

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

BOARD MEETING AGENDA

December 3, 2015

9:00 a.m.

Please Note: The first business item on the Agenda is Closed Session. The Board will reconvene in Open Session at 10:00 a.m. or immediately following the Closed Session, whichever is later.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, December 3, 2015, 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 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 (https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904) or via regular mail upon request submitted to the District Secretary. 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.

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 Meeting of November 19, 2015.* Board requested to authorize.
- B. Removal of Term Limit for Reserve Fund/Risk Management Ad Hoc Committee.* Board requested to ratify.
- C. Resolution Authorizing Statement of Continued Interest for Funding from the Affordable Housing and Sustainable Communities Program.* Board requested to adopt.

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

- A. CONFERENCE WITH LABOR NEGOTIATORS; PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Agency Negotiators: Directors Blalock, Radulovich, and Keller
Titles: General Manager, General Counsel,
Controller/Treasurer, District Secretary, and
Independent Police Auditor
Gov't. Code Sections: 54957 and 54957.6

4. OPEN SESSION (**10:00 a.m. or immediately following the Closed Session, whichever is later.**)

- A. Compensation and Benefits for General Manager, General Counsel, District Secretary, and Independent Police Auditor. Board requested to authorize.

5. ADMINISTRATION ITEMS

Director Keller, Chairperson

- A. Professional Services Agreement with the Mineta Transportation Institute for Workforce Development, Education, Research and Other Services.* Board requested to authorize.
- B. Title VI Assessment for Discontinuing the BART Plus Ticket Program.* Board requested to approve.

- C. Change Order to Agreement No. 6M4135, Short and Long Term Disability, and Life and Accidental Death and Dismemberment Insurance Services, with Standard Insurance Company, for Time Extension and Increase of Contract Value.* Board requested to authorize.

6. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. (CONTINUED from November 19, 2015, Board Meeting)
Award of Contract No. 11OG-130A, Balboa Park Station – Phase 2.*
Board requested to authorize.
- B. Agreements for Detailed Station Cleaning Services.*
 - a. Agreement No. 6M8098A, with Aim to Please Janitorial Services, Inc.
 - b. Agreement No. 6M8099, with Zero Waste Solutions
 - c. Agreement No. 6M8100, with Bay Area Green SolutionsBoard requested to authorize.
- C. Train Control Modernization Program for the Design, Supply and Installation of a Communications Based Train Control (CBTC) System (Project) and Implementation Actions, including Solicitation Documents for a CBTC System Using Design-Build Procurement Method.* Board requested to approve and authorize.

7. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Raburn, Chairperson

NO ITEMS.

8. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

9. BOARD MATTERS

- A. Policy Requiring Inclusion of Affordable Housing in Proposed Development Projects at BART Stations.* Board requested to adopt. (Director Mallett's request.)
- B. Board Member Reports.
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since last Board Meeting.)
- C. 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.)
- D. In Memoriam.
(An opportunity for Board members to introduce individuals to be commemorated.)

10. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Ho vs. BART, USDC Action No. C15-01128 HSG

Government Code Section: 54956.9(a)

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Alexander vs. BART, USDC Action No. C15-3225 HSG

Government Code Section: 54956.9(a)

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Property Located at the Millbrae BART Station

District Negotiators: Robert Powers, Assistant General Manager, Planning & Development; Jeffrey P. Ordway; and Sean Brooks, Manager, Real Estate and Property Development

Negotiating Parties: Urban Republic and San Francisco Bay Area Rapid Transit District

Under Negotiation: Price and Terms

Government Code Section: 54956.8

12. OPEN SESSION

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

Board of Directors
Minutes of the 1,744th Meeting
November 19, 2015

A regular meeting of the Board of Directors was held November 19, 2015, convening at 9:06 a.m. in the Board Room, 344 20th Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None. Director McPartland entered the Meeting later.

President Blalock called for a moment of silence to remember the recent bombing of a Russian plane and the killings in Paris.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of October 22, 2015.
2. Appointments to the Tri-Valley Regional Rail Advisory Group.
3. Revision to Board Rule 3-4.1, Agendas, and Board Rule 5-5.1, Contractor/Subcontractor Contributions.
4. District Response to Contra Costa County Grand Jury Report.
5. Grant of Easement for the Purple Lotus Temple in the Cities of Union City and Fremont.
6. Lease of Warehouse Space at 800 East 8th Street, Oakland.
7. Sole Source Procurement with Giesecke & Devrient America, Inc., for Upgrade of a Currency Processor and Procurement of Associated Equipment.
8. Award of Contract No. 04SF-160, Construction of East Contra Costa BART Extension Project Antioch Station Parking Landscaping.
9. Award of Contract No. 15QH-180, Repave North Parking Lot and Access Road – Walnut Creek.
10. Award of Invitation for Bid No. 8971, Chain, Escalator Step.
11. Reject All Bids for Contract No. 15PJ-130, BART Earthquake Safety Program Fruitvale Station and Coliseum Station.

Directors Keller and Mallett requested that Item 2-D, District Response to Contra Costa County Grand Jury Report, be removed from Consent Calendar.

Director Murray made the following motions as a unit. Director Keller seconded the motions, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent - 1: Director McPartland.

1. That the Minutes of the Meeting of October 22, 2015, be approved.
2. That the Board ratify the appointment of Director Tom Radulovich as representative of the Board of Directors to the Tri-Valley Regional Rail Advisory Group, and that Director John McPartland be appointed as alternate.
3. That the Board adopt the attached revision to Board Rule 3-4.1 Agendas with the Rule revision to be reviewed after six months in effect; and that the Board adopt the attached revision to Board Rule 5-5.1 Contractor/Subcontractor Contributions. (The revised Board Rules are attached and hereby made a part of these Minutes.)
4. Adoption of Resolution No. 5303, In the Matter of Authorizing the Grant of Easement to the Purple Lotus Temple BART Parcels: O-AB74E6 (O-AB94E6 and O-AD28E4) (Portion of APN 507-0030-014-02 and 507-0030-018-03).
5. That the General Manager or her designee be authorized to execute a lease agreement with East 8th Street Associates, for approximately 18,200 square feet of warehouse space at 800 East 8th Street, Oakland, for a four-year term, for a total lease amount, excluding gas and water, which will be billed quarterly at a pro-rata share of usage and electricity that is metered separately, not to exceed \$489,689.40.
6. That the Board find, pursuant to Public Contract Code Section 20227, that Giesecke & Devrient America, Inc., is the single source for the procurement of equipment and services necessary to upgrade and refurbish a currency processor and associated equipment, and that such purchase is for the sole purpose of duplicating or replacing equipment in use; and that the General Manager or her designee be authorized to negotiate and execute a contract with Giesecke & Devrient America, Inc., for the upgrade and refurbishment of one currency processor, and associated equipment, in an amount not to exceed \$750,000.00; and that the General Manager or her designee be authorized to enter into a five-year maintenance agreement for two currency processors in an amount not to exceed \$549,930.00. (This motion carried by the required two-thirds vote.)
7. That the General Manager be authorized to award Contract No. 04SF-160, for the Construction of East Contra Costa BART Extension Project Antioch Station Parking Landscaping, to Empire Landscaping, Inc., of

Davis, California, for the amount of \$277,500.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.

8. That the General Manager be authorized to award Contract No. 15QH-180, Repave North Parking Lot and Access Road, Walnut Creek Station, to Golden Bay Construction, Inc., for the Bid Price of \$411,999.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.
9. That the General Manager be authorized to award Invitation for Bid No. 8971, an estimated quantity contract, for Chain, Westinghouse Escalator Step, to Precision Escalator, Kenilworth, New Jersey, in the amount of \$130,086.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller/Treasurer that funds are available for this purpose.)

10. That all bids for Contract No. 15PJ-130, Earthquake Safety Program, Fruitvale Station and Coliseum Station, be rejected, and that the General Manager be authorized to re-advertise the Contract.

