

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

January 10, 2008

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, January 10, 2008, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

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

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

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

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

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

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

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

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests: Ted Fang, Asian Heritage Street Faire.
- D. Public Hearing: Fees for Bicycle Lockers.\* For information.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of December 20, 2007.\* Board requested to authorize.

- B. Agreement with Alameda County Water District to Allow Temporary Non-Standard Water Service Configuration at Union City Station.\*  
Board requested to authorize.

## **RECESS TO STANDING COMMITTEES**

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

## **ALL COMMITTEES ARE ADVISORY ONLY**

### ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Franklin, Chairperson

- A-1. Approval of Agreements with the Northern California Power Agency.\*
  - a. Amended Northern California Power Agency Joint Powers Agreement.
  - b. Phase Two Agreement for Funding the Planning and Development Activities of the Lodi Energy Center.
  - c. Amended Green Power Project Agreement.  
Board requested to authorize.
- A-2. General Discussion and Public Comment.

### ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Fang, Chairperson

- B-1. Change Order to Contract No. 15CW-205, Procurement of Running Rail and Other Track Materials, with Progress Rail Services, for Central Contra Costa County Crossover Project Track Material (C.O. No. 3).\*  
Board requested to authorize.
- B-2. General Discussion and Public Comment.

### PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Immediately following the Engineering and Operations Committee Meeting

Director Radulovich, Chairperson

- C-1. Fees for Bicycle Lockers. For information.
- C-2. General Discussion and Public Comment.

## **RECONVENE BOARD MEETING**

### 3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Approval of Agreements with the Northern California Power Agency.\*
- c. Amended Northern California Power Agency Joint Powers Agreement.
  - b. Phase Two Agreement for Funding the Planning and Development Activities of the Lodi Energy Center.
  - c. Amended Green Power Project Agreement.  
Board requested to authorize.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Change Order to Contract No. 15CW-205, Procurement of Running Rail and Other Track Materials, with Progress Rail Services, for Central Contra Costa County Crossover Project Track Material (C.O. No. 3).  
Board requested to authorize.

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

- C-1. Fees for Bicycle Lockers. For information.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

# San Francisco Bay Area Rapid Transit District Memorandum

**TO:** Board of Directors

**DATE:** January 4, 2008

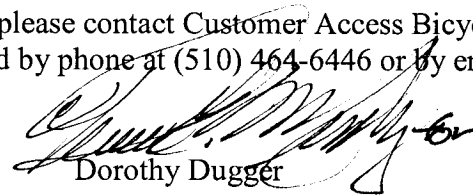
**FROM:** General Manager

**SUBJECT: Public Hearing for Bicycle Locker Fees**

At the January 10<sup>th</sup>, 2008 meeting of the Board of Directors, there will be a presentation about BART's Bicycle Parking Program and a public hearing regarding bicycle locker fees. The fee proposal includes setting hourly fees for electronic smart-card lockers which will soon be installed. The proposal will also include an increase to the annual charge for our existing non-electronic keyed lockers. The electronic smart-card locker fee proposal would give the General Manager flexibility to periodically revise the hourly fee according to customer utilization. Following a brief presentation, the meeting will be opened for comments from the public.

This item will be briefly introduced at the Planning, Public Affairs, Access, and Legislation Committee at the January 10<sup>th</sup>, 2008 meeting. On January 24, 2008 this item will be brought back to the Planning, Public Affairs, Access, and Legislation Committee. The committee will review the proposed fees for bicycle lockers, including all public comments, for the purpose of forwarding these items to the Board for consideration.

Should you have any questions regarding this matter, please contact Customer Access Bicycle Program Manager, Laura Timothy. She can be reached by phone at (510) 464-6446 or by email at [ltimoth@bart.gov](mailto:ltimoth@bart.gov).



Dorothy Dugger

cc: Board Appointed Officers  
Executive Staff  
Susan Gallagher  
Laura Timothy



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to E & O Committee		
DATE: c		BOARD INITIATED/EM: No		
Originator/Prepared by: Walt Sonnichsen Dept: Stations Capital Programs <i>W. Sonnichsen 1/3/08</i>	General Counsel <i>[Signature]</i> 1-3-08 [ ]	Controller/Treasurer <i>[Signature]</i> 1/3/08 [ ]	District Secretary [ ]	BARC <i>Paul Cooper 1/3/08</i> [ ]

TITLE:

### Agreement Between San Francisco Bay Area Rapid Transit District and Alameda County Water District

NARRATIVE:

#### PURPOSE

To obtain Board authorization to enter into an Agreement with Alameda County Water District (ACWD) to allow a temporary non-standard water service configuration at the BART Union City station during the Site Improvements Contract No. 01VJ-110.

