

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

*****REVISED*****
BOARD MEETING AGENDA
April 11, 2013
9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, April 11, 2013, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email 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.

Patricia K. Williams
Assistant District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of March 28, 2013.* Board requested to authorize.
- B. Award of Contract No. 15NX-110, Ashby and North Berkeley Stations Sidewalk and Wayfinding Improvements.* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Murray, Chairperson

- A. Revision to the San Francisco International Airport Premium Fare Program for Airport-Badged Employees.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B. Agreements with Associated Right of Way Services, Inc. (Agreement No. 6M4186), Interwest Consulting Group (Agreement No. 6M4187), and Paragon Partners LTD (Agreement No. 6M4291) for On-Call Real Property Comprehensive Acquisition and Relocation Services.* Board requested to authorize.
- C. Amendment to Agreement No. 6M4268, with Veolia Transportation Services, Inc., to Utilize Thomas P. Hock for Chief Negotiator Services.* Board requested to authorize.
- D. Fiscal Year 2014 Preliminary Budget Overview.* For information.
- E. Fiscal Year 2014 Preliminary Budget: Release Budget Pamphlet, Set Date for Public Hearing, and Suspend a Portion of Board Rule 5-1.2.* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Change Order to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109, with R&L Brosamer, Inc., for Additional Costs for Extended Work Period (C.O. No. 117).* Board requested to authorize.

- B. Change Order to Contract No. 79HT-110, Civic Center, 19th Street and Downtown Berkeley Stations Site Hardening, with Blocka Construction, Inc., for Asbestos Abatement (C.O. No. 008 Part II).* Board requested to authorize.

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

Director Blalock, Chairperson

NO ITEMS.

6. GENERAL MANAGER'S REPORT

7. BOARD MATTERS

- A. Board Member Reports. For information.
(Board members provide brief reports on meetings attended at District expense, as required by Government Code Section 53232.3(d).)

- 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. PUBLIC COMMENT

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

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

A. CONFERENCE WITH LABOR NEGOTIATORS - PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Agency Negotiators: Directors Radulovich, Keller, and Murray
Titles: General Manager, General Counsel, Controller/Treasurer,
District Secretary, and Independent Police Auditor
Government Code Sections: 54957 and 54957.6

10. OPEN SESSION

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

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

Board of Directors
Minutes of the 1,674th Meeting
March 28, 2013

A regular meeting of the Board of Directors was held March 28, 2013, convening at 9:01 a.m. in the Board Room, 344 20th Street, Oakland, California. Director Murray, acting in the absence of the President and Vice President, presided; Kenneth A. Duron, District Secretary.

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

Absent: Director Fang. Directors Keller and Radulovich entered the Meeting later.

Consent Calendar item brought before the Board was:

1. Approval of Minutes of the Meeting of March 14, 2013.

Director Blalock moved that the Minutes of the Meeting of March 14, 2013, be approved.

Director McPartland seconded the motion, which carried by unanimous electronic vote.

Ayes - 6: Directors Blalock, Mallett, McPartland, Murray, Raburn, and Saltzman. Noes - 0.

Absent - 3: Directors Fang, Keller, and Radulovich.

Consent Calendar report brought before the Board was:

1. Fiscal Year 2013 Second Quarter Financial Report.

Director Murray announced that there were no reports from the Administration Committee, the Engineering and Operations Committee, or the Planning, Public Affairs, Access, and Legislation Committee.

Director Murray brought the matter of Independent Police Auditor's Annual Report before the Board.

Vice President Keller entered the Meeting.

Independent Police Auditor Mark Smith presented the item.

President Radulovich entered the Meeting.

The item was discussed.

President Radulovich called for the General Manager's report. General Manager Grace Crunican reported on steps she had taken and meetings she had participated in. Ms. Crunican reported that the Office of External Affairs had held a crisis communication plan tabletop exercise.

President Radulovich brought the matter of Restatement of Intent: Productivity Adjusted Inflation Based Fare Increases, before the Board. Director Keller presented the item, and moved that the Board approve the Restatement of Intent. (A copy of the Restatement of Intent is attached and hereby made a part of these Minutes.) Director Blalock seconded the motion.