Director Radulovich moved that the Board approved the attached response to Finding #5 of the Contra Costa County Civil Grand Jury Report 1504, Averting Bay Area Rapid Transit District Strikes. Director Saltzman seconded the motion, which carried by electronic vote. Ayes - 6: Directors Josefowitz, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 2: Directors Keller and Mallett. Absent - 1: Director McPartland. (The response is attached and hereby made a part of these Minutes.)

President Blalock announced that the Board would enter into closed session under item 3-A (Conference with Labor Negotiators; Public Employee Performance Evaluation) of the Regular Meeting agenda, and that the Board would reconvene in open session at the conclusion of the closed session.

The Board Meeting recessed at 9:10 a.m.

The Board Meeting reconvened in closed session at 9:15 a.m.

Directors present: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None. Director McPartland entered the Meeting later.

Director McPartland entered the Meeting.

The Board Meeting recessed at 10:06 a.m.

The Board Meeting reconvened in open session at 10:10 a.m.

Directors present: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None.

President Blalock announced that there were no announcements to be made and that Compensation and Benefits for General Manager, General Counsel, District Secretary, and Independent Police Auditor would be continued to a future meeting.

President Blalock announced that the order of agenda items would be changed and called for Public Comment. The following individuals addressed the Board.

Stephen Everett
Michael Rothbaum
Bernardo Montiel
Kurt Kuhwald
Sharon Fennena
Mollie Costello
Kathryn Gilje
Terry Morris
Jane Martin
Sulaiman Hyass
Bob Allen
Dennis Fagaly
Lindsay Imai Hong
Feng Kung
Rebecca Hom
Cecilia Lucas
Michelle Puckett
Kyle McCoy
Vanessa Riles
Nichola Torbett
Michael Gast
Leigh Davenport
Tova Fry
Tristen Schmidt
Marcy Rein
Margi Clark
Alex Fuller
Prince White
Megan Swoboda
Kimberly Banford
Taina Vargas-Edmond
Jenny Crofton

Jill Shenker
NTanya Lee
Jerry Grace
Colleen Tani

The Board Meeting recessed at 12:05 p.m.

The Board Meeting reconvened in open session at 12:40 p.m.

Directors present: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None.

President Blalock brought the matter of Renaming of the Citizen Review Board to “BART Police Citizen Review Board” before the Board. Director Raburn moved that the Citizen Review Board be renamed the BART Police Citizen Review Board, and that the BART Citizen Oversight Model be amended to reflect this change. Director Keller seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of BART Bicycle Advisory Task Force Annual Report before the Board. Mr. David Favello, Chairperson of the BART Bicycle Advisory Task Force, presented the report. The report was discussed.

Jerry Grace addressed the Board.

Director Raburn brought the matter of BART Bicycle Advisory Task Force and BART Accessibility Task Force Joint Recommendations for Improved Station Circulation before the Board. Mr. Favello and Mr. Alan Smith, Chairperson of the BART Accessibility Task Force, presented the item. The item was discussed.

Director Raburn brought the matter of Warm Springs/South Fremont Station West Side Access Bridge before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development; Mr. John Rennels, Principal Property Development Officer; Ms. Jessica von Borek, Assistant City Manager, City of Fremont; and Mr. Norm Hughes, Public Works Director, City of Fremont, presented the item. The item was discussed.

Director Keller, Chairperson of the Administration Committee, brought the matter of Agreement with Data Ticket, Inc., for Parking Citation Processing Services (Agreement No. 6M5096), before the Board. Mr. Justin Morgan, Police Administrative Supervisor, presented the item. The item was discussed.

Director McPartland moved that the General Manager be authorized to award Agreement No. 6M5096 to Data Ticket, Inc., to provide parking citation processing services, for a total

compensation amount not to exceed \$2,399,850.00, pursuant to notification to be issued by the General Manager.

Brook Westcott addressed the Board.

President Blalock seconded the motion. Discussion continued. The motion carried by electronic vote. Ayes - 6: Directors Keller, Mallett, McPartland, Murray, Raburn, and Blalock. Noes – 3: Directors Josefowitz, Radulovich, and Saltzman.

Director Keller brought the matter of Fiscal Year 2015 Year-End Budget Revision before the Board. Mr. Robert Umbreit, Department Manager, Budget Department, presented the item. Director Saltzman moved adoption of Resolution No. 5304, In the Matter of Amending Resolution No. 5262 regarding Fiscal Year 2015 Annual Budget. President Blalock seconded the motion.

Chris Finn addressed the Board.

The motion carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Agreement with Nordco Rail Services for Ultrasonic Rail Flaw Detection Testing (Agreement No. 6M3286) before the Board. Mr. Gregory Shivy, Principal Track Engineer, presented the item. Director Murray moved that the General Manager be authorized to award Agreement No. 6M3286, to Nordco Rail Services LLC, of Beacon Falls, Connecticut, for Rail Flaw Detection Testing Service, for an amount not to exceed \$709,650.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.

Director McPartland brought the matter of Award of Contract No. 11OG-130A, Balboa Park Station – Phase 2, before the Board. Ms. Shirley Ng, Group Manager, Stations Engineering and Construction, presented the item. The item was continued to a future meeting.

Director McPartland brought the matter of Award of Contract No. 15PB-120, BART Earthquake Safety Program Aerial Structures – A Line Lake Merritt to Coliseum, before the Board. Mr. Thomas Horton, Group Manager, Earthquake Safety Program, presented the item. President Blalock moved that the General Manager be authorized to award Contract No. 15PB-120, Earthquake Safety Program Station Structures – A Line Lake Merritt to Coliseum, to Brosamer & Wall, Inc., for the Bid amount of \$12,958,770.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and Federal Highway Administration's requirements related to protest procedures. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland brought the matter of Increase Authority to Execute Third Party Agreements and Work Authorizations to Support the Hayward Maintenance Complex Project before the Board. Mr. Horton, Group Manager, Hayward Maintenance Complex, presented the item. Director Saltzman moved that the General Manager or her designee be authorized to increase authority for an additional \$750,000.00 to execute third party agreements and work authorizations with various public and private utilities including cities, agencies, special districts, other third parties and the Union Pacific Railroad to perform support services including, but not

limited to, design, installation, minor construction, relocation, and permit and inspection fees required in support of the Hayward Maintenance Complex Project. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland brought the matter of Sole Source Procurement with Dailey and Wells Communications for Portable Radio Replacement before the Board. Mr. Thomas Herold, Manager of Telecommunications Engineering, presented the item. Director Murray moved that the Board find, in accordance with Public Contract Code 20227, that Dailey and Wells Communications is the single source of supply for Harris radio equipment, the only equipment which is compatible with the BART 800 MHz radio system, and that this procurement is for the purpose of replacing old and outdated equipment in use at the District; and that the General Manager be authorized to enter into direct negotiations with Dailey and Wells Communications and to execute a contract, in a form acceptable to the General Counsel, with Dailey and Wells Communications to provide approximately 50 units of “system” model XG-75 portable radios and approximately 250 units of “scan” model XG-75 portable radios pursuant to the requirements of Project 79LS001, for a total price not to exceed \$949,801.00, including applicable taxes. President Blalock seconded the motion, which carried by electronic vote by the required two-thirds vote. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director Raburn brought the matter of Agreement with Alameda Contra Costa Transit District (AC Transit) for Late Night Bus Core Service Enhancements on AC Transit Routes 800 and 801 before the Board. Ms. Marianna Parreiras, Access Coordinator, Transit & Shuttles, presented the item.

Jerry Grace addressed the Board.

The item was discussed. Director Keller moved that the General Manager be authorized to execute an agreement with AC Transit for the Late Night Bus Core Service enhancements on AC Transit routes 800 and 801 for one year, with the plan to include up to \$50,000.00 available for marketing and with staff to return with a plan for a research study on extending the 822 route. Director Saltzman seconded the motion, which carried by electronic vote. Ayes - 8: Directors Josefowitz, Keller, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 1: Director Mallett.