#### DISCUSSION

BART has requested that ACWD provide a new water service to replace the existing on-site water services. The service will include new water meters and a detector check valve to provide increased capacity for the future Phase 2 improvements. However due to BART's construction schedule and in order to minimize the impact on BART patrons, BART has requested that ACWD connect the new detector check valve to the existing on-site main to provide both domestic and fire water service to the BART station on a temporary basis. This is considered a non-standard water service by ACWD.

The Office of the General Counsel has approved the Agreement as to form.

#### FISCAL IMPACT

Funding for \$170,104 for this Agreement is included in the total Project budget for the FMS 01VJ, Union City Intermodal Station. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$170,104 will be funded as follows:

F/G 61S Union City Intermodal Station	\$170,104
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As of the month ending November 25, 2007, \$4,783,357 is available for commitment from this fund source for this Project and BART has committed \$2,997,389 to date. There are pending commitments of \$3,000 in BART's financial management system. This action will commit \$170,104, leaving an uncommitted balance of \$1,612,864 in this fund source.

The City of Union City is the grantee of funds and BART is the sub-grantee of funds for this entire Project. Nothing in the Agreement obligates BART to expend any District funds for the Project. There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES**

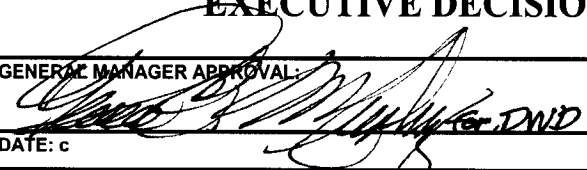
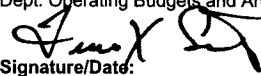


Not entering into this Agreement would mean the water service would be provided out of the scheduled construction sequence resulting in an added cost and a compensable time extension to the Project.

**MOTION**

The General Manager or her designee is hereby authorized to enter into an Agreement Between San Francisco Bay Area Rapid Transit District and Alameda County Water District to Allow a Temporary, Non-Standard Water Service Configuration at BART's Union City Station Property During BART's Union City Station Site Improvements Construction Project.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Frank Schultz Dept: Operating Budgets and Analysis  Signature/Date:	General Counsel  [ ]	Controller/Treasurer  [ ]	District Secretary [ ]	BARC [ ]

TITLE:

### Approval of Agreements With The Northern California Power Agency

NARRATIVE:

#### PURPOSE

To have the Board of Directors adopt the attached resolutions that would authorize the General Manager to execute the following agreements with the Northern California Power Agency (NCPA):

1. Amended NCPA Joint Powers Agreement;
2. Phase II Agreement for Funding the Planning and Development Activities of the Lodi Energy Center; and
3. Amended Green Power Project Agreement.

#### DISCUSSION

##### 1. Amended NCPA Joint Powers Agreement (JPA)

The JPA is the formative document for NCPA and was signed by the original members in 1968. The JPA has not changed significantly since then. BART became a full signatory party to the JPA in 2005. NCPA purchases most of the District's electrical supply and provides associated power management and scheduling services.

During the Spring of 2006, the NCPA Commission established an ad hoc Governance Committee to address matters related to member entry to and exit from NCPA program areas as well as related funding policies. This action was, in part, a response to the decision by the City of Roseville to leave the NCPA power pooling program which is a major component of NCPA's operations.

The Governance Committee reviewed the existing NCPA JPA and made the following recommendations that are included in the amended JPA:

- **Member Annual Assessment:** The current JPA provides for a base annual membership fee. The base fee covers only a small share of NCPA costs, most of its expenses are funded through service agreements with individual members. The base fee has not changed since 1968. The Governance Committee recommended that this charge be adjusted to reflect the increase in the price index since 1968. It also recommended that the fees be used to fund a share of NCPA legislative and regulatory costs.
- **Program Entry / Exit:** The existing JPA provides that members may withdraw from the JPA on 30 day minimum notice. The Governance Committee recommended that this period be

revised to provide a minimum of two years notice. This ensures that NCPA has two years to accommodate reductions in service levels and funding provided by their members, thereby providing added funding certainty.

