

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

BOARD MEETING AGENDA

January 12, 2012

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, January 12, 2012, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of November 4 and 5, 2011 (Special), November 17, 2011 (Regular), November 22, 2011 (Special), December 1, 2011 (Regular), and December 15, 2011 (Regular).* Board requested to authorize.
- B. 2012 Standing Committee and Special Appointments.* Board requested to ratify.
- C. Award of Contract No. 15TK-140, South San Francisco Auxiliary Substation (SSS) 34.5 KV/4.16 KV Transformer Replacement.* Board requested to authorize.
- D. Authorization for Allocation of Funds for Payment of Department of Industrial Relations Conveyance Inspection Fees.* Board requested to authorize.
- E. Revision to Succession Resolution to Reflect New General Manager and Assistant Treasurer.* Board requested to adopt.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson
NO ITEMS.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Award of Contract No. 09AU-110, Transbay Tube Internal Retrofit.* Board requested to authorize.
- B. Award of Contract No. 20CE-210A, Procurement of New Train Control Switch Machines.* Board requested to authorize.
- C. Award of Contract No. 79HT-110, Civic Center, 19th Street and Downtown Berkeley Stations Site Hardening.* Board requested to authorize.

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

Director Murray, Chairperson

- A. Appointment of BART Accessibility Task Force Members.* Board requested to authorize.
- B. Proposed 2012 State and Federal Advocacy Programs.* Board requested to authorize.
- C. Extension of Agreements for State and Federal Legislative Advocacy Teams.* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

- A. Board Member Reports. For information.
- B. Roll Call for Introductions.
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

8. GENERAL DISCUSSION AND PUBLIC COMMENT

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: January 6, 2012

FROM: District Secretary

SUBJECT: 2012 Standing Committee and Special Appointments

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.

In accordance with Board Rule 3-3.2, President McPartland is bringing the 2012 Standing Committee and Special Appointments before the Board of Directors for ratification on January 12, 2012.

The proposed appointments will be provided to the Board of Directors in advance of the Board Meeting.

Should you have any questions, please contact President McPartland or me at your convenience.



Kenneth A. Duron

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

RATIFICATION OF 2012 STANDING COMMITTEE AND SPECIAL APPOINTMENTS

MOTION:

That the Board of Directors ratifies the proposed Standing Committee and Special Appointments for 2012 (attached).



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marca Deland</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c <i>1/4/12</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Abdulhaque Shaikh Dept: Maintenance & Engineering <i>Abdulhaque</i> Signature/Date: <i>12/27/11</i>	General Counsel <i>Andrew Kavas</i> <i>12-30-11</i>	Controller/Treasurer <i>[Signature]</i> <i>1/3/12</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul [Signature]</i> <i>1/3/12</i>

**Award Contract No. 15TK-140 for South San Francisco Auxiliary Substation (SSS)
34.5kV/4.16kV Transformer Replacement**

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15TK-140 for South San Francisco Auxiliary Substation (Substation SSS) 34.5kV/4.16kV Transformer Replacement

DISCUSSION:

On December 10, 2010 cast coil transformer X1 of substation SSS failed. It was determined that damage was due to defects in manufacturing similar to previous cast coil transformer failures at BART. BART Facility Standards now require use of natural (biodegradable) oil filled transformers for 34.5kV Volt Power Substation applications.

This Contract will replace the original damaged cast coil transformer with a new oil filled transformer at South San Francisco Auxiliary Substation (Substation SSS). The work under this Contract will bring reliability of operating ventilation fans and other auxiliary equipment load to the original designed level, that is to have two independent power sources available for operating the auxiliary load of Substation SSS .

On September 23, 2011, the advance notice to Bidders was mailed to twenty seven (27) prospective Bidders and Contract Documents were sent to twenty one (21) plan rooms. The Contract was advertised on September 26, 2011. A pre-Bid meeting and jobsite tour were conducted on October 7, 2011 with fourteen (14) prospective bidders attending. There were two (2) Addenda issued for this Contract. The following four (4) Bids were received and publicly opened on November 8, 2011.

BIDDER		TOTAL BID
Cal Electro, Inc.	Redding, CA	\$371,300.00
Blocka Construction, Inc.	Fremont, CA	\$398,450.00

Harris Electric	Dublin, CA	\$406,285.00
Steiny and Company, Inc.	Vallejo, CA	\$632,197.00
Engineer's Estimate		\$295,000.00

Bids were evaluated and staff determined that the apparent low Bid submitted by Cal Electro, Inc. of Redding, CA is responsive to this solicitation. Further examination of business experience and financial capabilities of Cal Electro, Inc. has resulted in the determination that the Bidder is responsible and the Bid of \$371,300.00 submitted by Cal Electro services is fair and reasonable based upon adequate price competition.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for Minority Owned Business Enterprises (MBEs) and 12% for Women Owned Business Enterprises (WBEs). The Bidder committed to 100% MBE and 0% WBE. The Bidder did not meet the WBE availability percentage, therefore the Bidder was requested to provide the District with information to determine if it had discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT:

Funding of \$371,300 for the award of Contract No.15TK-140 is included in the total project budget for FMS # 15TK000 – M&E Capitalized Maintenance. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of January 12, 2011, \$2,623,312 is available for this project from the following sources:

Fund Number	Fund Description	Funded Amount
850Z	FY06-10 Capital Maintenance Allocation	405,076.00
851W	FY07- 11 Capital Allocation	2,218,236.00
Total		2,623,312.00

BART has expended \$402,138, committed \$328,253, and reserved \$0 to date for other actions. This action will commit \$371,300 leaving an available fund balance of \$1,521,621 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

Reject all Bids and readvertise the Contract. It is staffs' opinion that rejecting the Bids and

re-advertising the Contract is not likely to result in better pricing and would delay this critical ongoing replacement.

RECOMMENDATIONS:

On the basis of analysis and evaluation by staff, it is recommended that the Board adopt the following Motion.

MOTION:

The General Manager is authorized to award Contract No. 15TK-140, for South San Francisco Auxiliary Substation (SSS) 34.5kV/4.16kV Transformer Replacement to Cal Electro, Inc. for the Bid price of \$371,300.00 pursuant to notification to be issued by the General Manager, subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wesley DeBauder</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>1/4/12</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jerry Lockett	General Counsel	Controller/Treasurer	District Secretary	BARC
Dept:	<i>Andrea Rojas</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>Tony Jensen</i>
Signature/Date: <i>Jerry Lockett 12/14/11</i>	<i>12/29/11</i>	<i>1/4/12</i>	[]	[]
TITLE:				

The Department of Industrial Relations- Conveyance Inspection Fees

NARRATIVE:

Purpose: To obtain Board authorization for the General Manger to allocate \$195,000 of Maintenance and Engineering Operating Funds, for the payment of the Conveyance Inspections Fees required by the State of California,- for the District's 176 escalators, 137 elevators, and 3 chair lifts.

Discussion: Prior to the 2008 Fiscal Year, the State of California provided free inspections of the District's elevators, escalators and chair lifts. During the 2008 Fiscal Year when the State began charging the District inspection fees, the District established a purchase order for the Department of Industrial Relations based on the most recent fee schedule, in the amount of \$95,000.00, for payment of the Conveyance Inspections Fees. The \$95,000.00 was based on \$280 per escalator, \$140 per elevator and \$105 per chair lift, as well as re-inspections fees and a tolerance for penalty fees in the event equipment re-inspections were required.