Director McPartland brought the matter of Quarterly Performance Report, First Quarter Fiscal Year 2016 - Service Performance Review, before the Board. Mr. Paul Oversier, Assistant General Manager – Operations; Mr. Jeffrey Lau, Chief Safety Officer; and Deputy Chief of Police Benson Fairrow presented the item. The report was discussed.

Jerry Grace addressed the Board.

President Blalock called for the General Manager’s Report. General Manager Grace Crunican reported on steps she had taken and activities and meetings she had participated in, reminded the Board of upcoming events, and reported on open Roll Call for Introduction items.

President Blalock called for the Quarterly Report of the Controller/Treasurer – June 30, 2015. Ms. Rose Poblete, Interim Controller/Treasurer, and Mr. Chris Gan, Assistant Controller, presented the item. The report was discussed.

President Blalock called for Board Member Reports and Roll Call for Introductions.

Director Josefowitz requested a report detailing what of the cash and cash equivalents is encumbered, for what liabilities or expected liabilities it is encumbered, and why the District is holding the unencumbered cash that it is. Director Murray seconded the request.

Director McPartland reported he had attended a Veterans Day presentation with Congressman Swalwell and Assemblymember Quirk.

Director Keller requested the creation of a Board advisory committee to provide a voice for BART riders similar to the Rider Advisory Committee that advises the Capitol Corridor Joint Powers Authority Board and that this item be placed on a future Board Meeting agenda. Director Murray seconded the request, and Director Saltzman was a third supporter of the request.

Director Raburn reported he had attended a Dia de los Muertos event at the Fruitvale Station.

Director Saltzman expanded on the General Manager's report of the labor/management two-day summit.

Director Saltzman requested that staff be directed to work with Capitol Corridor and Caltrain on a better communication plan to avoid Capitol Corridor and Caltrain riders missing their trains by seconds or minutes due to BART delays, with a memo on the plan to be provided to the Board. Director Josefowitz seconded the request.

Directors Mallett and Saltzman requested evaluation of options for making crowd and load data available to the public and app developers, potentially by making SCRAM and load factor data publicly available. This request is not asking for the data to be made available in real time.

President Blalock called for In Memoriam, and requested that the Meeting be adjourned in honor of former Alameda County Supervisor, AC Transit Interim General Manager, and BART Director Mary V. King.

The Board Meeting was adjourned at 4:43 p.m. in honor of Mary V. King.

Kenneth A. Duron
District Secretary

A. AD HOC COMMITTEE PROPOSED REVISIONS:

Chapter III Board Meetings and Committees. Section 4 Meeting Material

35. Board Rule 3-4.1 Agendas. Page III-17. *Inserts proposed new language for introduction of Roll Call for Introductions items and for placement of an item on a future agenda.*

Each regular Board meeting agenda shall contain an item entitled "Roll Call for Introductions," at which time each Director will be afforded an opportunity to introduce a matter for consideration at a future Committee or Board Meeting. Requests to District staff to prepare items or reports may also be made under this agenda item.

An item being introduced requires a 'second' endorsement by another Director to be recorded as a "Roll Call for Introductions" item. An item requested for placement on a future agenda requires a 'third' endorsement by a Director.

If a Director or the General Manager has a concern about a matter introduced under "Roll Call for Introductions," the General Manager may speak directly with the sponsoring Director. If not resolved the Director or General Manager may have the matter placed on the next agenda of the Board or appropriate committee for consideration of whether to proceed with the item. A Director or the General Manager may request that a matter raised during "Roll Call for Introductions" be placed on the Board or committee agenda by notifying the District Secretary, either at the Board Meeting at which the matter was introduced, or at any time up to and including the Friday before the next meeting. When so notified, the District Secretary shall place any such item on the next Board or committee agenda for consideration and possible action.

Chapter V Financial Provisions. Section 5 Financial Contributions Limitation

45. Board Rule 5-5.1 Contractor/Subcontractor Contributions. Page V-12. *Clarifies description of contributor and changes terms for contributions.*

In regard to any contract, or agreement requiring authorization of the Board, no perspective contractor party seeking to do business with the District (hereafter "contractor") or the contractor's proposed first tier subcontractors and subsuppliers whose subcontracts exceed \$100,000 (hereinafter referred to as "subcontractors"), shall provide to any Director, or any candidate for Director, and no Director, or a candidate for Director, shall accept or solicit any monetary or in-kind contribution valued at greater than \$1,000 (including loans) from any contractor or its subcontractors during the time periods from the receipt of that perspective contractor's bid for all contracts and agreements, through award, and shall continue to apply for three months following award in regard to the contractor awarded the contract or agreement and its subcontractors

Response to Finding #5 of the Contra Costa County Civil Grand Jury Report 1504

F5. A multi-jurisdictional transit service plan developed and initiated by the MTC Commission during the last BART strike was insufficient to mitigate the impact of the strike. BART agrees with this finding. BART carries approximately 100,000 round trip passengers between the east bay and San Francisco and, in excess of 300,000 daily trips throughout the rest of the system on an average weekday.

Other public transit agencies that provide San Francisco Bay crossing services during peak commute hours, most notably AC Transit, increased their regular service from the east bay to San Francisco during the last BART strike. Additional ferry service was also made available through the efforts of MTC. In an effort to provide commuters with additional transit options to cross the San Francisco Bay Bridge during the strike, BART was able to offer limited lifeline private bus service to serve approximately six percent of BART's regular ridership. In order to meet even this limited threshold, BART contracted with private bus operators from across California to provide transbay service. To alleviate congestion to the extent possible, commuters were encouraged to telecommute or stagger work times.

MTC's role was primarily one of coordination to ensure seamless information flow between agencies. MTC and BART both worked diligently to increase capacity through other modes of transportation during the strike; however, those efforts were insufficient to fully mitigate the impact of the strike because the availability of resources required to do so do not exist.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** November 25, 2015
FROM: District Secretary
SUBJECT: Removal of Term Limit for the Reserve Fund/Risk Management Ad Hoc Committee

At the request of the Ad Hoc Committee members, President Blalock proposes to remove the term limit for the Reserve Fund/Risk Management Ad Hoc Committee.

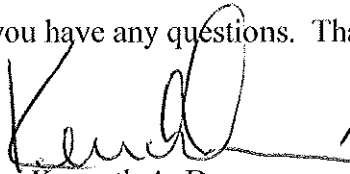
Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board.

President Blalock proposes that the term limit for the Reserve Fund/Risk Management Ad Hoc Committee be extended.

MOTION:

That the Board of Directors ratifies the removal of the term limit for the Reserve Fund/Risk Management Ad Hoc Committee.

Please contact President Blalock or me if you have any questions. Thank you.



Kenneth A. Duron

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeVane</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/24/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Deidre Heltman Dept: <i>Deidre Heltman</i> Signature/Date: <i>11/23/15</i>	General Counsel <i>[Signature]</i> 11/24/15 []	Controller/Treasurer <i>[Signature]</i> 11/23/15 []	District Secretary []	BARC <i>[Signature]</i> 11/23/15

TITLE:
Adoption of a Resolution Authorizing Statement of Continued Interest for the Affordable Housing and Sustainable Communities (AHSC) Program Funding in Fiscal Year (FY) 2015-2016

NARRATIVE:

Purpose: To obtain Board approval of a Resolution authorizing submittal of a Statement of Continued Interest for funding under the Affordable Housing and Sustainable Communities (AHSC) program.

Discussion: The AHSC Program was established in 2014 as part of the State's cap-and-trade program to reduce greenhouse gas (GHG) emissions through projects that support affordable housing and transportation investments near transit stations and throughout urbanized areas. The AHSC program is managed by the state's Strategic Growth Council (SGC) and the state Department of Housing and Community Development and funded by the state Greenhouse Gas Reduction Fund (GGRF). In May 2015, the BART Board passed Resolution 5293 authorizing the submittal of three applications for funding under the AHSC program for FY 2014-2015 in partnership with local affordable housing developers. In June 2015, the SGC awarded AHSC program funding for two of the three applications: the 12th Street/Oakland City Center Station Project and the Hayward Meta Housing project. These projects included bicycle channels and additional bike storage at the 12th Street station and 16 new electronic bike lockers at the Hayward station.