Mr. George Sergio Figueroa addressed the Board.

The item was discussed. The motion carried by unanimous electronic vote. Ayes - 8: Directors Blalock, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent - 1: Director Fang.

President Radulovich brought the matter of Board Meeting Schedule before the Board. The item was discussed.

Mr. Alan Smith addressed the Board.

President Radulovich called for Board Member Reports.

Director Saltzman reported she had attended a Metropolitan Transportation Commission meeting regarding the Transit Sustainability Project and the raising of the Rainbow Pride flag over Oakland City Hall.

Director Raburn reported he had attended the Title VI/Environmental Justice Advisory Committee meeting, the Business Advisory Council meeting, the Metropolitan Transportation Commission meeting regarding the Transit Sustainability Project, and had met with the Mayor and City Manager of San Leandro.

Director McPartland reported he had attended the Alameda County Transportation Commission meeting, the South Hayward BART Station Access Authority meeting, and a Hayward Chamber of Commerce small business outreach meeting.

Director Blalock reported he had attended a South Bay Engineers Club meeting, the San Joaquin Joint Powers Authority meeting, the Alameda County Women's Hall of Fame event, and the South Hayward BART Station Access Authority meeting.

Director Mallett reported he had attended a West Contra Costa Transportation Advisory Committee meeting, a few city council meetings and meetings with city officials, and a planning development meeting.

President Radulovich called for Roll Call for Introductions.

Director Murray requested the District coordinate potential for expanded availability of Clipper Card distribution with new AC Transit program.

President Radulovich requested an update on the Regional Transportation Plan recently released for comment, to include a summary of its content and District response, if any.

President Radulovich called for General Discussion and Public Comment.

The following individuals addressed the Board.

Ms. Jean Gomez

Ms. Yuri Hollie

Mr. Cameron Funk

Ms. Antonette Bryant

Ms. Eryn Yula

Mr. George Sergio Figueroa

Mr. Marlon Rodriguez

Mr. Alan Hollie

Ms. Johnell Hall

Ms. Sarah Bump

President Radulovich announced that the Board would enter into closed session in the adjacent conference room under Item 10-A (Conference with Labor Negotiators) of the regular Meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Meeting recessed at 11:47 a.m.

The Board reconvened in closed session at 12:02 p.m.

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

Absent: Director Fang.

Director Blalock exited the Meeting.

Director McPartland exited the Meeting.

The Board Meeting recessed at 3:28 p.m.

The Board reconvened in open session at 3:29 p.m.

Directors present: President Radulovich.

Absent: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn,
and Saltzman.

President Radulovich announced that the Board had concluded its closed session under
Item 10-A and that there were no announcements to be made.

The Board Meeting was adjourned at 3:29 p.m.

Kenneth A. Duron
District Secretary

Restatement of Intent

That when it passed the CPI based fare increase at its Regular meeting of February 28, 2013, it was the Board of Directors' intention that funds generated from that increase be dedicated to paying for capital improvements, including new rail cars, train control and the Hayward Maintenance Complex.

The Board hereby restates this direction to the General Manager and further directs that an annual report be sent to the Board detailing the revenue generated by the increase, the uses of that particular revenue in a manner consistent with the Board's stated intent, as well as an analysis showing the approximate percentage of the anticipated total costs of the three capital projects listed above that is funded by dedication of the funds from this fare increase. Further, the General Manager is directed to establish a separate account and all of the funds generated by the CPI based fare increase are to be placed in this newly established account.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DelBenedetto</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c 4/3/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jeffrey Garcia Dept: Planning & Development <i>Jeffrey Garcia</i> Signature/Date: 3/22/13	General Counsel <i>Andrea Rawls</i> 4/1/13	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul G. [Signature]</i> 4/2/13

TITLE:

Award Contract No. 15NX-110, Ashby and North Berkeley Stations Sidewalk and Wayfinding Improvements

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 15NX-110, Ashby and North Berkeley Stations Sidewalk and Wayfinding Improvements, to Golden Bay Construction, Inc. for the Bid amount of \$1,183,400.