On June 22, 2010, the Department of Industrial Relations sent notice of a fee increase for the 2011 Fiscal Year. The new statutory fee schedule reflects approximately 240% increase on escalators, 160% increase for elevators, and 119% increase on chair lifts. Below is a breakdown of the new conveyance inspection fees, including the cost of re-inspection and a tolerance for penalty fees in the event re-inspections are required.

176 Escalators @ \$675/unit = \$118,800.00
 137 Elevators @ \$225/unit = \$30,825.00
 3 Chair lifts @ \$125/unit = \$375.00
Annual Cost of Inspections = \$150,000.00

Cost of Re-inspection (15%) = \$22,500.00
 Penalty Fees (15%) = \$22,500.00

Totaling: \$195,000.00 per year

For the 2011 Fiscal Year, the District was able to use funds in the Maintenance and Engineering Operating Budget to cover the cost of the fee increase. In order to continue to use a purchase order mechanism for payment of State invoices for these fees, Contract Administration has requested documentation authorizing the payment for Fiscal Year 2012. Approval by the Board

of Directors through this process will provide satisfactory authorization.

If the Conveyance Inspection Fees are not paid within 60 days of the notification, a fee is assessed equal to 100 percent of the Conveyance Inspection Fee. For example, if the \$675.00 escalator fee is not paid within 60 days, the new payment including the penalty fee, would be \$1,350.00.

Fiscal Impact: Funding for the \$195,000 in Conveyance Inspection Fees from the previous fee schedule is included in the Maintenance and Engineering Operating Budget for FY12. Funding for subsequent years will be requested in future operating budget cycles.

Alternatives: There are no reasonable alternatives. Failure to pay could result in the District being ordered to shut down all of the elevators, escalators, and chair-lifts, leaving all of the District's passengers stations unusable by patrons using wheelchairs and with limited physical mobility.

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

Motion : The General Manager is authorized to allocate and pay up to \$195,000.00 of FY12 budgeted Power and Mechanical Operating Funds for the Conveyance Inspection Fees, Required by the State of California, for the District's 176 escalators, 137 elevators, and 3 chair lifts.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Allyssa Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 1/4/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Matthew Burrows Dept:	General Counsel <i>Andrew Rawns</i> 1/3/12	Controller/Treasurer <i>[Signature]</i> 1/3/12	District Secretary	BARC
Signature/Date: <i>[Signature]</i> 1/3/12	[]	[]	[]	[]
Status: Routed		Date Created: 12/23/2011		

TITLE:

REVISION TO SUCCESSION RESOLUTION TO REFLECT NEW GENERAL MANAGER AND ASSISTANT TREASURER

NARRATIVE:

PURPOSE: To update the Board's existing succession plan for vacancies in District offices to reflect new incumbents in the General Manager position and the Assistant Treasurer position.

DISCUSSION: Board Resolution 5043, adopted March 13, 2008, represents the succession plan for the District in the event any officer of the District is absent or disabled. That Resolution lists the names and positions of those who shall act for the absent officer and needs to be updated to reflect the recent hiring of a new General Manager and the recent internal promotion of a new Assistant Treasurer.

As such, Resolution 5043 should be repealed and a new Resolution adopted to ensure the orderly conduct of District business.

FISCAL IMPACT: None.

ALTERNATIVES: Delay revision of the existing Resolution. This would result in an incomplete succession plan.

RECOMMENDATION: Adoption of the attached Resolution.

MOTION: That the Board of Directors adopts the attached Resolution.

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

**In the Matter of Designating an
Alternate for the General Manager
And Authorizing Certain District
Officers to Use Facsimile Signatures
On District Warrant-Checks _____ /**

Resolution No. _____

WHEREAS, Public Utilities Code Section 28810 provides in part:

**“The officers of the district shall consist of the members of the board of directors; a president and vice president of the board, each of whom shall be a member of the board; a secretary, a general manager, a general counsel, a treasurer, a controller, and such other or subordinate officers, assistants and deputies as the board may deem necessary and provide for by ordinance or resolution.”
and,**

WHEREAS, Public Utilities Code Section 28817 provides:

**“The treasurer shall be the custodian of the funds of the district and shall make payments only upon warrants duly and regularly signed by the general manager. He shall keep an account of all receipts and disbursements. With the approval of the board, the treasurer and general manager may designate alternates to act for them.”
and,**

WHEREAS, it is necessary to the orderly conduct of the business of the District that the powers of the General Manager be exercised during the absence or disability of the holder; and

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District desires to authorize the use of facsimile signatures for signing warrant-checks of the District;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby confirms that only the following are officers of the District:

**Members of the Board of Directors
President of the Board
Vice President of the Board
Secretary
General Manager
General Counsel
Controller-Treasurer**

Assistant District Secretary
 Deputy Assistant District Secretary
 Associate General Counsel
 Deputy General Manager
 Assistant General Manager – Operations
 Assistant Controller
 Assistant Treasurer, and

BE IT FURTHER RESOLVED that the Board hereby authorizes Marcia deVaughn (Deputy General Manager) to exercise the powers of the Office of General Manager in the absence or disability of the General Manager. In the case of the absence or disability of the General Manager and the Deputy General Manager, Paul Oversier (Assistant General Manager – Operations) is authorized to exercise the power of the Office of the General Manager. In the absence or disability of the General Manager, Deputy General Manager and Assistant General Manager, Operations, Matthew Burrows (General Counsel) is authorized to exercise the powers of the Office of the General Manager; and

BE IT FURTHER RESOLVED that the Board hereby authorizes the named holders of the positions set forth below to exercise the powers of the office listed opposite such position in the absence or disability of the holder of such office;

<u>INCUMBENT</u>	<u>POSITION</u>	<u>OFFICE</u>
Patricia K. Williams	Assistant District Secretary	Secretary
Jacqueline R. Edwards	Deputy Assistant District Secretary	Secretary (in the absence of Patricia K. Williams)
Andrea Ravas	Associate General Counsel	General Counsel
Rosemarie Poblete	Assistant Treasurer	Treasurer
Edgardo J. Pangilinan	Assistant Controller	Controller
and		

BE IT FURTHER RESOLVED that the Board hereby authorizes the use of facsimile signatures by Grace Crunican (General Manager) or Marcia deVaughn (Deputy General Manager) or Paul Oversier (Assistant General Manager-Operations) and Scott L. Schroeder (Controller-Treasurer) or Rosemarie Poblete (Assistant Treasurer), or Edgardo J. Pangilinan (Assistant Controller), all of whose verified signatures have been or will be filed with the Secretary of State, on warrant-checks used for making payments out of the funds of the District; and

BE IT FURTHER RESOLVED that Resolution No. 5043 is hereby repealed; and

BE IT FURTHER RESOLVED that the District Secretary is directed to transmit a copy of this resolution to the Secretary of State.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maricia DelBande</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board of Directors		
DATE: c <i>1/4/12</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Anthony Hitchings Dept: TSD <i>[Signature]</i> Signature/Date: <i>12/28/11</i>	General Counsel <i>[Signature]</i> <i>12/28/11</i> []	Controller/Treasurer <i>[Signature]</i> <i>12/29/11</i> []	District Secretary []	BARC <i>[Signature]</i> <i>1/3/12</i> []

Award of Contract 09AU-110, BART Earthquake Safety Program, Transbay Tube Internal Retrofit

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 09AU-110, BART Earthquake Safety Program, Transbay Tube Internal Retrofit, to California Engineering Contractors, Inc.