On October 30, 2015, the SGC issued notification of \$30 million in available funding for FY 2015-2016 and invited specific high-scoring project applications that were not chosen for funding in the FY 2014-2015 round of funding availability to resubmit their applications. The rationale by the SGC for issuing this invitation-only round of funds was that the applicants had submitted high quality projects requiring a substantial effort in the prior application process. One of these projects is the third of the three projects on which BART was a partner, which would provide, in partnership with Bridge Housing Corp. for the Marea Alta joint development project, up to \$500,000 to enhance pedestrian access at the San Leandro BART station. The intent of the access improvements is to reconnect the City of San Leandro's street grid for pedestrians, and improve pedestrian access across the Union Pacific Oakland Subdivision railroad tracks and the Westlake Urban/OSI Soft office development which is currently under construction west of the BART station.

As part of the resubmittal of the joint BART-Bridge Housing application to the SGC for funding,

As part of the resubmittal of the joint BART-Bridge Housing application to the SGC for funding, the BART Board must adopt a resolution authorizing the submittal of a Statement of Continued Interest for AHSC Program funding.

Fiscal Impact: None.

Alternative: Do not approve the Resolution for the Affordable Housing and Sustainable Communities (AHSC) Program Funding. If that occurs, BART could forego up to \$500,000 in FY 2015-2016 AHSC funding and Bridge Housing Corp. would no longer be in a competitive position to apply for funding, which is critical for the second phase of the joint development project on BART property.

Recommendation: Adoption of the following motion.

Motion: The Board of Directors approves adoption of the attached Resolution authorizing submittal of a Statement of Continued Interest to the Strategic Growth Council for funding under the Affordable Housing and Sustainable Communities program.

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

**In the Matter of Authorizing Statement of
Continued Interest For Funding from the
Affordable Housing And
Sustainable Communities Program (AHSC)/**

Resolution No. _____

WHEREAS, the State of California, the Strategic Growth Council (SGC) and the Department of Housing and Community Development (Department) issued a Notice of Funding Availability (NOFA) dated October 30, 2015 for \$30 million under the Affordable Housing and Sustainable Communities (AHSC) Program established under Division 44, Part 1 of the Public Resources Code commencing with Section 75200 and funded by auction proceeds of the Greenhouse Gas Reduction Fund (GGRF); and

WHEREAS, the SGC, which administers the AHSC Program, is authorized to approve funding allocations for the Program, subject to the terms and conditions of the NOFA, Program Guidelines, Application Package, and State of California, Standard Agreement (Standard Agreement); and

WHEREAS, the SGC has invited specific high-scoring, but ultimately unsuccessful, project applicants that were considered for funding in Fiscal Year 2014-2015 to re-submit their applications for Fiscal Year 2015-2016; and

WHEREAS, for Fiscal Year 2015-2016 SGC has invited the San Francisco Bay Area Rapid Transit District (BART) and Bridge Housing Corp. to re-submit its Joint Application from Fiscal Year 2014-2015 for AHSC funding to build affordable housing and enhance related access improvements at the San Leandro BART station; and

WHEREAS, the SGC requires a funding applicant invited for reconsideration to have its governing board submit a resolution authorizing submittal of a Statement of Continued Interest and Supplemental Information;

NOW THEREFORE BE IT RESOLVED, by the BART Board of Directors that the General Manager or her designee is hereby authorized to submit a Statement of Continued Interest and Supplemental Information to the SGC, pursuant to the NOFA dated October 30, 2015, for reconsideration of its joint AHSC Program application with Bridge Housing Corp. for funding to

build affordable housing and to enhance related access improvements at the San Leandro BART station.

If the application is approved, BART’s General Manager or her designee is hereby authorized to enter into, execute, and deliver a Standard Agreement, and any and all other documents, and all amendments thereto (collectively, the “AHSC Documents”), required pursuant to the NOFA to secure AHSC Program funds, in an amount not to exceed \$500,000.00, subject to approval as to form by BART’s Office of the General Counsel; and

BE IT FURTHER RESOLVED, that BART shall be subject to the terms and conditions as specified in the Standard Agreement. Funds are to be used for allowable capital asset project expenditures. The application in full will be incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. If BART receives and accepts the funding, BART hereby agrees to use the funds for eligible capital asset(s) in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be transmitted to the Department and the SGC.

PASSED AND ADOPTED this _____ Day of _____, 2015, by the following vote:

AYES: _____ NAYS: _____ ABSTAIN: _____ ABSENT: _____

Certification

I, Kenneth A. Duron, District Secretary, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Board of Directors of the San Francisco Bay Area Rapid Transit District on the _____ day of _____, 2015.

Kenneth A. Duron, District Secretary

Date: _____

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Carolea DeLuca</i>		GENERAL MANAGER ACTION REQ'D: Forward to Board of Directors		
DATE: 11/24/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Greg Marrama Dept: <i>Sullivan</i>	General Counsel <i>[Signature]</i> 11/24/15 []	Controller/Treasurer <i>[Signature]</i> 11/24/15 []	District Secretary []	BARC <i>[Signature]</i> 11/23/15
Signature/Date: 11/24/15				
Status: Approved		Date Created: 11/16/2015		

TITLE:

Authorization to Execute a Professional Services Agreement with the Mineta Transportation Institute for Workforce Development, Education, Research and Other Services

NARRATIVE:

Purpose:

That the Board authorize the General Manager to execute a Professional Services Agreement with the Mineta Transportation Institute at San Jose State University to perform specialized services in the areas of workforce development, education, research, and other transportation related services for a three year duration in an amount not-to-exceed \$300,000.

Discussion:

The Mineta Transportation Institute (MTI) at San Jose State University was established by Congress in 1991 and has vast expertise in an array of transportation-related disciplines, including education, training, security, finance, hazard mitigation, and transit supportive land use. A number of BART employees are graduates of MTI's Master of Science program in Transportation Management.

MTI's initial engagement under this Agreement is contemplated to be in the area of workforce development. As BART replaces its legacy systems with new state-of-the-art technology and architecture, it is imperative that the District establish the curriculum necessary to train both current and next generation BART employees to use these new technologies. This effort becomes even more critical as the District faces the reality that approximately half of current BART employees are eligible to retire. MTI will bring additional expertise to the District's current workforce development initiative already underway.

Fiscal Impact:

Compensation for services under this Agreement will be for an estimated amount not-to-exceed \$100,000 per year for a three year period. Funding will be made available from the General Manager's annual operating budget. Work directives issued to MTI will be at the General Manager's discretion. The Controller/Treasurer will certify availability of such funding prior to incurring costs against the Agreement.

Alternatives:

Not to authorize the General Manager to enter into an Agreement with MTI.

Recommendation:

It is recommended that the Board adopt the following motion:

Motion

The Board of Directors authorizes the General Manager to enter into a Professional Services Agreement with the Mineta Transportation Institute for a three year period at a cost not-to-exceed \$300,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Charlene DeBaele</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/24/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept. Financial Planning Signature/Date: <i>[Signature]</i>	General Counsel <i>[Signature]</i> 11/23/15 []	Controller/Treasurer <i>[Signature]</i> 11/20/15 []	District Secretary []	BARC <i>[Signature]</i> 11-20-15 []
Status: Routed		Date Created: 11/18/2015		
TITLE:				

Title VI Assessment for Discontinuing the BART Plus Ticket Program

NARRATIVE:

PURPOSE

To request Board approval of the "Title VI Assessment for Discontinuing the BART Plus Ticket Program as currently Jointly Offered by BART, County Connection, Tri Delta Transit, Union City Transit, WestCAT, and Wheels."

DISCUSSION

To ensure compliance with federal and state civil rights regulations, BART performs an analysis of any fare change, in this case discontinuing the BART Plus ticket, to determine if the change has a disparate impact on minority riders or a disproportionate burden on low-income riders.