- General JPA Changes: The entire JPA has been reviewed by the NCPA Legal Committee to amend language that is out of date or no longer applicable.

The NCPA Commission approved the amended JPA on September 28, 2007. The governing bodies of all the NCPA members must approve the amended JPA for the revisions to become effective. We have prepared a resolution for the Board that would authorize the General Manager to execute the amended JPA. The resolution is attached.

## 2. Phase II Agreement for Funding the Planning and Development Activities of the Lodi Energy Center

NCPA currently operates four power plants – a geothermal facility, a hydroelectric facility and two natural gas peaking plants, one of which is located in Lodi, California. The NCPA plants have provided reliable power at costs below market prices.

NCPA proposes to develop a 255-megawatt natural gas generation plant at its existing Lodi location, called the Lodi Energy Center. NCPA has a three-phase project development process. Phase I is the fatal flaw analysis and it has been completed for this project. Phase II, which includes environmental permitting and preliminary engineering, and Phase III, consisting of the financing and construction of the project, follow.

During preliminary discussions on this project, BART has proposed to commit to a 15-megawatt share that would provide approximately one-third of our average power supply needs. The District contracted with Navigant Consulting to assess whether we should participate in the project. Navigant Consulting found that the proposed plant uses a proven technology that should provide reliable electrical power at below market prices.

We made a presentation to the Board of Directors at the April 26, 2007 meeting outlining our proposed participation in the New Lodi project. The NCPA Phase II agreement at that time did not require approval by member governing boards, so this was an information only agenda item.

To reach the full 255-megawatt capacity of the plant, NCPA extended participation in the plant to include non-NCPA public agencies. These include the California Department of Water Resources and the City of Modesto. The capacity of the plant is now fully subscribed and the project is ready to go forward to Phase II.

This project has been divided into Phase IIA that includes environmental permitting and purchase of emission credits and Phase IIB that includes the preliminary engineering design. The agreement permits the District two opportunities (known as "off-ramps") to continue to evaluate the project and end our participation -- upon the completion of Phase IIA and Phase IIB (before construction). The NCPA Phase II agreement has been revised to reflect the participation of non-NCPA members and now requires the approval of the governing boards of project



participants.

The plant is expected to be operational in 2012.

We have prepared a resolution for the Board that would authorize the General Manager to execute the Phase II Agreement for this project. The resolution is attached.

### 3. Amended Green Power Project Agreement

The Green Power project is a pooling arrangement between eight NCPA members to purchase electricity from renewable energy resources and to develop facilities that generate electricity using renewable resources. Examples of renewable sources include biomass, wind power and landfill gas power supply, among others. Participating in a pooling arrangement with other NCPA members helps to diversify risk, takes advantage of other members' expertise and may yield economies of scale by allowing the members to pursue larger projects.

We informed the Board of Directors on September 6, 2006 that the District had entered into the Green Power Agreement for a seven megawatt supply. With the supply from the Green Power project and our existing hydroelectric supply from the federal Western Area Power Administration, it is planned that renewable power sources will provide 20 percent of the District's power supply. This voluntary action would match the State's statutory renewable portfolio standard imposed on investor-owned utilities such as PG&E. BART is not currently subject this standard.

The original Green Power agreement had a price cap of \$70 per megawatt hour for renewable supply. This is the same as the District pays for its existing market supply. NCPA issued a Request for Proposals to supply renewable power and BART and other pool participants considered the responses over the past year, but the cost averaged \$100 per megawatt hour. Because this exceeded the price cap, no power was procured.

The amended Green Power project would remove the price cap to permit this program to go forward. In addition, the amended agreement permits participants to "opt-out" of an individual project or procurement that doesn't meet their needs or exceeds the price they are willing to pay.

We have prepared a resolution for the Board that would authorize the General Manager to execute the Green Power agreement and to enter into renewable energy supply contracts of up to seven megawatts.

The Office of the General Counsel has approved the agreements as to form.

## **FISCAL IMPACT**

### 1. Amended NCPA JPA

BART's FY08 cost of NCPA services is \$585,000. The amended JPA will make the District responsible for a share of certain NCPA legislative and regulatory costs that it is currently not paying. The District receives some benefit from these services, so paying for a share of the cost is reasonable. This will result in \$54,000 in additional charges starting in FY09 for a total cost to

BART for NCPA services of \$639,000.