DISCUSSION:

The BART Earthquake Safety Program has determined that the Transbay Tube requires seismic strengthening in the vicinity of Berth 34, Port of Oakland. Contract No. 09AU-110 will provide a partial retrofit for the Transbay Tube. The work consists primarily of bolting a 2.5" thick steel plates to the outboard concrete wall of track M1. The work also includes installing a temporary electrical infrastructure for the Contractor's construction power, providing two hi-rail vehicles, and a plate handling system to place the steel plates in position before they are bolted to the trackway wall and welded end-to-end.

The Contract was advertised in three local publications. A total of 26 firms purchased copies of the Contract Documents. An outreach meeting was held on June 17, 2011. A mandatory pre-Bid meeting was conducted on August 31, 2011 with 12 prospective Bidders attending. Mandatory site tours were conducted on September 6, 2011. A pre-Bid Matchmaking Session was held on October 19, 2011. Four Bids were received and publicly opened on November 22, 2011.

Review of the Bids by District staff revealed no arithmetical errors. Tabulation of the Bids, including the Engineer's Estimate, is as follows:

1. California Engineering Contractors, Inc., Pleasanton, CA	\$7,735,000.00
2. Shimmick Construction Company, Inc., Oakland, CA	\$7,917,000.00
3. Proven Management, Inc., San Francisco, CA	\$10,895,800.00
4. L.H. Woods & Sons, Inc., Vista, CA	\$18,888,888.00
Engineer's Estimate:	\$14,300,000.00

After review by District staff, the apparent low Bidder, California Engineering Contractors, Inc., was determined to be fair and reasonable and was deemed to be responsive to the solicitation.

Examination of California Engineering Contractors, Inc's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 23% for MBEs and 12% for WBEs. The bidder will not be subcontracting any work and will do all work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

FISCAL IMPACT:

Funding of \$7,735,000 for the award of Contract No. 09AU-110 is included in the total project budget for FMS #09AU000 – TBT Retrofit #1 (Underwater). The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of December 13, 2011, \$21,690,000 is available for this project from the following sources:

Fund Number	Fund Description	Funded Amount
801F	ESP - G.O. Bond	\$ 1,690,000
801J	ESP - Unissued G.O. Bond	\$20,000,000
Total		\$21,690,000

BART has expended \$3,963.40, committed \$145,523, and reserved \$10,265,000 to date for other actions. This action will commit \$7,735,000 leaving an available fund balance of \$3,540,514 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of the Contract and rebid it which would delay the retrofit at this location and add cost to the Program. Staff believes that readvertisement of the Contract is unlikely to yield lower bids, and therefore it is in the best interest of the District to award the Contract to California Engineering Contractors, Inc., the lowest responsive Bidder.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 09AU-110, BART Earthquake Safety Program, Transbay Tube Internal Retrofit, to California Engineering Contractors, Inc. for the Bid price of \$7,735,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 12/28/11	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$248,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$248,200,000	
CM	\$61,498,000	\$81,000,000	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$331,398,237	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$0	
Stitching	\$82,962,000	\$0	
Additional TBT Retrofits	\$0	\$55,892,057	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$68,700,000	
Fremont	\$178,224,000	\$43,700,000	
Concord	\$36,500,000	\$11,700,000	
Richmond	\$80,155,000	\$34,200,000	
San Francisco/Daly City	\$36,590,000	\$9,600,000	
Stations (18)	\$126,961,000	\$75,100,000	
Other Structures			
LMA	\$5,529,000	\$12,100,000	
Yds & Shops	\$12,436,000	\$20,300,000	
Parking Structures	\$14,437,000	\$14,600,000	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$42,000,000	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$423,400,000	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$230,419,872	
Contingency	\$32,104,000	\$268,122,048	
TOTAL PROGRAM COSTS	\$191,998,204	\$498,541,920	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING		\$1,253,340,157	
		\$1,221,275,376 Adopted Funding	
		\$32,064,781 Outside Adopted Funding	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: APPROVE AND FORWARD TO BOARD		
DATE: 1/6/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Connell Dept: Train Control Engineering <i>[Signature]</i> Signature/Date: 1/4/2012	General Counsel <i>[Signature]</i> 1/4/12 []	Controller/Treasurer <i>[Signature]</i> 1/9/12 []	District Secretary []	BARC <i>[Signature]</i> 1/16/12 []
Status: Routed		Date Created: 09/19/2011		

TITLE:

AWARD OF CONTRACT No. 20CE-210A FOR PROCUREMENT OF TRAIN CONTROL SWITCH MACHINES

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 20CE-210A for the Procurement of Train Control Switch Machines, to Alstom Signaling, Inc.

DISCUSSION:

Public Contract Code Section 20216(e), which governs the competitive negotiation process, provides that such a contract may not be awarded until 15 days after the staff's recommendation is made available to the public. Staff's recommendation was presented at the Board's regular meeting on December 1, 2011, for information only. Staff is now requesting that the Board authorize the General Manager to award the Contract.

BART train operations require power-operated train control switch machines to safely and reliably effect the routing of trains. In some locations within the District, switch machines transition at a rate approaching 7,000 cycles per month, and this number will increase as reductions in headway are implemented. The Alstom Signaling, Inc.(formerly General Railway Signal) 55G switch machines currently in operation at BART have an operational life of 25 years. Many of these machines are nearing or have surpassed the end of this life cycle, and frequently need adjustment and repair. The original supplier is no longer manufacturing the 55G model, and will soon discontinue supplying maintenance parts.

On September 24, 2009, the Board of Directors authorized a competitive negotiation process under Public Contract Code Section 20229.1 for the procurement of train control switch machines. The District subsequently issued a Request for Proposals ("RFP"), which was advertised on November 4, 2010. The base proposal for this RFP called for twenty (20) switch machines with one option to procure an additional 127 switch machines, a second and third option to procure an additional 100 switch machines for each option, and a fourth option to procure an additional 110 switch machines, for a total of 457 switch machines. Five (5) proposals were received on December 14, 2010 from Alstom Signaling, Inc., Ansaldo STS USA, Inc., Siemens Industry, Inc., VAE Nortrak North America, Inc., and Hanning & Kahl, LP. The proposals submitted by Siemens Industry, VAE Nortrak, and Hanning & Kahl were determined

to be non-responsive due to the submission of non-responsive proposal certifications.