BART Plus is an intra-agency joint fare product accepted by BART and the following five bus operators:

Bus	Operating Agency
County Connection	Central Contra Costa Transit Authority
Tri-Delta Transit	Eastern Contra Costa Transit Authority
Union City Transit	City of Union City
WestCAT	Western Contra Costa Transit Authority
Wheels	Livermore Amador Valley Transit Authority

The agreement among these agencies governing the BART Plus program expires on December 31, 2015.

As the Federal Transit Administration (FTA) has encouraged transit agency coordination in undertaking Title VI requirements for joint fare products, BART and the five bus operators have agreed that BART would undertake coordinated Title VI analysis for all BART Plus agencies.

The BART Plus ticket, good for a two-week period, is used as a flash pass for unlimited bus rides, gives a discount of 5% to 8% for BART trips, and can be used to make a last BART trip with as little as a nickel left on the ticket. BART Plus tickets are available in eight

denominations, ranging from \$43 to \$76, with \$15 to \$50 in BART value.

The BART Plus ticket program began in 1991 to encourage transit use and regional fare coordination, and at one point, 10 bus operators participated, serving five counties. The BART Plus program was intended to end once BART Plus program participants could accept the regional smart card, now Clipper®. Consequently, in 2013, San Francisco Muni, Dumbarton Express, SamTrans, and Santa Clara Valley Transportation Authority withdrew because they had become Clipper-enabled. None of the completed Title VI analyses provided to BART by the operators had a finding of disparate impact and/or disproportionate burden.

After the four agencies withdrew, BART Plus ticket sales and ridership declined by approximately 96%. Currently, on an average weekday, approximately 30 BART Plus trips are taken on BART. Thus, the BART Plus ticket has ceased to be a viable regional joint bus and BART fare product.

As County Connection, Tri Delta Transit, WestCAT and Wheels became Clipper-enabled on November 1, 2015, and Union City Transit will be Clipper-enabled in summer 2016 (on an average weekday, there are one exit and one entry at Union City Station by riders using a BART Plus ticket), these agencies now wish to withdraw from the BART Plus program.

Analysis Results

An agency is to use ridership survey data when evaluating the adverse effects of fare changes. However, sufficient survey data for BART Plus riders is not available as no BART Plus riders responded to the 2014 Customer Satisfaction Survey and fewer than 20 BART Plus riders responded to the 2012 Customer Satisfaction Survey. In the absence of sufficient survey data, the Title VI report assumes the fare change will disproportionately impact minority and low-income riders.

Should BART find that protected riders experience adverse effects from a fare change, BART should take steps to avoid, minimize, or mitigate such impacts. Existing discounted fare medium alternatives to BART Plus, all available on Clipper, include the East Bay Value Pass (a 31-day rolling pass good on County Connection, Tri Delta, WestCAT, and Wheels), BART-to-bus fare discounts, and BART 6.25% high value discount tickets. The discounts are also available on existing paper fare media. The study found that these alternatives can avoid, minimize, or mitigate adverse effects of discontinuing BART Plus because they offer equal, better or similar fare discounts.

Public Outreach

BART undertook public outreach to receive input from low-income, minority, and Limited English Proficient (LEP) riders as well as BART's Title VI/Environmental Justice (EJ) Advisory Committee and LEP Advisory Committee. One commenter left a voice mail noting that BART Plus has been economical for her to use for years. While one advisory committee member referred to the termination as "totally justified," he felt that agencies should make additional efforts to ensure that current BART Plus ticket users understand their alternatives. In response, BART staff recommends to the bus operators that during Clipper card roll-out on their systems, they provide information on fare media alternatives to BART Plus and offer Clipper cards to

BART Plus riders. Notices that provide information on existing fare media alternatives to BART Plus as well as BART contact information for riders to ask any questions will also remain posted through December 2015 on 61 BART ticket vending machines that sell BART Plus tickets. In December, BART station agents will also be provided with information on alternatives to give customers.

Committee members also expressed concern that low-income riders and those with limited computer access could have difficulty getting the benefits of the Clipper card discounts, especially the Clipper BART high-value discount (an autoloan product the rider pays for with either a credit card or debit card) since low-income or LEP riders may have disproportionately less access to a credit or debit card. In response to this concern, staff investigated how current BART Plus riders are actually paying for their tickets and found that 49.5% are using a credit card, 28.7% pay with a debit card, and the remaining 21.8% use cash. In addition, a computer is not necessary to purchase the paper HVD ticket, which is sold at seven retail locations and through the mail upon request.

Equity Finding

An equity finding is made after considering both the fare change analysis results and public comment received. The equity finding of this report assumes that the fare change will disproportionately impact minority and low-income riders. While adverse impacts on Union City bus riders may exist on a temporary six month basis, the report concludes that any disproportionate impacts are not permanently adverse for any of the fare products because existing fare products offer better or similar fares and fare media as BART Plus. Therefore, the report concludes that the termination will not result in a disparate impact or disproportionate burden on minority riders or low-income riders, respectively.

FISCAL IMPACT

Discontinuing the BART Plus program will result in an annual savings of approximately \$14,000, BART's portion of program administration costs.

ALTERNATIVES

Do not approve or defer approval of the Title VI Assessment. As the bus operators intend to withdraw from the program, and BART cannot operate the program on its own, the program will essentially end. Without Title VI Assessment approval, BART could be out of compliance with federal and state civil rights regulations.

RECOMMENDATION

Approval of the following Motion.

MOTION

The BART Board of Directors approves the attached "Title VI Assessment for Discontinuing the BART Plus Ticket Program as Jointly Offered by BART, County Connection, Tri Delta Transit, Union City Transit, WestCAT, and Wheels."



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Cecilia delacruz</i>		GENERAL MANAGER ACTION REQ'D:				
DATE: 11/24/15		BOARD INITIATED ITEM: No				
Originator/Prepared by: David Wong Dept: Employee Relations	General Counsel	Controller/Treasurer	District Secretary	BARC		
Signature/Date: <i>[Signature]</i> 11/17/15	<i>[Signature]</i>	<i>[Signature]</i> 11/17/15	[]	<i>[Signature]</i> 11/23/15		
Status: Routed			Date Created: 11/05/2015			

TITLE:

Time Extension and Increase of Contract Value, Agreement No. 6M4135 Short and Long Term Disability, Life and AD&D Insurance Services

NARRATIVE:

PURPOSE:

To obtain the Board's approval to execute a change order to Agreement No. 6M4135 for Short and Long Term Disability, and Life and AD&D Insurance Services, with the Standard Insurance Company. This Change Order would increase the not-to-exceed amount of the Agreement from \$13,728,180 to \$18,764,560 and extend the termination date of the Agreement from February 29, 2016 to February 28, 2017.

DISCUSSION:

The District's life insurance (Life) and accidental death and dismemberment (AD&D) and disability insurance programs provide basic coverage at no cost to employees, and the option for additional coverage at the employee's cost. The life insurance and long-term disability (LTD) programs are fully insured, while the short term disability (STD) program is self-insured. The Standard Insurance Company provides the District's life and LTD insurance, and also provides third-party administrative services for the STD program.

The Board authorized award of Agreement No. 6M4135 to the Standard Insurance Company on February 10, 2011 for a period of three years with two optional one-year extensions in an amount not to exceed \$13,728,180. The District exercised both options to extend the Agreement, and the second of these extensions will expire on February 28, 2016. In anticipation of the expiration of the Agreement, the District is preparing to issue a Request for Proposals through its benefits broker, Keenan and Associates (Keenan). A one-year extension will allow District staff and Keenan to seek prospective providers with an established record of public sector work and experience with agencies contracting with CalPERS, in order to provide assistance in coordinating disability benefits with CalPERS benefits. Additionally, Keenan will seek prospective providers with sufficient liquidity and administrative capacity to handle fully insured accounts of the District's size.