2. Agreement for Funding the Planning and Development Activities of the Lodi Energy Center

The FY08 budget currently includes \$1 million for Phase II project costs based on NCPA's original estimate. NCPA has updated their estimate which increases the District's share to \$1.4 million. The Phase IIA cost is \$805,000 and IIB is approximately \$600,000. The Board of Directors is being asked to authorize only the Phase IIA share at this time. Forecasted savings in the FY08 power budget should be sufficient to provide for the increased cost of the development activities.

These development costs are refundable if the District withdraws as a participant and the plant goes forward to commercial operation. If it does not go into commercial operation the development costs will not be repaid.

3. Amended Green Power Project Agreement

The District's conventional market power purchases cost \$70 per megawatt hour. Renewable supply from the Green Project is estimated to cost \$100 per megawatt hour. At the seven megawatt share, the renewable supply will cost \$1.8 million per year more than conventional supply. The renewable supply contracts include annual price escalation provisions that match some or all of market price increases. Therefore, the renewable supply likely will remain more expensive over the term of the supply agreements.

**ALTERNATIVE**

1. Amended NCPA JPA

The District could choose not to sign the amended JPA. The amended JPA would not go into effect because unanimous approval of the members is necessary. The District would avoid the increased cost in NCPA services.

2. Agreement for Funding the Planning and Development Activities of the Lodi Energy Center

The District could choose not to participate in the Phase II plant development process. This would likely require the District to forgo the opportunity to participate in the plant at later date unless another participant left the project. In the absence of generation from this plant, the District would have to continue to rely on more expensive market power supply.

3. Amended Green Power Project Agreement

The District could choose not to continue to participate in the Green Power project. NCPA is also looking for renewable projects outside of the Green Power project. The District may be able to procure renewable supply from these separate efforts.

**RECOMMENDATION**

It is recommended that the Board of Directors adopt the following motion.

**MOTION**

That the Board of Directors adopt the attached resolutions.

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

**In the Matter of Approving the Execution  
Of the Amended Northern  
California Power Agency Joint Powers  
Agreement**

**Resolution No.**

**WHEREAS**, the Northern California Power Agency (“NCPA”) was formed in 1968 for the purpose of utilizing the joint action of participating public power entities to pursue common interests for the benefit of all such members; and

**WHEREAS**, the NCPA Joint Powers Agreement (“JPA”) was initially developed on July 19, 1968, and subsequently revised on April 1, 1973; and

**WHEREAS**, in addition to the San Francisco Bay Area Rapid Transit District, the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, the Port of Oakland, the Truckee-Donner Public Utility District, and the Turlock Irrigation District are signatory participants to the JPA and the Plumas-Sierra Rural Electric Cooperative is an associate member of the Agency and has also executed the JPA; and

**WHEREAS**, the JPA may be revised from time to time as approved by the NCPA Commission and individually by all governing bodies of the signatories to it; and

**WHEREAS**, during the Spring of 2006, the Commission of NCPA established an ad hoc Governance Committee to address matters related to member entry to and exit from Agency programs as well as to identify corresponding member funding policies and budget allocation procedures; and

**WHEREAS**, the Governance Committee made several specific recommendations to revise and update the JPA including: (1) revising the annual JPA member assessment from a maximum of 10 cents per peak kilowatt to a maximum of 15 cents per megawatt hour of retail load or if no retail load is served, other suitable measure and allocating a portion of the assessment for legislative and regulatory costs; (2) providing for a minimum of two years notice to withdraw from the JPA as opposed to the existing thirty day notice provisions; and (3) revising and removing certain elements of the JPA to be more consistent with current business practices and procedures; and

**WHEREAS**, the attached proposed “Amended Northern California Power Agency Joint Powers Agreement (Amended JPA)” incorporates the above-described Governance Committee recommendations and other updates to the JPA as recommended by Agency staff and the Agency General Counsel to strengthen NCPA operations and to effectively meet member needs;

**WHEREAS**, NCPA Commission on September 28, 2007 unanimously approved the Amended JPA and further recommended that the governing boards of NCPA JPA members approve the Amended JPA; and

**WHEREAS**, the Amended JPA strengthens NCPA operations and provides the San Francisco Bay Area Rapid Transit District with greater certainty of NCPA service levels to more effectively supply electricity to the District.

**NOW, THEREFORE, BE IT RESOLVED** the General Manager is authorized to execute the Amended Northern California Power Agency Joint Powers Agreement.