The two (2) remaining proposals submitted by Alstom Signaling, Inc. (“Alstom”) and Ansaldo STS USA, Inc. (“Ansaldo”) were reviewed by the Proposal Evaluation Committee (“Committee”) composed of a Technical Evaluation Subcommittee and a Price Evaluation Subcommittee. The Committee evaluated the proposers’ technical proposals, proposers’ qualifications, and price proposals in accordance with the Detailed Evaluation Procedure for this procurement. Proposal Prices received along with the Engineer’s Estimate are as follows:

<u>Proposer</u>	<u>Base</u>	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>	<u>Option 4</u>	<u>Total Proposal Price</u>
Alstom	\$976,317	\$3,293,710	\$2,863,134	\$2,924,934	\$3,207,934	\$13,266,029
Ansaldo USA	\$1,497,563	\$3,358,250	\$2,813,950	\$2,873,697	\$3,153,782	\$13,697,242
Engineer's Estimate	\$1,082,350	\$3,930,000	\$3,930,000	\$3,930,000	\$4,323,000	\$17,195,350

The Technical Evaluation Subcommittee evaluated the design of the Alstom and Ansaldo machines. Members of the Technical Evaluation Subcommittee spoke to several railroad engineering departments regarding their experiences with each proposer’s switch machine and the responses were positive overall.

The Committee combined the scores for each proposer and ranked them as follows: 1) Alstom and 2) Ansaldo. The Committee determined that both proposals were in the competitive range, and therefore invited both proposers to conduct negotiations with District staff in March 2011. At the conclusion of negotiations, Best and Final Offers (BAFOs) were requested, obtained and evaluated. Proposal Prices received for the BAFOs, along with the Engineer’s estimate are as follows:

<u>Proposer</u>	<u>Base</u>	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>	<u>Option 4</u>	<u>Total Proposal Price</u>
Alstom	\$1,083,779	\$3,821,797	\$2,957,522	\$3,024,518	\$3,315,224	\$14,202,840
Ansaldo USA	\$1,444,485	\$3,078,563	\$2,460,224	\$2,509,075	\$2,744,686	\$12,237,033
Engineer's Estimate	\$1,082,350	\$3,930,000	\$3,930,000	\$3,930,000	\$4,323,000	\$17,195,350

Alstom again received the highest combined score. The proposed Alstom GM4000A switch machine is a new design that utilizes solid state controls, a maintenance-free motor, and has no clutch. This eliminates three key reliability and maintenance issues inherent in the current switch machine. Its mounting bolt pattern is designed such that it can mount directly on the 55G bolt pattern which reduces installation time and cost. The Technical Evaluation Subcommittee spoke to railroad engineers who uniformly praised the design and operational reliability of the GM4000A as well as the customer service provided by Alstom.

Based on its score, Alstom was formally invited to undergo prototype testing of its GM4000A machine on District property as specified in the RFP. Alstom’s test machines operated in mainline locations throughout the District from July 9, 2011 through the end of October 2011 as part of the three-phase prototype testing conducted by the Technical Evaluation Subcommittee and other District departments,

i.e., Transportation, Track, Safety, Training, and Maintenance. As of October 2011, these machines have proven to be reliable and have met the RFP's technical requirements. Alstom has been helpful in providing material, training and technical support. The positive results of testing both in the Hayward Yard and on BART mainline tracks has demonstrated that the Alstom GM4000A is well suited for the BART environment. Following the successful completion of the prototype testing and further negotiations to obtain the best value to the District, Alstom was requested to submit a final BAFO. The Proposal Price submitted by Alstom for its final BAFO, along with the Engineer's Estimate, is as follows:

<u>Proposer</u>	<u>Base</u>	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>	<u>Option 4</u>	<u>Total Proposal Price</u>
Alstom	\$1,170,647	\$4,273,304	\$3,207,988	\$3,285,714	\$3,636,089	\$15,573,742
Engineer's Estimate	\$1,082,350	\$4,991,100	\$3,930,000	\$3,930,000	\$4,334,526	\$18,267,976

Alstom's total Proposal Price of \$15,573,742 is 14.7% below the Engineer's Estimate of \$18,267,976 and is considered to be fair and reasonable. Staff has also determined that the proposal submitted by Alstom is the most advantageous to the District with price and other factors considered. Furthermore, review of Alstom's business experience and financial capabilities has resulted in a determination that Alstom is responsible and possesses the requisite technical expertise, business experience, and financial capabilities for a contract award. Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for procurement contracts. Therefore, no DBE participation goal was set for this contract.

FISCAL IMPACT:

Funding of \$11,937,653 for the procurement of train control switch machines will come from project budget 20CE000 Switch Machine Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 1/4/12, \$14,166,994 is available in the PROCU activity for this project from the following sources:

<u>F/G 6013 – B Toll Alloc</u>	<u>\$1,990</u>
<u>F/G 347X – FTA CA-05-0211-00 FY06</u>	<u>\$7,685.60</u>
<u>F/G 8523 – CAP Surcharge Statn 2 ST</u>	<u>\$1,921.40</u>
<u>F/G 6213 – RM2</u>	<u>\$160,250</u>
<u>F/G 347Z – FTA-CA-05-0216-00-FY07</u>	<u>\$641,000</u>
<u>F/G 353G – FTA-CA-05-0224 FY08</u>	<u>\$13,010</u>

<u>F/G 353K – FTA-CA-05-0236 FG Mod FY09</u>	<u>\$712,909.66</u>
<u>F/G 851W – FY07-11 Capital Allocation</u>	<u>\$178,227.34</u>
<u>F/G 353M– FTA-CA-05-0248 FG Mod FY10 (5309)</u> <u>\$9,960,000</u>	
<u>F/G 850V–Capital Allocation SEI</u>	<u>\$2,490,000</u>
<u>Total</u>	<u>\$14,166,994</u>

BART has expended \$12,214, encumbered \$98,775, and pre-encumbered \$0 to date. The award of the base Contract and exercise of Options 1 through 3 will encumber up to \$11,937,653, leaving an available fund balance of \$2,118,352. Option 4 with a value of \$3,636,089 will only be exercised upon certification by the Controller-Treasurer that the funds are available.

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

ALTERNATIVES:

1. Continue to operate our existing equipment, which is no longer supported by the original manufacturer, and endure the resulting severe operational delays to revenue service.
2. Re-bid the Contract. This will delay the work by at least a year while the reliability of our existing equipment continues to deteriorate. Switch machine failures will result in revenue service delays of increasing frequency and severity.

RECOMMENDATION:

Adopt the following motion:

MOTION:

The Board finds that Alstom Signaling, Inc's proposal is most advantageous to the District with price and other factors considered.

The General Manager is authorized to award Contract No. 20CE-210A, Procurement of Train Control Switch Machines, to Alstom Signaling, Inc., for the not to exceed price of \$1,170,647, plus applicable taxes for the base Contract; and to exercise Options 1, 2 and 3, and, subject to availability of funding, to exercise Option 4, for a total not to exceed price of \$14,403,095, plus applicable taxes, subject to the District's protest procedures and FTA's procedures related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wesley DeBevoise</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: c 1/4/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Anthony Seung Dept: Communications Engineering x6529 <i>Anthony Seung</i>	General Counsel <i>Andrew Kawan</i> 1-4-12	Controller/Treasurer <i>[Signature]</i> 1/4/12	District Secretary []	BARC <i>Paul [Signature]</i> 1/7/12
Signature/Date: <i>Jan. 3, 2012</i>	[]	[]	[]	[]

TITLE:

**Award of Contract No. 79HT-110
Civic Center, 19th Street, and Downtown Berkeley Stations Site Hardening**

NARRATIVE:

PURPOSE:

To request Board authorization to award Contract No. 79HT-110 - Civic Center, 19th Street, and Downtown Berkeley Stations Site Hardening to Blocka Construction, Inc.

