA	Engineering and Design
Van Meter Williams Pollack LLP	San Francisco, CA	Urban Design and Architecture
VSCE Inc. (DBE)	San Francisco, CA	Program Management and Public Relations

RECOMMENDED AWARD

- **Agreement No. 6M6048**
Arup, San Francisco, California for a five-year period for a total not to exceed amount of \$6,000,000.
- **Subconsultants**
Name and Location

NAME	LOCATION	ROLE IN THIS AGREEMENT
Cambridge Systematics, Inc.	Oakland, CA	Transportation Planning and Ridership Forecasting
Center for Collaborative Policy	Berkeley, CA	Facilitation
Community Design + Architecture, Inc.	Oakland, CA	Land Use and Urban Design/Architecture
Connectics Transportation Group	Berkeley, CA	Transportation Planning
Envirocom Communications Strategies, LLC (DBE)	San Leandro, CA	Public Outreach Strategy and Implementation
Environ (DBE)	San Francisco, CA	Environmental Planning and Climate Change
Environmental Science Associates	San Francisco, CA	Environmental Planning
Federal Compliance Consulting	Potomac, MD	Title VI Compliance Strategy
Godbe Research	San Mateo, CA	Market Research
James Rojas (MBE)	Alhambra, CA	Community Engagement
Merrill Morris Partners (MBE / DBE)	San Francisco, CA	Landscape Architecture
Robin Chiang & Co. (MBE)	San Francisco, CA	Urban Design/Architecture
Seifel Consulting Inc.	San Francisco, CA	Economics and Real Estate Analysis
Strategic Economics Inc.	Berkeley, CA	Economics and Real Estate Analysis
Studio T-SQ (MBE)	Oakland, CA	TOD Design and Planning
Toole Design Group (DBE)	Seattle, WA	Transportation Planning
Torti Gallas and Partners	Los Angeles, CA	Land Use and Urban Design/Architecture
Transportation Management & Design, Inc.	Carlsbad, CA	Transportation Planning
Nancy McGuckin - Travel Behavior Analyst	South Pasadena, CA	Transportation Planning
Urban Planning Partners, Inc. (DBE)	Oakland, CA	Land Use and Environmental Planning

RECOMMENDED AWARD

- **Agreement No. 6M6049**
AECOM, Oakland, California for a five-year period for a total not to exceed amount of \$6,000,000.
- **Subconsultants**
Name and Location

NAME	LOCATION	ROLE IN THIS AGREEMENT
BMS	San Francisco, CA	Land Use, Urban Planning
Bicycle Solutions	San Francisco, CA	Transportation, Bicycle Planning
CH2M Hill	Oakland, CA	Strategic Planning & Policy
Circlepoint	San Francisco, CA	Public Outreach
Daniller Consulting, Inc. (DBE)	San Francisco, CA	Public Outreach
Decision Lens	Arlington, VA	Strategic Planning, Capital Prioritization
Dyett & Bhatia (DBE)	San Francisco, CA	Land Use Planning
Fehr & Peers	Walnut Creek, CA	Transportation
Finger and Moy (DBE)	Oakland, CA	Station Architecture
High Street Consulting	Chevy Chase, MD	Management Consulting, Strategic Planning
ICF International	San Francisco, CA	Environmental, Strategic Planning
KKCS, Inc. (DBE)	Oakland, CA	Conceptual Design
LSA Associates	Berkeley, CA	Environmental
LTK Engineering Services	Winters, CA	Transportation, Conceptual Design and Project Administration
Lee Davis & Associates (DBE)	Oakland, CA	Title VI
Legion America	New York, NY	Station Layout – Pedestrian Flow, Station Capacity Planning
Merrill Morris Partners (DBE)	San Francisco, CA	Site Design / Landscape Architecture
Robin Chiang & Co. (DBE)	San Francisco, CA	Station Architecture
Sally Swanson Architects (DBE)	San Francisco, CA	ADA Access
Strategic Economics	Berkeley, CA	Economics & Real Estate

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** November 10, 2011
FROM: General Counsel
SUBJECT: Resolution in Support of Requiring PSA's for future Transit Oriented Development

The attached Resolution is being brought forward at the request of President Franklin. It proposes that the Board adopt a policy under which Developers wishing to engage in Transit Oriented Development with the District enter into a Project Stabilization Agreement with the relevant unions in that particular area.



Matt Burrows

Attachment

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

**In the Matter of a Policy
Requiring Project Stabilization Agreements (PSA)
With Local Hire Provisions on
Transit-Oriented Development (TOD) Projects**

-----/

Resolution No. _____

WHEREAS, on July 14, 2005, the San Francisco Bay Area Rapid Transit District (District) adopted a Transit-Oriented Development (TOD) Policy with the goal of promoting intensive development at or near BART stations in order to increase transit ridership and facilitate local and regional economic development;

WHEREAS, in June 2003, the District developed TOD Guidelines that state that job opportunities near BART stations can enhance regional transit ridership when local residents living near one BART station find work near another BART station;

WHEREAS, to implement this TOD Policy, the District has partnered with developers to enable numerous TOD projects to increase transit-accessible housing, employment, and retail opportunities in the San Francisco Bay Area region;

WHEREAS, the District has approved approximately \$2 billion in TOD projects;

WHEREAS, the District anticipates that it will approve additional TOD projects in the next ten years and that such projects will generate tens of thousands of construction work hours;