###

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

**In the Matter of Approving the Execution  
Of the Second Phase Agreement for Funding  
The Planning and Development Activities  
Of the Lodi Energy Center.**

**Resolution No.**

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (District) is a member of the Northern California Power Agency (NCPA); and

**WHEREAS**, NCPA was formed for the purpose of utilizing the joint action of participating entities to pursue common interests for the benefit of all such members; and

**WHEREAS**, the District along with other NCPA members have identified the need for power supply resources to meet anticipated demand for energy over the next ten years and beyond; and

**WHEREAS**, the District along with other NCPA members have considered options for meeting the anticipated demand for energy including market purchases, acquisition of existing projects, increasing the capacity at existing NCPA plants, and developing new and more efficient resources; and

**WHEREAS**, NCPA has identified the Lodi Energy Center project as a potentially efficient, economic and environmentally-responsible energy resource that can serve as part of a diversified power supply for all members; and

**WHEREAS**, NCPA has a Three Phase agreement process to develop new energy projects such as the Lodi Energy Center project; and

**WHEREAS**, NCPA has completed the First Phase of the Lodi Energy Center project which is the fatal flaws analysis and no fatal flaws were found; and

**WHEREAS**, NCPA has secured interest from NCPA and from selected non-NCPA members to fully subscribe the capacity of the Lodi Energy Center project and has prepared a Second Phase Agreement for Funding the Planning and Development Activities of the Lodi Energy Center; and

**WHEREAS**, entering into the Second Phase Agreement will assist the District in planning to meet its energy power needs and will reduce such costs through economies of scale by acting jointly with other project participants; and

**WHEREAS**, the Second Phase Agreement limits the District's commitment to the project to only the cost of Phase IIA activities; and

**WHEREAS**, the Second Phase Agreement provides the District with the opportunity to assess the continued need for the project by requiring an additional resolution by the Board of Directors to authorize funding for the District's share of the Phase IIB costs of the project; and

**WHEREAS**, financing and construction for the project will require adoption of a separate Third Phase Agreement with NCPA; and

**WHEREAS**, the Adopted FY08 Operating Budget has sufficient funds for the District's share of costs under the Second Phase Agreement; and

**NOW, THEREFORE, BE IT RESOLVED** the General Manager is authorized to execute the Second Phase Agreement for Funding the Planning and Development Activities of the Lodi Energy Center.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that \$805,000 in FY08 Operating Budget funds are authorized for the District's share of the Phase IIA activities of the project.

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

**In the Matter of Approving the Execution  
Of the Amended NCPA Green Power  
Project Third Phase Agreement**

**Resolution No.**

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (the District) desires to increase the utilization of renewable energy resources as provided for in the District's Strategic Energy Procurement plan; and

**WHEREAS**, the District proposes to purchase power supplies from the Northern California Power Agency (NCPA) through power purchase agreements and physical assets which generate electricity using renewable resources; and

**WHEREAS**, NCPA proposes to enter into power purchase agreements and acquire physical assets which generate electricity using renewable resources on behalf of the District; and

**WHEREAS**, the District entered into the original NCPA Green Power Project Third Phase Agreement to assist the District in meeting its renewable power goals; to lower project risk by spreading energy deliveries across multiple projects; to avoid duplication of efforts and to achieve economies of scale; and

**WHEREAS**, changes in the renewable energy market and increases in the cost per megawatt hour of renewable energy have prevented the acquisition of green power resources under the terms of the original Agreement; and

**WHEREAS**, the NCPA Commission on November 29, 2007 approved the Amended NCPA Green Power Project Third Phase Agreement which addresses these renewable energy market issues; and

**WHEREAS**, the Amended NCPA Green Power Project Third Phase Agreement will better enable the District through NCPA to negotiate and enter into power purchase agreements and to investigate and pursue the acquisition of physical assets to generate electricity using renewable resources under market conditions that have changed from the time of the original Agreement.

**NOW, THEREFORE, BE IT RESOLVED** the General Manager is authorized to execute the Amended NCPA Green Power Project Third Phase Agreement.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the General Manager is authorized to enter into power purchase agreements for up to seven megawatts of power supply under the terms of the Amended NCPA Green Power Project Third Phase Agreement.