DISCUSSION:

The BART Site Hardening Project involves the installation of security systems including video surveillance and access control systems consisting of equipment, devices, mounting assemblies, pull boxes, junction boxes, conduit, wire, and associated interconnection for Civic Center, 19th Street, and Downtown Berkeley Stations.

Advance Notice to Bidders was mailed on 8/1/11 to 268 firms. The Contract was advertised on 8/3/11 and Advance Notice to Bidders was sent to 23 Plan Rooms. A total of 27 firms purchased copies of the Bid Documents. A Pre-Bid Meeting was held on 9/30/11 with 21 potential bidders attending. Seven bids were received. Bids were opened publicly on 11/8/11. Tabulation of the bids, including the Engineer's Estimate, is as follows:

<u>Bidder</u>	<u>Base Bid</u>
1. Blocka Construction, Inc.	\$2,876,150.00
2. G4S Technology LP	\$2,877,498.75
3. Contra Costa Electric	\$3,662,241.00
4. Steiny and Company Inc.	\$3,890,000.00
5. Shimmick Construction Company, Inc.	\$4,599,000.00
6. Rosendin Electric	\$4,650,646.00
7. Roadway Engineering Works, Inc.	\$5,056,602.85
Engineer's Estimate:	\$5,813,126.00

After review by the District Staff, the apparent low bid, submitted by Blocka Construction,

Inc. has been deemed to be responsive to the solicitation and the bid price of \$2,876,150.00 has been determined to be fair and reasonable. Examination of this bidder's business experience and financial capabilities has resulted in a determination that this bidder is responsible.

This Contract is funded in part by a grant from the U.S. Department of Homeland Security (DHS), which requires the Bidders to take all necessary affirmative steps to assure that small and minority firms, women's business enterprises, and disadvantaged business concerns are used whenever possible. The DHS grant does not provide for Disadvantaged Business Enterprise (DBE) goals.

FISCAL IMPACT:

Funding for \$2,876,150.00 for award of Contract No. 79HT-110 is included in the total project budget for the 79HT-000 - Civic Center, 19th Street, and Downtown Berkeley Stations Site Hardening. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

<u>F/G 3753 FY08 TSGP TIER1 GRT#20</u>	<u>8,100,000</u>
<u>F/G 535F FY08-09 PROP 1B Security</u>	<u>836,987</u>
<u>F/G 535T FY07-08 CTSGP PROP 1B(HOMELND)</u>	<u>478,565</u>
TOTAL	9,415,552

As of month ending 11/30/11, \$ 9,415,552.00 is available for commitment from these fund sources for this project and BART has expended \$1,712,726.47 to date. There are pending commitments of \$4,297,648.05 in BART's financial management system. This action will commit an additional \$2,876,150.00 leaving an uncommitted balance of \$529,027.48 in this fund source.

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

ALTERNATIVES:

The alternative is not to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement at this time the security systems at Civic Center, 19th Street, and Downtown Berkeley Stations identified as 79HT - Site Hardening Project due to funding expiration on April 30, 2013.

RECOMMENDATION:

On the basis of analysis by Staff and certification by the Controller-Treasurer that the funds are available for this purpose, Staff recommends that the Board adopt the following Motion:

MOTION:

The General Manager is authorized to award Contract No.79HT-110 - Civic Center, 19th Street, and Downtown Berkeley Stations Site Hardening, to Blocka Construction, Inc, for the Bid price of \$2,876,150.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and the Department of Homeland Security's procedures related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeBunze</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>1/4/12</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ike Nnaji Dept: Customer Access Department	General Counsel <i>Audrea Pava</i> 1/4/12	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>[Signature]</i> 1-4-12
Signature/Date:	[]	[]	[]	[]
Status: Approved		Date Created: 12/20/2011		

TITLE:

BART ACCESSIBILITY TASK FORCE MEMBERSHIP APPOINTMENTS

NARRATIVE:

Purpose:

For the Board to appoint nominated members to the BART Accessibility Task Force (BATF).

Discussion:

BATF has been in existence since 1975 to advise staff and the Board regarding accessibility issues at BART. In 1998 the Board voted to restructure the BATF to be an advisory body appointed by the Board, and in 2001 approved by-laws developed by staff and the BATF.

The BATF by-laws adopted in 2001 provided for the BATF to be composed of up to eighteen members and five alternates who live or work in the BART service area selected by a committee of Board and BATF members.

In 2009, the by-laws were amended to allow more flexibility in recruiting and appointing members. The changes were approved by the General Manager as authorized by the Board.

List of Candidates for BATF Membership:

The candidates listed on Attachment A were nominated by majority vote of sitting and present members of the BATF. The by-laws require BATF members to be appointed by the Board. Prospective candidates, if approved by the Board for BATF membership, will be officially seated as members of BATF on January 26, 2012 to serve until December 31, 2012 or until the Board makes new appointments, whichever occurs later.

If approved, BATF will include ten (10) incumbents and six (6) new members.

Fiscal Impact:

No impact on the FY12 Operating Budget. Costs for staffing and supporting BATF work are accommodated within the existing budget.

Recommendation:

Adopt the following motion.

Motion:

The nominated candidates, shown as Attachment A, are appointed for membership on the BART Accessibility Task Force for a term effective January 26, 2012 to December 31, 2012 or until the Board makes new appointments whichever occurs later.

ATTACHMENT A

CANDIDATES FOR MEMBERSHIP BART ACCESSIBILITY TASK FORCE TERM THROUGH DECEMBER 2012

Incumbent Members

Janet Abelson
Peter Crockwell
Linda Drattell
Mary Fowler
Randall L. Glock
Jim Gonsalves
Herb Hastings
Gerald Newell
Donald Queen
Hale Zukas

New Members

Janice Armigo Brown
Carmen Rivera-Hendrickson
David Jackson
Jane Lewis
Katrina McCurdy
Roland Wong



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: no		
DATE: 1/4/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadell Dept. <i>[Signature]</i> Signature/Date: Jan 3 - 12	General Counsel <i>[Signature]</i> 1-3-12 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> 1-4-12 []
Status: Routed		Date Created: 11/30/2011		

TITLE:

2012 State and Federal Legislative Advocacy Program

NARRATIVE:

PURPOSE: To review and approve the District’s 2012 state and federal legislative advocacy program.

DISCUSSION: Staff has outlined the following state and federal legislative objectives for the year ahead.

A. Proposed State Legislative Advocacy Program for BART:

(1) Respond to State Budget Proposals & Actions

Ongoing state budgetary issues will continue to pose threats and challenges to public transit agencies in California.

- **Secure Dedicated Transit Funding**

In 2012, the well-being of many state funded programs, including the State Transit Assistance (STA) program, could depend in part on the state revenue projections agreed to as part of last year’s state budget. If specific revenue projections are not met, automatic cuts will be made to specific programs (i.e. higher education and K-12) and could possibly impact other state funding efforts – depending on the size of the budget deficit.