An increase in the total contract value is necessary due to both the extension of the Agreement and to premium increases resulting from higher than anticipated death claims of current employees and retirees. The Standard exercised their option to increase the life insurance premium for the first option year based on the increased life insurance costs, which results in an additional amount of \$956,659 required to conclude the current contract ending February 28, 2016. The estimated cost to extend the term of the

contract for one additional year to February 28, 2017 is \$4,079,721 for a total additional cost of \$5,036,380.

This change order will extend the Disability and Life Insurance services for a period of twelve months, and increase the not-to-exceed amount of the Agreement by \$5,036,380. The cost for the amended total Agreement period of six years is not to exceed \$18,764,560. The Standard Insurance Company has agreed to continue services until the District terminates services under the proposed extended Agreement.

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

FISCAL IMPACT:

The funding source is the General Fund and cost from the portion paid by the District is allocated to the departments. The following chart indicates the total yearly fees categorized with the amounts paid by employees and the District.

Standard Insurance Agreement - Monthly Premiums and Service Fees			
Current 5 Year Agreement Amount	\$13,728,180		
Agreement Year	Total Spent	Paid by Employee	Paid by Distict
YR 1 (March 2011 to Feb 2012)	\$2,143,044	\$592,761	\$1,550,283
YR 2 (March 2012 to Feb 2013)	\$2,181,356	\$606,711	\$1,574,645
YR 3 (March 2013 to Feb 2014)	\$2,252,115	\$623,294	\$1,628,821
YR 4 (March 2014 to Feb 2015)	\$3,990,777	\$652,364	\$3,338,413
YR 5 (March 2015 to Feb 2016) - Estimate	\$4,117,547	\$708,008	\$3,409,539
TOTAL	\$14,684,839	\$3,183,138	\$11,501,700
Requested Funds to be added for Year 5	\$956,659	\$153,065	\$803,593
Requested Funds to be added for Year 6	\$4,079,721	\$652,755	\$3,426,966
Total Fund Request	\$5,036,380		
Updateed - 6 Year Agreement Not to Exceed	\$18,764,560		

ALTERNATIVE:

The Board could decline to approve an extension of the Agreement, or could approve a shorter time extension than requested with funding reduced accordingly. However, a minimum of one-year is needed to prepare and complete a new RFP and award a new agreement for Short and Long-Term Disability and

Life Insurance services.

RECOMMENDATION:

Adopt the following motion:

MOTION:

That the Board authorize the General Manager to execute a Change Order to Agreement No. 6M4135 to extend the term of the Agreement to February 28, 2017 and increase the total compensation to an amount not to exceed \$18,764,560.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeVanera</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the November 19, 2015 E&O Committee Meeting	
DATE: 11/13/15		BOARD INITIATED ITEM: No	
Originator/Prepared by: Dennis Ho Dept: Stations P,D&C	General Counsel <i>[Signature]</i> 11/12/15	Controller/Treasurer <i>[Signature]</i> 11/12/15	District Secretary <i>[Signature]</i> 11/12/15
Signature/Date: <i>[Signature]</i> 11/12/15			
Status: Routed		Date Created: 10/27/2015	

TITLE:
Award of Contract No. 11OG-130A, Construction of BART Balboa Park Station East Side Connection Improvements Phase 2

NARRATIVE:

PURPOSE: To obtain the Board's authorization for the General Manager to award Contract No. 11OG-130A BART Balboa Park Station East Side Connection Improvements Phase 2, to Proven Management, Inc. of Berkeley, CA.

DISCUSSION: This is the second phase of the proposed work to connect the new BART Balboa Park Station Eastside plaza entrance with a San Francisco Municipal Transit Agency ("MUNI") boarding area on the east side of the BART Station, while updating the existing Station architecture to suit its new role as a major entrance with improved lighting and access on the concourse level.

Contract No. 11OG-130A will modernize BART's Balboa Park Station and consists of a base Contract and four Option items, which the District could exercise, subject to availability of funding. The base Contract scope of work will connect the west side walkway to the new east side walkway and San Francisco MUNI's train platform and includes construction of a new east side glazed head house over the north entrance. The Option items for Balboa Park Station improvements include, among other things, new lighting, ceiling treatment, wall finishes and a 5 foot high separation barrier between the free and paid areas. The District has 320 Days from the Notice to Proceed to exercise the Option items.

On September 3, 2015, the Advance Notice to Bidders was mailed to 125 prospective Bidders, and Contract Documents were sent to 20 plan rooms. The Contract was advertised on September 11, 2015 in local publications. A total of 10 firms purchased copies of the Contract Documents. A pre-Bid meeting and site tour was conducted on September 16, 2015, with five prospective Bidders attending. One Addenda was issued on October 9, 2015. Bids were publicly opened on October 20, 2015. Pursuant to the Instructions to Bidders, Bids were to be evaluated based on the Total Bid Price for the Base Bid (Items 1 through 26 inclusive). The Bids received and the Engineer's Estimate are shown below:

<u>BIDDER</u>	<u>LOCATION</u>	<u>BASE BID</u>	<u>OPTIONS</u>	<u>BASE BID & OPTIONS</u>
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Arntz Builders, Inc.	Novato, CA	\$6,250,397	\$3,309,829	\$ 9,560,226
Thompson Builders Corp.	Novato, CA	\$8,189,300	\$2,717,900	\$10,907,200
Rodan Builders, Inc.	Burlingame, CA	\$8,454,000	\$2,069,000	\$10,523,000
Proven Management, Inc.	Berkeley, CA	\$8,762,000	\$3,890,000	\$12,652,000
<u>Engineer's Estimate:</u>		\$9,145,016	\$2,804,466	\$11,949,482

The apparent low Bidder, Arntz Builders, Inc. (Arntz) requested to be relieved of its Bid on October 22, 2015 for clerical errors. Based on a review by staff, the request from Arntz was found to meet the terms of the Contract and State Codes to be relieved of its Bid due to a mistake. The next apparent low Bidder's Total Base Bid was submitted by Thompson Builders Corp. (Thompson). After review by District staff, the Bid submitted by Thompson has been deemed to be non-responsive to the solicitation due to failure to properly complete the mandatory Statement of Qualifications and Business References for Construction. The next apparent low Bidder's Total Base Bid was submitted by Rodan Builders, Inc. (Rodan). After review by District staff, the Bid submitted by Rodan has been deemed to be non-responsive to the solicitation due to failure to properly complete the mandatory Designation of Subcontractors and M/WBE Participation Form. The next apparent low Bidder's Total Base Bid was submitted by Proven Management, Inc. (Proven). After review by District staff, Proven's Bid was determined to be responsive to the solicitation. Examination of Proven's business experience and financial capabilities has resulted in a determination that the Bidder is responsible and its Total Base Bid of \$8,762,000 is fair and reasonable.

Staff has determined that this action, involving safety and public access improvements along with other minor repairs and modifications to an existing facility, is exempt from the requirements of the California Environmental Quality Act (CEQA), as provided in CEQA Guidelines Sections 15301 (c) and (e).

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability percentages for this Contract are 23% for Minority Business Enterprises (MBEs) and 12% for Women Business Enterprises (WBEs). The Bidder committed to 8.7% MBE and 9.4% WBE. The Office of Civil Rights has determined that Proven did not meet either the MBE or WBE Availability Percentages. As such, Proven was required to provide the District with information to determine if they had discriminated on the basis of race and gender. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services (DGS). It was determined that there were no certified Small Businesses certified by the DGS among the responsible Bidders and therefore the Small Business Prime Preference is no applicable.

FISCAL IMPACT:

Funding of \$8,762,000.00 is included in the total budget for Project 11OG001 – Balboa Park Station East Side Improvements. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

The following table depicts funding assigned to the referenced project since March 2011, and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

Fund Source Group Description	Amount Awarded
State Prop 1B-PTMISEA (535A, 535X)	\$ 10,958,610.00
State Transp Assistance Lifeline SF	\$ 747,440.00
Local SFCTA-Proposition K (6703, 6704)	\$ 2,230,000.00
Grand Total	\$ 13,936,050.00

As of November 6, 2015, \$13,936,050.00 is the total budget for this project. BART has expended \$2,393,083.13, and has committed \$168,080.65 to date for other actions. This action will commit \$8,762,000.00, thus leaving an available balance of \$2,612,886.22 remaining in fund resources for this project.