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## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> DWD		GENERAL MANAGER ACTION REQ'D: Approve and forward to the E & O Committee		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michael O Brown Dept: M&E <i>[Signature]</i> Signature Date: 12/28/07	General Counsel <i>[Signature]</i> for 12/27/07	Controller/Treasurer <i>[Signature]</i> 12/28/07	District Secretary [ ]	BARC <i>[Signature]</i> 12/31/07

TITLE:

### Contract 15CW-205, Procurement of Running Rail and Other Track Materials – Change Order No. 3 for Central Contra Costa County Crossover Project Track Material

NARRATIVE:

#### PURPOSE:

To request Board authorization for the General Manager to execute Change Order No. 3, to Contract No. 15CW-205 with Progress Rail Services, Albertville, Alabama, in an amount not to exceed \$709,645, plus applicable taxes, for track materials for the Central Contra Costa County Crossover Project.

#### DISCUSSION:

On January 13, 2006 the Board authorized the General Manager to award Contract 15CW-205 to Progress Rail Services Corporation for an amount up to \$4,782,970 for the Procurement of Running Rail and Other Track Materials subject to the availability of funds. Based on the amount of funding available at the time, the District issued a Notice of Award for \$4,331,969 on August 3, 2006. The next lowest bid was \$5,425,989. The Engineer's Estimate was \$4,500,000.

The District is preparing to proceed with the Central Contra Costa County Crossover Project (Pleasant Hill Crossovers). This project will install two new crossovers between Walnut Creek Station and Pleasant Hill Station to provide service enhancements to Contra Costa County Patrons.

This Change Order will provide the track materials required for the Central Contra Costa County Crossover Project, which includes one (1) #10 Concrete Tie Crossover Assembly, one (1) #20 Concrete Tie Crossover Assembly, and Insulated Rail Joint Assemblies. The crossovers allow trains to change from one track to another, and the insulated rail joints provide electrical isolation for traction power and train control. These components are manufactured from rail steel.

When the 15CW-205 Contract was being developed and executed the Central Contra Costa County Crossover Project was in preliminary engineering. The design was incomplete, needed materials were not completely identified and funding was not available. It was not feasible to include these materials in this Contract at that time. District staff did not want to delay the 15CW-205 Contract as such delay would impact other projects.



Pursuant to Board Rule 5-2.4, except for construction and procurement contracts greater than \$200 million, all change orders which involve an expenditure of more than \$200,000 require the approval of the Board of Directors.

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

The Engineer's estimate for this Change Order, generated in May 2007, was \$687,084. After review by District staff, the Cost Proposal of \$709,645 submitted by Progress Rail Services, has been determined to be fair and reasonable.

This Change Order will affect the delivery date of the steel rail products procured under Item 2 of the Bid Schedule. Delivery of Item 2, short rail lengths, was originally to be completed under the Contract by September 18, 2007. At the District's request, delivery of Item 2 was delayed pending negotiation of this Change Order, which will result in a significant saving in shipping costs to the District. Item 1 has already been delivered. The current expiration date for remaining Items 3 through 20 remains March 17, 2008. This Change Order will extend the time of completion for this Contract by allowing up to three hundred and sixty five (365) days from the execution date of this Change Order for delivery of Item 2.

**FISCAL IMPACT:**

Funding for Change Order No. 3 to Contract No. 15CW-205 in the amount of \$771,739, which includes applicable taxes, is included in the total project budget for 03NN, Central Costa County Crossover. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

RM2, Regional Traffic Plan	61T	\$771,739
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As of the month ending October 10, 2007, \$25,000,000 is available for commitment from this fund source for this project and \$7,315,925 has been committed by BART to date. There are \$28,962 in pending commitments in BART's financial management system. This action will commit an additional \$771,739 leaving an uncommitted balance of \$16,883,374.

There is no fiscal impact on available unprogrammed District capital funds.

**ALTERNATIVE:**

Alternative 1: Require the Contractor for the Central Contra Costa County Crossover Project to procure the material. This is estimated to extend the project completion date by six months to one year and significantly increase the cost of this material.

Alternative 2: The District would procure the material in a separate contract. This is estimated to extend the project completion date by six months to one year and significantly increase the cost of this material.

**RECOMMENDATIONS:**

On the basis of analysis by staff, it is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to execute Change Order No. 3 to Contract No. 15CW-205, Procurement of Running Rail and Other Track Materials, for the procurement of track materials for the Central Contra Costa County Crossover Project, including a time extension not to exceed 365 days, with Progress Rail Services, Albertville, AL, in the amount not to exceed \$709,645.00, plus applicable taxes.