Once again in Sacramento, BART will need to coordinate and work with the California Transit Association (CTA), Transform, the Bay Area Council, supportive environmental groups and others to articulate the importance of state transit assets and to support adequate transit funding. Critical to this effort will be seeking continued support from legislators and staff for the “gas tax swap,” which was enacted into law last year and which dedicated revenue from the Diesel Fuel Tax to the State Transit Assistance (STA) program. If sustained, STA will continue to provide approximately \$25 million a year for BART operations on an ongoing basis, even though the fund is now reliant upon actual consumption of diesel rather than a budget appropriation. While

most indications are that the gas tax swap will *not* be disrupted based on state economic conditions, legislators could revisit and change this funding source which was secured for transit operators.

- **Work to Appropriate Dedicated Transit Funds from Propositions**

Appropriating funding for transit projects that have been approved through state initiatives – like Propositions 1A (High Speed Rail “connectivity” funds) and 1B (Public Transit Modernization, Improvement, Service Enhancement Account, PTMISEA) has stalled over the last couple years. Governor Brown, for example, vetoed the connectivity funding from Prop. 1A for those projects which did not involve Positive Train Control technology in the last state budget -- and this has prevented delivery of BART’s specific funding allotment. In addition, the distribution of Proposition 1B funds has been delayed because the Department of Finance has resisted incurring additional debt at this time with additional bond sales. The announcement of the state bond sale could make critical funding available for such projects as station modernization, Warm Springs Extension and eBART. BART has urged CTA to give Prop 1A and 1B funding a high priority in the next legislative session and will continue to assist with budgetary, legislative and administrative efforts to move forward the appropriation of funds that are committed to BART and other transit agencies in the state.

(2) Continue Efforts to Enhance Transit Revenue Opportunities

The BART Board has continued to support efforts to authorize additional local authority to raise revenue for transit. The original “Gas Tax Swap” proposal included a provision to allow for greater local authority to raise revenues, but that provision was not included in the final agreement. Late last session, Senate Pro Tem Darrell Steinberg supported legislation that would have allowed local Metropolitan Planning Organizations (MPOs) to raise local gas taxes upon approval of 55% of voters, instead of the two thirds voter approval that is normally required. Similar efforts will likely materialize again in the 2012 session. In addition, BART continues to explore other regional opportunities that might be feasible, such as attaining authority to create local benefit assessment districts -- similar to the authority that VTA and LAMTA have.

(3) Monitor Legislative Actions of Ongoing BART Police Oversight Activities

Issues involving the BART police force will continue to be a topic of concern in the state capitol in 2012.

- **Monitor Implementation of AB 1586 (Swanson)**

BART has established its own police review mechanism – including an Independent Auditor and a Citizen Review Board (CRB) – as a result of the BART sponsored legislation (AB 1586-Swanson) signed into law in 2010. Implementation of this law has drawn the attention of Assembly Public Safety Committee Chairman Tom Ammiano (SF). Chairman Ammiano held a

committee hearing last September on the status of BART's progress at implementing the National Organization of Black Law Enforcement Executives (NOBLE) Report recommendations, and suggested that further hearings and possible legislation could be warranted. BART's General Manager testified at the hearing and assured the Chairman he would be kept up to date on the status of BART's implementation of AB 1586 and progress made to address the NOBLE Report recommendations.

- **Monitor Implementation of AB 716 (Dickinson)**

Seeking to protect BART station agents from harassment or other criminal activity, AB 716 (Dickinson), which was signed into law last year, provides BART with the authority to conduct a pilot project to establish and implement a program which blocks those who are cited for specified offenses three times in a 90 day period from entering the system. Should BART proceed to implement this pilot project it will be necessary to work closely with legislative staff and transit agencies which already have full authority to issue such prohibition orders. The BART Board must approve the implementation of any efforts authorized by AB 716.

- (4) **Show BART's Environmental Achievements as Part of Unique California Environmental Landscape**

- **Remain Active in Greenhouse Gas/ Land Use/Cap & Trade Issues.**

Last October, California's Air Resources Board voted to adopt final rules to regulate carbon emissions as part of the implementation of AB 32 which seeks to reduce the state's greenhouse gas (GHG) emissions by 2020 to 1990 levels. This will create the nation's largest market for trading pollution allowances and could ultimately lead to regulation which benefits the use of public transit. BART should continue to be active in this evolving process. BART should also support strategies that assist the planning and funding of SB 375's implementation. Through SB 375, regional transportation planning agencies must now develop "sustainable community strategies" to help limit GHG emissions, as well as incentives for local governments to incorporate these strategies into the transportation elements of their general land use plans. BART should remain active and vocal in ways that support transit goals and demonstrate BART's strong environmental record.

- **Support Efforts to Expedite CEQA process for Transit Projects**

As one of the few state transit agencies to support SB 375 (Steinberg), BART has continued to discuss with state legislators and staff ways transit projects might benefit from possible California Environmental Quality Act (CEQA) reforms. In the last week of this past legislative session, BART testified before the Legislature and, along with CTA, secured a commitment from key legislators to include "transit" in discussions regarding possible amendments to AB 900 (Buchanan), which was signed into law this year. This bill, co-authored by Senate President pro Tempore Darrell Steinberg (D-Sacramento), provides limited CEQA reform by allowing (with gubernatorial approval) an immediate jump to the appellate court if a large project is sued under CEQA. When this legislation came to the Senate floor, rules precluded it from being amended

to specifically include transit projects. BART and other transit agencies were assured they would be involved in any subsequent legislation to accomplish that goal. CTA has listed this effort as a priority for 2012.

- **Continue to Support Legislation that enables and encourages Transit Oriented Development (TOD)**

Over the past several years, BART has actively sought legislation to provide additional financial options to assist Transit Oriented Development (TOD). Working with Assemblywoman Ma (SF), BART has sponsored bills to use tax increment financing (TIF) and to expedite possible establishment of Infrastructure Finance Districts (IFDs). Introduced last year, AB 485 (Ma) would allow local IFDs to be established without a local vote. The bill passed both houses of the legislature but was held by the author because the Brown Administration raised concerns about the bill's elimination of the voting requirement for IFD's. In 2011, a variety of bills dealing with IFDs received new attention when the Governor proposed dissolving local redevelopment agencies. Assemblywoman Ma has indicated she wants to move AB 485, so it will continue to be at the center of a larger IFD/redevelopment policy discussion in 2012.

(5) Support Efforts Providing Incentives for Transit Use

State resources to support public transit have continued to decline, yet transit remains at the center of state efforts to cut pollution and GHG emissions. BART should continue its support of incentives that will increase transit ridership. Last year, BART supported legislation to establish local authority to implement regional commuter benefits. The Metropolitan Transportation Commission (MTC) sponsored this legislation (SB 582 –Yee) that would have authorized local MPOs -- together with the local air district -- to adopt a commute benefit ordinance requiring employers to offer either a pretax commute benefit option consistent with federal law, an employer-paid benefit to offset the transit or vanpool commuting costs, or employer provided transportation at no cost to the employee. MTC has indicated a similar legislative effort will be one of its top priorities.