WHEREAS, the construction industry is one of the few industries providing a path to middle-class careers for individuals without advanced degrees or facing barriers to quality employment, and is therefore a crucial component of the effort to build economic opportunities for residents of the region, with a particular emphasis on low-income and underrepresented workers in various building and construction trades, in order to elevate historically disadvantaged populations throughout the region;

WHEREAS, the region faces unemployment levels that have risen dramatically over the past five years climbing from 3.7% in 2006 to 9.8% in 2010 for the City of San Francisco, reaching 10.4% for the City of Oakland in 2008;

WHEREAS, high unemployment in the region is disproportionately concentrated in many areas near BART stations, neighborhoods or cities such as Richmond, Oakland, the Mission, and South of Market;

WHEREAS, this disproportion is reflected in the demographics of BART ridership where 25% of riders earn less than \$25,000 per household, a regional poverty threshold, whereas only 17% of the regional population are at this threshold;¹

WHEREAS, employing workers that are more likely to reside close to BART at BART-accessible jobsites also has environmental benefits, including reducing automobile-based commutes and resulting vehicle emissions, that are consistent with the mandates, policies, and goals of the California Global Warming Solutions Act (AB 32), the Sustainable Communities and Climate Protection Act (SB 375), and the Metropolitan Transportation Commission's (MTC) Resolution 3434, adopted in 2005, to implement SB 375 objectives;

WHEREAS, local economic development, increased transit ridership, and sustainable communities will be advanced by promoting the development of quality construction job opportunities that are transit accessible and, to the extent allowed by law, by encouraging the targeted hiring of local residents for construction jobs on TOD project sites;

WHEREAS, the District has the responsibility to promote efficient project delivery and the efficient use of public funds;

WHEREAS, these TOD Policy objectives will be advanced, and the proprietary interests of the District will be protected, by avoiding labor misunderstandings, grievances, and conflicts on certain TOD construction projects; and Project Stabilization Agreements (PSAs) minimize the possibilities for such misunderstandings, grievances, and conflicts, thereby promoting project cost containment, timely and economical project completion, financial stability, and prompt repayment of financial obligations owed to the District;

WHEREAS, the Board of Directors wishes to adopt a policy requiring PSAs with local hire provisions on TOD projects, to the extent allowable by law, in order to (1) further its TOD policy objectives of increased transit use and local economic development and its state and regionally-mandated objectives of reducing vehicle emissions, (2) to protect the District's proprietary interests and to enable the economical completion of TOD projects; and (3) to counteract the grave economic, social, and environmental ills affecting BART's regional ridership;

NOW, THEREFORE, BE IT RESOLVED, that to the extent permitted by law, the District requires as a condition of final approval for any new development agreement with the San Francisco Bay Area Rapid Transit District for a Transit-Oriented Development Project (TOD Project) that the developer or development team agree to enter into the relevant Project Stabilization Agreement (PSA) for such TOD Project; and

¹ 2010 BART Customer Satisfaction Survey, BART Customer Incomes Compared to Regional Data.

BE IT FURTHER RESOLVED that the Board directs staff to negotiate the terms of a PSA with local hire provisions, to the extent allowable by law, with the relevant building trades, including the Alameda County Building and Trades Council, the Contra Costa County Building and Trades Council, the San Mateo County Building and Trades Council, the Santa Clara Building and Trades Council, and the San Francisco County Building and Trades Council; and

BE IT FURTHER RESOLVED that the PSA shall establish, at minimum and to the extent allowable by law, that a mutually-agreed percentage goal of all workers on a TOD Project construction site must be residents from one of the five counties served by BART and that, if the developer/contractor fails to achieve such goal, documentation showing good faith efforts made to achieve the goal must be furnished to the District; and

BE IT FURTHER RESOLVED that this policy shall not apply if and to the extent application of the policy would jeopardize the financial feasibility of or the governmental funding sources for a TOD Project.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** November 10, 2011
FROM: General Counsel
SUBJECT: Resolution in Support of the right of Doppelmayer employees to organize

The attached Resolution is being brought forward at the request of Director Fang for the Board's consideration. It illustrates support for and recognition of the rights of Doppelmayer employees to organize for collective bargaining purposes if they so desire.



Matt Burrows

Attachment

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

In the Matter of Support of
The Right to Organize at Doppelmayer /

Resolution No. _____

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District (District) shares and supports the goals and ideals of all its employees of the BART family, for a better life and a decent and fair wage, including those represented by organized labor;

WHEREAS, many District employees are currently represented by SEIU Local 1021, ATU Division 1555, and AFSCME Local 3993; and

WHEREAS, the District is committed to enabling union representation of its employees, and encourages vendors and contractors doing business with the District to do so also; and

WHEREAS, employees of Doppelmayer have the statutory right to organize for the purpose of collective bargaining and to be represented by a union or association of their choice, including the above representatives, and

WHEREAS, the Board of Directors believe the above representatives are well qualified, within their relative jurisdictions, to represent employees of Doppelmayer, if those employees so desire such representation.

NOW, THEREFORE, BE IT RESOLVED, that the District supports the rights of Doppelmayer employees to be represented by a union or association of their choice, and in particular the District recognizes those unions and associations mentioned above as worthy representatives, given their familiarity and knowledge of BART, gained through the current representation of District employees, and

BE IT FURTHER RESOLVED, that the Board of Directors urges Doppelmayer to proactively engage in discussions with the above referenced unions concerning the interests of Doppelmayer employees in being represented by these unions. Furthermore, if such an election is made by its employees to be represented for purposes of collective bargaining, that the District expects Doppelmayer to cooperate in the recognition process to the fullest extent permitted by law.