DISCUSSION: The work of this Contract includes furnishing all labor, equipment, materials and services required for sidewalk and wayfinding improvements at Ashby and North Berkeley Stations. These improvements include new ramps, signage, sidewalk, curbs, paving and miscellaneous site improvements.

Advance Notice to Bidders was e-mailed on January 24, 2013 to seventy six (76) prospective Bidders. Contract Books were mailed to twenty four (24) plan rooms. The Office of Civil Rights conducted outreach to approximately two hundred (200) MBE/DBE/WBE firms. The Contract was advertised on January 24, 2013. A Pre-Bid meeting was held on February 13, 2013, with nine (9) prospective Bidders attending the meeting. Twelve (12) Planholders purchased the Contract Book. The following six (6) Bids were received and opened on March 12, 2013.

BIDDER	LOCATION	TOTAL BID
Angotti & Reilly, Inc.	San Francisco, CA	\$1,161,800.00*
Golden Bay Construction, Inc.	Hayward, CA	\$1,183,400.00
West Bay Builders, Inc.	Novato, CA	\$1,193,000.00
LC General Engineering, Inc.	San Francisco, CA	\$1,224,575.00
McGuire & Hester, Inc.	Oakland, CA	\$1,269,750.00
Empire Engineering & Constr., Inc.	Oakland, CA	\$1,738,500.00
ENGINEER'S ESTIMATE		\$1,173,500.00

Upon review, it was determined that the Bid submitted by the apparent low Bidder, Angotti & Reilly, was non-responsive because the requirements of Article SC5.3.1 required were not met. The Bid submitted by Angotti & Reilly did not indicate that the Contractor would be performing at least 50% of the total Bid Price with its own organization, excluding any Allowance and Option Bid Items, if applicable.

After review by District staff, the Bid submitted by the next apparent low Bidder, Golden Bay Construction, Inc., was found to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has determined that Golden Bay's Bid of \$1,183,400.00, which is approximately 1% above the Engineer's Estimate, is fair and reasonable.

Staff has determined that there will be no significant effect on the environment from the sidewalk and wayfinding improvements and that the action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines, Section 15301(d) and (f), improvements at existing facilities and structures to meet current standards of public safety protection and Section 15304, minor alterations to land. The project will receive federal funding and is therefore also subject to the National Environmental Policy Act (NEPA). FTA approved the funding under grant CA-90-Y833-00 (BART Fund 354R), concurring that the project qualifies for categorical exclusion (c)(15), as defined under 23 CFR 771.117 (c)(15), alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons. Under a new FTA rule, effective Feb 7, 2013, the project also qualifies for a categorical exclusion under Section 771.118 (c) (5), actions promoting safety, security, accessibility.

This Contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities; therefore, a DBE participation goal of 5% was set for this Contract. Golden Bay committed to subcontracting 5.05% to DBEs.

FISCAL IMPACT:

Funding of \$1,183,400 for the award of Contract 15NX-110 is included in the total project budget for FMS #15NX000 – ADA Path, Signage & Wayfinding. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of March 20, 2013, \$3,907,851 is available for this project from the following sources:

Fund	Source Category	Fund Description	Amount
354R	Federal 5307E	FY10 Capital Projects	\$3,126,281
6017	Local BT664	BToll FY09-10 Alloc10395402	\$781,570
Grand Total			\$3,907,851