Last year CTA agreed to a request from BART to work in the two-year legislative session with the Department of Insurance to encourage insurance companies to voluntarily offer discounted car insurance coverage to Californians who can demonstrate they are regular users of public transit. The increased use of the Clipper Card may also assist in this effort.

(6) Move Specific 2-year BART Sponsored Legislation

- AB 485 would eliminate the requirement of voter approval for the creation of an infrastructure financing district (IFD), the adoption of an infrastructure financing plan and the issuance of bonds. With an IFD established, communities can more easily divert property tax increment to pay for local facilities and amenities within transit village development districts. The bill would also require a city or county that uses infrastructure financing district bonds to

use at least 20% of the revenue for the purposes of increasing “affordable” housing.

- AB 845 would put into statute some of the guidelines established by the California Transportation Commission (CTC) for distributing the “connectivity” formula funds as directed by the High Speed Rail (HSR) statute and state Proposition 1A. AB 845 was introduced to keep alive, among the legislators and the new governor, the issue that these job-creating formula funds need to be appropriated and allocated as intended.

(7) Other Possible Legislative Issues

- Pension/labor reform has been an issue for some time with respect to budget deficits and the need to cut back on state expenditures going forward. With Governor Brown introducing his own set of proposals in 2011, and a possible initiative introduced by Republican legislators, there could be issues in the capitol impacting BART and its public employees.
- Possibly in direct competition to legislation described above to give MPOs the authority to raise local gas taxes, subject to voter approval – is another proposal that has been circulated in the capitol seeking to provide a stable finance mechanism to address transportation/transit funding shortages. The proposal would provide the California Transportation Commission (CTC) authority to administer a new state fee for transportation projects and use existing gas fee revenues for SB 375-related environmental planning and mitigation. This is one of a variety of possible proposals that might be debated to establish a steady revenue stream for transportation projects.

B. Proposed *Federal* Advocacy Program for BART

For much of 2011, Congress disagreed to the point of impasse on a variety of issues impacting the economy, including those involving transportation. Toward the end of the year, for example, the Deficit Reduction Commission failed to reach an agreement on a proposal to reduce the deficit as mandated; the Senate blocked a major component of the President’s jobs legislation to provide \$60 billion for transportation infrastructure, and the House passed a much lower level for certain transit programs in the FY’12 Transportation & Housing Appropriations bill. In October, President Obama signed a six-month extension of SAFETEA-LU to allow Congress to extend a Surface Transportation Authorization bill until March 31, 2012. The next surface transportation authorization bill will address long term transit federal policies.

(1) Pursue BART Priorities Through Reauthorization Process.

Senate Environment & Public Works Chair Barbara Boxer has introduced a two-year bill funded at \$109 billion which was marked up on November 9th. Her bill would maintain current baseline spending levels, but because Highway Trust Fund receipts are falling, the measure needs an additional \$12 billion in revenue to be identified and the Senate Finance Committee has been

tasked with finding those additional funds.

House Transportation & Infrastructure Chairman John Mica announced last year that he would introduce a six year bill which would amount to a 30% annual reduction in transportation funding from current levels. However, Chairman Mica and the House Republican leadership have indicated that Mica would be authorized to find \$100 billion in new revenue for his long-term bill so that the House could produce a six year bill at current levels. If House leaders are able to identify and support additional revenue, the funding levels in Mica's reauthorization could be very close to levels in the two-year bipartisan measure crafted by Senator Boxer's Senate Environment and Public Works Committee, indicating that a compromise could be reached. However, this hope was somewhat diminished late in 2011 when House Republicans proposed an expansion of domestic oil production to fund the long-term transportation spending bill, a plan that sets the stage for a showdown with Senate Democrats who don't want highway funding coupled with drilling for new oil. Last year BART conducted a postcard campaign and sent several letters and met with key legislators and staff to inform them of the Board's federal reauthorization goals. Following are the proposed priority goals for BART to pursue in the second year of the 112th Congress:

- **Overall Funding.** BART should continue to support legislation -- at whatever number of years is authorized -- which supports a reauthorization bill that at least matches current funding levels and is signed into law. BART should continue to oppose proposals which would cut formula funding by any percentage.
- **New Rail Cars.** In 2010, BART began outreach efforts to the Bay Area congressional delegation and received support for additional federal funding in the next surface transportation authorization to procure 775 vehicles. BART should continue to educate congressional leaders, staff and the Administration during the reauthorization process about the importance of federal assistance to replace the oldest passenger rail fleet in the nation. In addition, BART is exploring ways to waive or modify what is known as the "5-year rule." This rule is a federal statutory contracting limitation which requires that a recipient of federal funds exercise all options to purchase rolling stock no later than 5 years after the date of the original contract. If the rule is applied to the District's current rail car procurement, which is expected to be awarded this year, it could dramatically escalate the eventual costs of the new car procurement because the District would have to issue one or more additional solicitations to procure rail cars for which it could not timely exercise options due to lack of funding.
- **State of Good Repair (SOGR) & Formula Funding.** BART should continue to work with the nation's largest transit systems (carrying 80 percent of the nation's commuting public) through the "Metropolitan Rail Discussion Group" (MRDG) to support the Federal Transit Administration's (FTA) recent recommendation for greater SOGR funding for the nation's metropolitan rail systems. Proposals to fund SOGR can assist in financing BART's new rolling stock acquisition. In addition, BART and the other older urban rail systems should continue to work with APTA and Congress to simplify federal formula funding for Fixed Guideway systems in ways that benefit BART.

- **Transportation Enhancements /Livability.** Support the Obama Administration’s “Livability” programs, which assist transit access goals, including TOD and the enhancement of bicycle and pedestrian projects. While Chairman Mica and several Senate Members have opposed inclusion of such programs in the reauthorization bill, Sen. Boxer has reached a difficult compromise to keep enhancement programs in her committee bill as long as they are left to states to prioritize for funding.
- **Federal Safety.** BART is represented on the Department of Transportation (DOT) panel that is reviewing possible changes to federal rail safety regulation. BART should support reasonable new rail safety regulation in a reauthorization bill which also provides funding to support any redundant or parallel regulation.
- **Creative financing.** BART should support efforts to enhance alternative loan and financing options for federal transit projects, which should include increased funding for the Transportation Infrastructure Financing & Innovation Act (TIFIA), Build America Bonds or an Infrastructure Bank. These options for financing, however, should not shift federal emphasis from transit funding to transit lending.

(2) Continue to assist Job Creation and “Make It In America” Goals

BART should continue its effort to demonstrate that transit construction and procurement translates into job creation. The House Democratic leadership continues to prioritize its goal to increase American manufacturing and has developed a package of bills referred to as “Make It In America” legislation. In addition, the Obama Administration has proposed that all procurements of transportation rolling stock should be 100 percent American made by 2016. With the BART sponsored state legislation (AB 1097-Skinner) signed into law by Governor Brown, BART is now in the forefront of transit agencies which encourage the procurement of American made products. The BART Board has supported Representative John Garamendi’s legislation to strengthen Buy America requirements applicable to transit and other transportation modes (HR 613). As a recipient of federal funding, BART should continue to demonstrate to its delegation that it supports job creation in America.