The four Options will only be exercised subject to future certification by the Controller/Treasurer that funding is available.

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

ALTERNATIVE: The Board may decline to authorize award of the Contract, in which case the balance of the remaining grants may need to be canceled. In such a case, BART's Balboa Park Station would remain in its current condition. If the Contract is not awarded, BART may lose its opportunity to access the MUNI yard for future BART work in the east side as MUNI's current construction contracts would be completed. BART may also forfeit the funding for the project due to timeliness of expenditures prior to expiration.

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

MOTION: The General Manager is authorized to award Contract No. 11OG-130A, Construction of BART Balboa Park Station East Side Connection Improvements Phase 2 to Proven Management, Inc. for the Bid price of \$8,762,000.00 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.

The General Manager is further authorized to exercise the four Options for a combined total of \$3,890,000.00, subject to funding availability.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Schneider</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: 11/25/15		BOARD INITIATED ITEM: No	
Originator/Prepared By: Dennis Ho Dept: Stations PD&C <i>Dennis Ho</i>	General Counsel <i>W. H. Jones</i>	Controller/Treasurer <i>Chris G...</i>	District Secretary <i>Paul Craymer</i>
Signature/Date: 11/25/15	11/25/15 []	11/25/15 []	11/25/15 []
Status: Approved		Date Created: 11/02/2015	

TITLE:
Award of Agreement Nos. 6M8098A, 6M8099 and 6M8100, Detailed Station Cleaning Services

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award separate Technical Services Agreements to provide detailed station cleaning services as follows: Agreement No. 6M8098A to Aim to Please Janitorial Services, Inc.; Agreement No. 6M8099 to Zero Waste Solutions; and Agreement No. 6M8100 to Bay Area Green Solutions in an amount not to exceed \$700,000 for each Agreement for a term not to exceed three (3) years.

DISCUSSION: Request for Proposal (RFP) No. 6M8098A is one of the first RFPs posted on the District's newly launched Procurement Portal, to solicit companies to provide Detailed Station Cleaning Services. The District intends to award three (3) Agreements resulting from this RFP to three (3) Contractors to perform the scope of services described in the RFP which will be assigned on a work plan basis describing specific cleaning to be performed at selected BART stations. The scope of work to be performed under these contracts is consistent with the March 11, 2014 Agreement between the District and Service Employees International Union (SEIU) Local 1021 regarding the contracting out of certain elements of station cleaning under the District's Early Wins Project.

Advance Notice to Proposers was sent on October 1, 2015, to fifty-eight (58) prospective proposers. RFP No. 6M8098A was advertised on October 1, 2015 in local newspapers. The RFP was also posted onto the District's new Procurement Portal on October 1, 2015. Prospective Proposers were required to be registered on the BART Procurement Portal and to download the Solicitation Documents on line in order to be listed as On-Line Planholders for this solicitation in order to be eligible for award of this Agreement. Twenty (20) prospective proposers downloaded this RFP from the Procurement Portal. A Pre-Proposal Conference was held on October 12, 2015 and was attended by representatives from twenty-four (24) companies. One (1) Addendum was issued for the RFP on October 15, 2015.

On October 27, 2015, five (5) proposals were received from the following companies:

1. Zero Waste Solutions Inc., Concord, CA
2. Impec Group, Santa Clara, CA
3. Aim to Please Janitorial Services, Inc., San Francisco, CA

4. Filmex Building Maintenance, Pacifica, CA
5. Bay Area Green Solutions, San Bruno, CA

The five (5) proposals were first reviewed for responsiveness by a Source Selection Committee (the "Committee") consisting of staff from the District's Office of Civil Rights, Procurement and Planning, Development and Construction. All five (5) proposals were determined to be responsive to the requirements of the RFP. All five (5) proposals were also determined to be Small Businesses certified by the California Department of General Services.

The technical proposals were then reviewed and evaluated by the Committee to determine which proposals met the minimum technical requirement of the RFP. Of the five (5) proposals that were evaluated, two (2) proposals were determined to have not met the technical requirements of the RFP as follows:

1. Impec Group: Failed to submit a Statement of Qualifications and Business References.
2. Filmex Building Maintenance: Failed to provide sufficient evidence to have been determined to meet the minimum technical requirements of the RFP.

Price proposals from the remaining three proposers whose proposals met the minimum technical requirements of the RFP were then opened, evaluated and discussed. In accordance with the RFP, the selection of a Company to provide Detail Station Cleaning is based on the lowest-priced technically acceptable proposal methodology. According to the terms of the RFP, each of the three (3) Proposers who submitted the three (3) lowest-priced technically acceptable proposals will be selected for award of an Agreement for an amount not to exceed **\$700,000.00**. The proposed prices reflect a summation of the total hours estimated by the District at each County and multiplied by the Contractor's unit rate per hour. These prices were provided for purposes of comparison of the proposals received but were not intended to define the actual scope of work to be performed under the awarded Agreements. These are each limited to an amount not to exceed \$700,000. The Contractor's unit rate includes labor, materials, equipment, insurance and transportation. Staff's evaluation determined that the proposer's unit rates are fair and reasonable. Three technically acceptable proposals are summarized as follows:

PROPOSERS	TOTAL PROPOSED PRICE	AGREEMENT NUMBER
AIM TO PLEASE JANITORIAL SERVICES, INC.	\$1,617,000.00	6M8098A
ZERO WASTE SOLUTIONS, INC.	\$2,391,081.00	6M8099
BAY AREA GREEN SOLUTIONS	\$2,737,958.00	6M8100

Three contracts will be executed to create a pool of Contractors to perform work as required. The work will be implemented through individual work plans negotiated with the Contractor to ensure that the price proposed for a work plan is fair and reasonable. In the event a fair and

reasonable price is not reached with one Contractor, staff will enter into negotiations with the next available Contractor for that scope of work.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 16% for Minority Business Enterprises (MBEs) and 20% for Women Business Enterprises (WBEs). Proposers Zero Waste Solutions and Bay Area Green Solutions will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-Discrimination Program for Subcontracting do not apply to those Contracts.

Aim to Please Janitorial Services, Inc. committed to 100% MBE and 0% WBE. The Proposer did not meet the WBE Availability Percentage; therefore, the Bidder was requested to provide the District with information to determine if it had discriminated on the basis of gender. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% prime preference for this Contract for Small Businesses certified by the California Department of General Services. All three Proposers are certified Small Businesses, thus making them eligible for the preference. Since all three Proposers are eligible for the 5% Small Business Prime Preference, the application of the Prime Preference will not alter the award to the firms.

FISCAL IMPACT: Agreement Nos. 6M8098A, 6M8099, and 6M8100 have a not-to-exceed cost limit of \$700,000.00 each. The District's financial obligations under each Agreement will be subject to Work Plans (WPs). Each WP will have a defined scope of services and separate schedule and budget. WP's will be approved only if the Budget Department certifies the eligibility of identified funding sources. The Controller/Treasurer will also need to certify availability of funding prior to execution of each WP. Currently, \$550,000.00 is available under the FY16 Station Refresh-Expansion project.

ALTERNATIVE: The District could reject all Proposals and solicit new Proposals, or award to fewer than the recommended three (3) Proposers. This could adversely impact the District's ability to provide needed detailed cleaning at BART Stations.