BART has expended \$270,216, committed \$0, and reserved \$0 to date for other actions. This action will commit \$1,183,400.00, leaving an available fund balance of \$2,454,235 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE: The alternative is to reject all Bids, which will result in the deferral of sidewalk and wayfinding improvements at Ashby and North Berkeley Stations. As this work includes repairs to sidewalks and paths with potential trip hazards, such deferral could lead to future liability for the District.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to award Contract No. 15NX-110, Ashby and North Berkeley Stations Sidewalk and Wayfinding Improvements, to Golden Bay Construction, Inc. for the Bid price of \$1,183,400.00, pursuant to notification to be issued by the General Manager and subject to the District's procedures and FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia S. Vander</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 4/4/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: PAM A HERHOLD Dept: Financial Planning	General Counsel <i>Audrey Rivers</i> 4/4/13	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>[Signature]</i> 3-28-13
Signature/Date: <i>PH</i> 3.28.13	[]	[]	[]	[]

TITLE:

Letter Agreement Revising the San Francisco International Airport Airport-Badged Employee Premium Fare Program

NARRATIVE:

PURPOSE

To authorize the General Manager to execute a Letter Agreement with the San Francisco International Airport to revise the SFO Employee Premium Fare program for Airport-Badged Employees. For the duration of the Letter Agreement, BART will waive the \$1.50 SFO Premium Fare charge for Airport-Badged Employees, and the Airport will pay BART the cash equivalent of the waived SFO Premium Fare.

DISCUSSION

In 2009, the SFO Premium Fare, charged for trips to or from the SFO Station, increased from \$1.50 to \$4.00 as part of a revenue enhancement package to help BART address a large projected operating deficit. At that time, the San Francisco International Airport ("Airport") wished to offer its employees and its tenant's employees ("Airport-Badged Employees") a transit benefit so that the amount of the SFO Premium Fare collected from participating Airport-Badged Employees would remain at \$1.50. In response, the Airport and BART worked together to create the SFO Employee Premium Fare Program for Airport-Badged Employees ("Program"). Program participants get the reduced fare when they use their Airport Discount Smart Card ("Discount Card"), which has a photo ID, at the fare gate to pay for trips to or from the SFO BART Station. The Program also includes benefits to BART, such as advertising rights in the SFO station and additional wayfinding throughout SFO, that serve to underwrite the difference between the \$4.00 SFO Premium Fare and the \$1.50 portion of the SFO Premium Fare paid by Program participants.

Ridership by participants in this Program has not grown since its inception in late 2011. On an average weekday, about 360 trips are made by Airport-Badged Employees participating in the Program. The Airport has a strategic goal of increasing the number of employees commuting by transit, in accord with the City and County of San Francisco's Transit First Policy. It is the Airport's position that the \$1.50 SFO Premium Fare portion of the BART fare for trips to or from the Airport discourages Airport-Badged Employees from commuting on BART and thus is contrary to the Transit First Policy. BART also supports building more ridership by Airport-Badged Employees. Benefits of eliminating the SFO Premium Fare charge for these trips could include increasing BART ridership and fare revenue, creating new revenue generating parking spaces at the Airport, reducing Airport roadway congestion, reducing greenhouse gas emissions, and increasing the percentage of Airport and tenant employees that use transit for commuting.

To encourage more Airport-Badged Employees to take BART, BART and the Airport have developed the proposed BART Ridership Incentive Program for Airport-Badged Employees ("Incentive Program").

Under this program BART will waive the \$1.50 SFO Premium Fare charge for Airport-Badged Employees, and the Airport will pay BART the cash equivalent of the waived SFO Premium Fare in accordance with the terms of the Letter Agreement, as summarized below.

- The proposed waiver of the \$1.50 SFO Premium Fare will take effect July 2013 contingent on approval by the BART Board and the Airport Commission.
- The Airport will reimburse BART for the loss of SFO Premium Fare revenue in an annual amount not to exceed \$169,100 (the "Baseline Amount"). The Baseline Amount is based on the number of trips taken by Program participants from September 1, 2011 through August 31, 2012 ("Base Year"), or 112,733 trips, which generated \$169,100 in SFO Premium Fare revenue for BART.
- For each fiscal year, the Baseline Amount will be adjusted based on the actual number of trips Program participants take during that given fiscal year.
 - When the actual number of trips taken has decreased compared to the Base Year, the Airport will reimburse BART at a rate of \$1.50 per actual trip taken.
 - When the actual number of trips taken has increased compared to the Base Year, BART will reduce the amount owed by the Airport by the amount of the distance-based fare revenue from the new trips.
- BART will provide the Airport with ridership data including data for Discount Card users for up to ten groups of employer categories the Airport provides to BART, in accord with BART's Smart Card Privacy Policy regarding information obtained from Discount Card users.
- The agreement is for a period of nine years. When the agreement expires, staff will come back to the Board for direction on how to proceed.