(3) Monitor & Respond to Climate Change Legislation.

Even though federal climate change legislation has reached a standstill, California continues to move on its own cap and trade efforts. BART should continue to tout its green credentials and advocate that transit continue to be a part of the solution for cleaner air and warrants appropriate funding to accomplish critical federal goals.

(4) Seek increased funding sources for security needs.

Last year BART testified before the House Homeland Security Committee about issues specific to keeping open transit systems secure with limited funding. BART should continue to support

robust funding for the Department of Homeland Security's Transit Security Grants program.

(5) Support Additional Federal Legislative Efforts:

- BART continues to support the extension of Transit Commuter Benefits which would preserve the parity between transportation fringe benefits for parking and transit, and wrote letters to its congressional delegation last October to support that extension. The BART Board has also supported HR 2412, McGovern (D-MA)/S. 1034, Schumer (D-NY) which would extend permanently the pre-tax transportation benefits of up to \$230 a month per employee for transit expenses, the same amount as offered for qualified parking. BART should continue to support such important efforts to equalize benefits to transit users.
- Continue to monitor and support the appropriation of funding for the California High Speed Rail project which has already been promised to the state.
- Continue efforts to prepare and coordinate BART's participation at annual APTA March Legislative conference.

FISCAL IMPACT:

N/A

RECOMMENDATION:

That the Board approves the following motions.

ALTERNATIVE:

The Board could decline to support the specific state and federal goals and/or the legislation listed for review.

MOTION:

The Board approves the state advocacy program, as recommended by staff.

The Board approves the federal advocacy program, as recommended by staff.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malca de Beuden</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>1/4/12</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kerry Hamill Dept: Government and Community Relations <i>Kerry Hamill</i> Signature/Date: <i>1-3-12</i>	General Counsel <i>Michelle Rawas</i> Signature/Date: <i>1-3-12</i> []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> <i>1-4-12</i> []
Status: Routed		Date Created: 12/14/2011		

TITLE:

State and Federal Legislative Advocacy Contract Renewals

NARRATIVE:

To authorize the General Manager to execute (i) a one-year agreement with Schott and Lites, Inc. for State legislative advocacy services on behalf of BART for a total not-to-exceed amount of \$98,387, (ii) a one-year agreement with CJ Lake LLC for Federal legislative services on behalf of BART for a total not-to-exceed amount of \$161,539, and (iii) a one-year supplemental agreement with Schott and Lites, Inc. for State legislative advocacy services on behalf of the Capitol Corridor Inter-City Passenger Service, for a total not-to-exceed amount of \$19,565. The effective date for all three agreements is January 1, 2012.

Discussion:

Since 1977, BART has contracted out legislative advocacy services. The existing three agreements with Schott & Lites, Inc, and CJ Lake LLC expired on December 31, 2011.

The period of each of the proposed agreements and the supplemental agreement is from January 1, 2012 through December 31, 2012. This timeline will allow Government and Community Relations to issue a Request For Proposals during the first half of 2012 for future State legislative and Federal legislative advocacy agreements. A final decision about future advocacy consultants will be made at the conclusion of local, state and national elections in November, 2012.

Schott & Lites, Inc.

The Government and Community Relations staff requests authority for the General Manager to execute an agreement for an amount not to exceed \$98,387 for State legislative advocacy services on behalf of BART, and a supplemental agreement for an amount not to exceed \$19,565 for State legislative advocacy services on behalf of the Capitol Corridor Inter-City Passenger Service, with Schott & Lites, Inc., a firm that has skillfully advocated BART's interests before the California State Legislature since 1977.

In addition to introducing and working on specific BART -sponsored and/or supported legislation, Schott and Lites, Inc. will continue to advocate for legislation and for executive branch decisions that: (a) preserve state funding for transit on a long-term basis, specifically State Public Transit Account (PTA) funding and the State Transit Assistance (STA) account funding; (b) improve BART's ability to create transit oriented development around BART stations; (c)

reduce greenhouse gases across the state and region; and (d) identify funding for transit projects as a part of the strategy to combat global warming. Additionally, Schott and Lites, Inc. will work with the Office of Governor Jerry Brown, the State Department of Finance and the State Legislature to ensure that BART has immediate access to capital funds that have been allocated to the agency through various state bond programs.

Under the proposed supplemental agreement, Schott and Lites, Inc. will continue to provide legislative advocacy services involving the Capitol Corridor Inter-City Passenger Service. The firm will help the agency to: a) keep State Public Transit Account (PTA) funding in place for Capitol Corridor operations, marketing, and administration and prevent diversion of funds from the PTA and the State Transit Assistance (STA) funds; b) work with State agencies such as Caltrans, the state Department of Finance, and the California State Legislature to facilitate the obligation of state Proposition 1B Intercity Rail Account funds; and c) assist in securing support from Governor Jerry Brown and the State Legislature for Federal Railroad Administration FY2012 High Speed Intercity Passenger Rail grant funds to develop and implement Capital Corridor service expansion plans to Placer County and San Jose/Silicon Valley.

CJ Lake LLC

The Government and Community Relations staff requests authority for the General Manager to execute an agreement for an amount not to exceed \$161,539 with CJ Lake LLC, a firm including Jim Copeland, that has skillfully advocated BART’s interests before the U.S. Congress since 1984.

CJ Lake LLC will help BART capitalize on opportunities which will arise in 2012 relating to the reauthorization of the Federal Transit Program. In addition, CJ Lake LLC will work to: (a) gain significant funding commitments to reinforce the core system; (b) help identify additional funding sources to acquire a new fleet of rail cars; (c) increase funding to be directed to assist transit properties in State of Good Repair projects; and (d) work with other transit properties to increase homeland security funding levels.

Fiscal Impact:

The total cost of the two proposed agreements and supplemental agreement is shown below:

<u>Agreement</u>	<u>Amount</u>
Schott and Lites, Inc. Agreement	\$98,387
CJ Lake LLC Agreement	\$161,539
Schott and Lites, Inc. Supplemental Agreement	\$19,565
Total	\$279,491

All of the proposed agreements will run from January 1, 2012 until December 31, 2012. Half of the total costs (\$139,745) is currently budgeted in the Government and Community Relations’ FY 12 operating budget. The other half of the total costs is subject to the future approval of the FY 13 budget.

Alternative:

If the proposed motion is not approved, the proposed two agreements and supplemental agreement will not be executed, which will jeopardize established relationships with the State legislature, Federal legislature and Executive Branch decision makers and could diminish the District's prospects for accomplishing its State and Federal legislative program.

Recommendation:

Adopt the following motion. The Office of the General Counsel will approve the agreements as to form.

Motion:

The General Manager is authorized to execute the following agreements with an effective date of January 1, 2012:

- a) a one year agreement for State legislative advocacy services on behalf of BART with Schott & Lites, Inc., for a total not-to-exceed amount of \$98,387; and
- b) a one-year agreement for Federal legislative advocacy services on behalf of BART with CJ Strategies for a total not-to-exceed amount of \$161,539; and
- c) a one-year supplemental agreement for State legislative advocacy services on behalf of the Capitol Corridor Inter-City Passenger Service with Schott & Lites, Inc. for a total not-to-exceed amount of \$19,565.