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

MOTION: The General Manager is authorized to award the following Technical Services Agreements to provide detailed station cleaning services as follows: Agreement No. 6M8098A to Aim to Please Janitorial Services, Inc.; Agreement No. 6M8099 to Zero Waste Solutions; and Agreement No. 6M8100 to Bay Area Green Solutions in an amount not to exceed \$700,000 for each Agreement for a term not to exceed three (3) years (or to completion date of any work plan issued within such three-year period, if later), pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Olga Perez</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors for Action		
DATE: 11/24/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept: PD&C	General Counsel <i>John B. King</i>	Controller/Treasurer <i>Appalite</i>	District Secretary	BARC <i>Tamara Chenoweth</i>
Signature/Date: <i>OP</i> 11/23/15	1/23/15 []	11/23/15 []	[]	11/24/15 []

AUTHORITY TO IMPLEMENT A DESIGN-BUILD PROCESS FOR PROCUREMENT OF A COMMUNICATION BASED TRAIN CONTROL SYSTEM

NARRATIVE:

PURPOSE

To obtain Board authorization for the General Manager to issue solicitation documents for a Communication Based Train Control (CBTC) system using the design-build method of procurement, pursuant to Public Contract Code Section 22160 et seq.

BACKGROUND

In 2014, the Board was briefed on the General Manager's intention to implement CBTC as the new method of train control on the BART system, based on consensus reached by a technology evaluation committee consisting of approximately 40 BART staff and consultants. The CBTC system will replace the current fixed-block train control system, which has been BART's method of train control since the commencement of revenue service over forty years ago. Fixed-block technology is based on traditional signal and track circuit equipment to control train movement and relies on widely spaced signal blocks to denote train occupancy. This contributes to longer distances between trains, and increased travel times and headways. CBTC technology uses communications equipment to more accurately detect a train's location, leading to more efficient train movement, increased reliability, less travel time, shorter distances between trains, and decreased headways. These improvements are consistent with the overall goals of the Train Control Modernization Program (Program): to achieve a state of good repair, to increase core system passenger-carrying capacity, and to improve train control system reliability, availability and maintainability.

DISCUSSION

Staff has considered two possible procurement methods for obtaining a CBTC system.

Competitive Negotiation followed by Public Works Contract

One potential method is to procure the design, supply and on-board installation of specialized

train control equipment using a competitive negotiation process authorized under Public Contract Code Section 20229.1 *et seq.*, followed by a competitively bid (low bid) contract for the public works portion of the CBTC system, which consists of installation of wayside equipment (equipment not installed on-board).

Procurement of specialized equipment by competitive negotiation has been used by BART for a number of projects, including the purchase of new rail vehicles and automatic fare collection (AFC) equipment. Both of those procurements required the supplier to design the equipment based on performance specifications and to supply such equipment, and allowed BART to consider factors other than price in evaluating proposals and making an award. The rail vehicle purchase did not require an ancillary public works contract. The ancillary public works contract required to install the new AFC equipment comprised basic work such as properly sizing and leveling spaces into which the equipment could be inserted and plugged in. By contrast, installation of even the simplest wayside CBTC equipment will have a crucial impact on the performance of the CBTC system as a whole. It is expected that numerous adjustments will have to be made between on-board and wayside equipment in order to maximize system performance. Such coordination would be very difficult if there were one contractor responsible for designing and supplying all CBTC equipment (including wayside equipment) as well as installing on-board equipment, and another contractor responsible only for installing wayside equipment. In addition, liability for failures in performance would be difficult to determine between the contractors. Therefore, staff has concluded that a procurement of CBTC equipment by competitive negotiation under Public Contract Code Section 20229.1, followed by a public works contract for wayside equipment installation, is not feasible.

Design-Build Method of Procurement

California Public Contract Code Section 22160 *et seq.*, effective January 1, 2015 (Senate Bill 785), provides general authorization for design-build project delivery, using a best value procurement methodology, to local agencies (including transit districts) that have reported benefits from such projects, including reduced project costs, expedited project completion, and implementation of design features that are not achievable through the traditional design-bid-build method. The new law is substantially similar to design-build statutes applicable to BART projects which commenced prior to 2015; the primary reason for the new law was to provide uniformity in design-build procurement requirements for various public entities.

Given the infeasibility of the competitive negotiation plus public works wayside installation procurement approach for CBTC, the only viable procurement method is one in which the CBTC system designer, supplier, and on-board installer is also responsible for wayside installation. To achieve that objective, a design-build method of procurement must be utilized. This would ensure a single point of responsibility for the design, supply, installation, testing, and commissioning of equipment. Dividing contractor responsibility for such an important system as CBTC would subject BART to unacceptable risk.

Another reason to use the design-build method of procurement for a CBTC system is that it will allow the selected supplier, who wishes to carefully safeguard its proprietary designs and

operating software, to select its subcontractor for wayside installation. Presumably the supplier would select a subcontractor with whom it has had a successful installation experience. By contrast, under a competitive negotiation pursuant to Public Contract Code Section 20229.1 followed by a public works contract for wayside installation, the supplier would have no choice in the selection of the installation contractor. The responsive low bidder for such public works contract would install the supplier's system based on detailed specifications prepared for BART by the supplier under the competitively negotiated procurement contract. The supplier would supervise the installation of its equipment by the public works contractor. While the public works contractor would be contractually required to protect the proprietary information of the supplier, the supplier could perceive a greater risk of inadvertent disclosure of its proprietary information by a public works contractor with whom the supplier has not worked. Under the design-build method of procurement, the single contractor will select the installation contractor as part of its team and be wholly responsible for ensuring that the installed CBTC system works properly.

The design-build method of procurement for CBTC may not necessarily result in reduced project costs or expedited project completion when compared to a competitive negotiation plus public works contract for wayside installation. However, it can be assumed that there would be significant costs and time spent on resolving problems between the two contractors if an installed CBTC system did not work properly. For example, even with proven CBTC equipment, it is expected that many adjustments will have to be made to wayside radio equipment around BART's track way to ensure continuous communication between the vehicles and wayside.

The design-build procurement process will start with the issuance of a Request for Qualifications (RFQ) in order to pre-qualify a short list of entities. The short-listed entities will be invited to submit competitive sealed proposals in response to a Request for Proposals (RFP). At a minimum, the RFP will include the basic scope of the Program, the estimated cost of the Program, identification of best value as the selection method, significant factors in evaluating proposals and the relative importance of such factors. BART will reserve the right to request revisions to proposals and hold negotiations with responsive proposers, pursuant to procedures set forth in the RFP. In evaluating proposals, staff will consider, at a minimum, price, technical design and construction expertise, and life cycle costs over 15 or more years. When the evaluation is complete, staff will rank responsive proposals based on a determination of value provided. A recommendation will be made to the Board for an award of the contract to the responsible design-build entity whose responsive proposal is determined to have offered the best value to the public.

BART staff will prepare solicitation documents in compliance with all applicable State and federal laws and FTA requirements, including Buy America requirements for train control equipment, which is considered rolling stock for compliance purposes. The Office of Civil Rights, in conjunction with Program staff, will develop a DBE goal and outreach plan based on the public works installation element of the proposed single contract.

The Train Control Modernization Program for the design, supply, and installation of a CBTC System (Project) is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(10) which is a statutory exemption for projects that

AUTHORITY TO IMPLEMENT A DESIGN-BUILD PROCESS FOR THE CBTC SYSTEM

increase passenger or commuter services on rail rights of way already in use.

The General Counsel will approve all solicitation documents as to form.

FISCAL IMPACT

This action has no immediate or direct fiscal impact, other than staff and consultant costs to prepare solicitation documents and engage in the qualifications and proposal evaluation process. The Board will be requested to authorize award of the design-build contract under a separate action.

ALTERNATIVES

The alternative to conducting this procurement through the design-build process would be to obtain the design, supply and on-board installation of the train control equipment through the competitive negotiation process authorized by Public Contract Code Section 20229.1 et seq., and to obtain the installation of wayside equipment through a competitively bid public works contract. As discussed earlier, this dual procurement method would expose BART to unacceptable risk because there would be no single contractor responsible for a working CBTC system.

RECOMMENDATION

It is recommended the Board adopt the following motion.

MOTION

Approves the Train Control Modernization Program for the design, supply, and installation of a Communication Based Train Control (CBTC) System (Project) and authorizes the General Manager to proceed with implementation actions, including the issuance of solicitation documents for the design, supply and installation of a CBTC system using the design-build method of procurement, pursuant to Public Contract Code Section 22160 et seq.