The Incentive Program revision does not constitute a "project" subject to review under the California Environmental Quality Act (CEQA), because it does not have the potential for causing a significant effect on the environment [CEQA Guidelines section 15061(b)(3)]. Nor would the Incentive Program require a Title VI equity analysis under these circumstance according to FTA guidance.

FISCAL IMPACT

The Incentive Program is revenue neutral to BART because SFO will reimburse BART \$1.50 per actual trip taken by participating Airport-Badged Employees. If the fare revenue generated by trip growth exceeds the Baseline Amount, BART will keep the additional fare revenue generated by these new trips.

ALTERNATIVES

Retain the existing Program or direct staff to negotiate with SFO a different program and/or terms for the Incentive Program.

RECOMMENDATION

Adoption of the following motion. The Office of the General Counsel will approve the Letter Agreement as to form.

MOTION

The General Manager is authorized to execute the Letter Agreement for the BART Ridership Incentive Program for Airport-Badged Employees. **(Two-thirds vote required.)**



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Barbara DeBouder</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board		
DATE: c <i>4/3/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Susan Shaffer Dept: Real Estate and Property Development Department - ext. 6936 <i>Susan Shaffer</i> Signature/Date: <i>4/3/13</i>	General Counsel <i>Audrey Powers</i> <i>4/1/13</i> []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> <i>4-1-13</i> []

TITLE:

ON-CALL REAL PROPERTY COMPREHENSIVE ACQUISITION AND RELOCATION SERVICES AGREEMENTS

NARRATIVE:

PURPOSE: To authorize the General Manager or her designee to award separate Professional Services Agreements to the following consultants to provide On-Call Real Property Comprehensive Acquisition and Relocation Services to support District Projects: Associated Right of Way Services, Inc., under Agreement No. 6M4186, Interwest Consulting Group, under Agreement No. 6M4187, and Paragon Partners Ltd., under Agreement No. 6M4291.

DISCUSSION: Since the early 1970s, the District has utilized on-call real property comprehensive acquisition and relocation services to support District projects. The two previous District acquisition and relocation agreements for the last five years expired last year. These services were performed by Universal Field Services, Inc. under Agreement No. 6M4031 and Paragon Partners Ltd. under Agreement No. 6M4054. Thus, it is necessary to obtain new agreements.

On May 1, 2012, the District advertised Request for Proposals (RFP) No. 6M4186 to provide Real Property Comprehensive Acquisition and Relocation Services. The advertisement was published in various publications that included minority-targeted publications. The purpose of the RFP is to select up to three (3) consultants to provide the District with these services, which will be utilized on an as-needed, on-call basis. Execution of these agreements will enable the District to secure needed support for District projects including, but not limited to, real property acquisition and relocation assistance. Assignments under these agreements will be defined on a project-by-project basis and will be dependent on annual operating budget appropriations and capital funds received for individual District projects.

The RFP was transmitted to the 20 firms that requested the RFP, and a pre-submittal meeting was conducted on May 22, 2012, with 8 firms attending. On July 10, 2012 proposals were received from the following five firms: Associated Right of Way Services, Inc., Interwest Consulting Group, Overland, Pacific and Cutler, Inc., Paragon Partners, Ltd., and Universal Field Services, Inc.

The proposals were reviewed by a Source Selection Committee (the "Committee") consisting of staff from the Office of Civil Rights, Procurement, and Real Estate and Property Development. Proposals were first reviewed to determine if they were responsive to the requirements of the

RFP and if the proposers were considered to be responsible consultants. All of the proposals were found to be responsive and all of the proposers were considered responsible. Subsequently, the proposals were evaluated and scored by the Committee.

Based on the scores determined by the Committee and the Price Proposals submitted, all proposers were determined to be in the competitive range and oral interviews were conducted with all five proposers between August 28 and 29, 2012.

Because initial Price Proposals reflected accounting practices that may have been unique to each firm, the Committee requested a Best and Final Offer from all firms based on uniform requirements for a specific project to enable direct comparison of Price Proposals.

Based on the evaluation of the submitted written proposals, the oral interviews and the Best and Final Offers, the Committee, using a best value methodology, determined that the following firms should each be recommended for award of on-call real property comprehensive acquisition and relocation agreements. The proposed firms are:

1. Associated Right of Way Services, Inc.
2. Interwest Consulting Group
3. Paragon Partners Ltd.

Multiple agreements are being recommended to enable the District to secure consultant support on a project-by-project basis using the District's Work Directive process, to ensure that requisite assistance is provided on a timely and cost effective basis, and to ensure that no conflict of interest exists.

Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for professional services contracts. Therefore, no DBE participation goal was set for this contract. Although no DBE goal was set for this contract, Interwest Consulting Group committed to 30% DBE participation.

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

FISCAL IMPACT: Each Agreement will have a not-to-exceed limit of \$1,000,000 over the five-year term. The Real Estate and Property Development Department's annual operating budget and capital funds received for individual District projects will be the sources of funds to pay for the consultant services on a Work Directive basis over the five-year agreement period.

ALTERNATIVES: The District could reject all proposals and solicit new proposals, or award to less than the recommended three proposers. Re-issuing the RFP or awarding to less than the recommended three proposers could have cost impacts to the District's capital programs that require real property acquisitions and relocations because the required services will not be readily available.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to execute the following Professional Services Agreements to provide On-Call Real Property Comprehensive Acquisition and Relocation Services, each for a five-year term and for an amount not to exceed \$1,000,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA requirements related to protests:

1. Associated Right of Way Services, Inc.
2. Interwest Consulting Group
3. Paragon Partners Ltd.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 4/5/13		BOARD INITIATED ITEM: No.		
Originator/Prepared by: Rudolph Medina Dept. Labor Relations <i>[Signature]</i>	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i> 4-5-13 []
Signature/Date:				
Status: Routed		Date Created: 03/29/2013		

TITLE:

Amendment to Agreement 6M4268 with Veolia Transportation Services, Inc.

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute an Amendment to Agreement No. 6M4268 with Veolia Transportation Services, Inc. Cincinnati, Ohio, to utilize Thomas P. Hock to provide Chief Negotiator services in support of the District's 2013 collective bargaining.

DISCUSSION:

Agreement No. 6M4258 was previously awarded under General Manager's authority to Veolia Transportation Services, Inc. in amount of \$99,000. This Amendment increases the original Agreement amount by \$300,000 for a new total of \$399,000.

The District is currently using its Labor Relations Manager to lead the interest based bargaining efforts with ASFCME, BPMA and BPOA. The General Manager has determined it to be in the best interest of the District to hire a consultant to provide traditional bargaining services for the ATU and SEIU. Thomas Hock, Vice President of Labor Relations for Veolia Transportation Services, Inc., will serve as Chief Negotiator, at the direction of the General Manager, to implement the labor relations strategy for 2013 collective bargaining with ATU and SEIU.

Thomas Hock previously served on the BART negotiating team in 2001, and is a respected public transit industry labor attorney who has been involved in labor relations for nearly 40 years. Mr. Hock has negotiated close to 400 agreements in 38 states and serves on APTA's 13(c) and Legal Affairs Committees. Additionally, he is the author and editor of *Management Report on Transit Labor Issues*, which is an annual publication of data and trend information for the industry's labor professional.

Veolia Transportation Services, Inc. was selected based on its ability to provide these highly specialized services at best value for the District, for its knowledge of BART labor issues, and its availability and rates.

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

FISCAL IMPACT

The estimated cost for this Amendment is \$300,000, and it will be funded from the FY13 Office of Administration and Budget's operating budget.

ALTERNATIVE

Solicit other consultants to provide these specialized services.

RECOMMENDATION

Adoption of the following motion:

MOTION

The General Manager or her designee is authorized to execute an amendment to Agreement No. 6M4268 with Veolia Transportation, Inc., to utilize Thomas P. Hock for Chief Negotiator services for the District's 2013 collective bargaining, in the amount of \$300,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wanda DeBour</i>		GENERAL MANAGER ACTION REQ'D: Place on the April 11, 2013 Board of Directors Agenda		
DATE: c <i>4/3/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept:	General Counsel <i>Andrea Raves</i> <i>4/2/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i> <i>4-2-13</i> []
Signature/Date: <i>R. Umbreit 4/2/13</i>				

TITLE:

Fiscal Year 2014 Preliminary Budget Procedural Actions

NARRATIVE:

PURPOSE:

1. To formally direct staff to publish a pamphlet containing a copy of the Fiscal Year 2014 Preliminary Budget.
2. To set a public hearing on the Fiscal Year 2014 Preliminary Budget.
3. To obtain BART Board approval to suspend the requirement in Board Rule 5-1.2 that the tentative budget be submitted to the Administration Committee prior to its submission to the Board of Directors.

DISCUSSION:

The rules of the Board of Directors provide that the Board direct a Preliminary Budget Pamphlet to be prepared no later than the first day of June (Rule 5-1.2). Staff's schedule calls for this pamphlet to be available by April 22, 2013. The rules of the Board of Directors also provide that a public hearing on the budget be held on or before June 20 (Rule 5-1.3). Staff proposes that this hearing be held on May 23, 2013.

BART Board Rule 5-1.2 provides, in part: "[a]fter study and consideration of the tentative budget by the Administration Committee, the budget shall be submitted to the Board of Directors not later than the first regular meeting in May of each calendar year." Currently, the Board meetings format does not include regular meetings of the Administration Committee, making compliance with the requirement that the tentative budget first be considered by the Administration Committee problematic. However, the agendas of the Regular Meetings of the Board include a portion devoted to Administration matters, as necessary, and thus provide an opportunity for full Board study and consideration of the budget.

Board Rule 6-1.2 allows for suspension of a rule by majority vote of all members of the Board upon a showing satisfactory to them of a special situation justifying the suspension of the rule. It is recommended that the Board approve suspension of the requirement in Rule 5-1.2 that the FY 2014 budget be submitted to the Board only after study and consideration by the Administration Committee. This action does not preclude further consideration and discussion of the Preliminary Budget at future Administration Committee meetings.

FISCAL IMPACT:

According to Board Rules, the FY14 Preliminary Budget must be adopted on or before June 30, 2013.

ALTERNATIVES:

Under Board Rules 5-1.2 and 5-1.3, publishing a budget pamphlet and holding a public hearing are required steps to adopt the Fiscal Year 2014 annual budget. The Board could suspend rules 5-1.2 and 5-1.3 or postpone the hearing to another date prior to June 20.

The Board could choose not to approve the suspension of the requirement that the tentative budget be studied and considered by the Administration Committee before submission to the Board of Directors. However, failure to do so will require that the Board suspend the requirement of Rule 5-1.2 that the budget be submitted to the Board of Directors by the first meeting in May.

RECOMMENDATION:

That the Board adopt the following motions:

Motions:

1. That the staff be directed to publish a Budget Pamphlet for Fiscal Year 2014 to be available for distribution no later than April 22, 2013.
2. That a public hearing on the Fiscal Year 2014 Preliminary Budget be set for Thursday, May 23, 2013 in the Board Room.
3. The Board of Directors approves the suspension of the requirement in Rule 5-1.2 that the FY 2014 tentative budget first be studied and considered by the Administration Committee prior to submission to the Board of Directors.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Thomas Horton</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors	
DATE: 4/5/13		BOARD INITIATED ITEM: No	
Originator/Prepared by: Thomas Horton Dept: Planning and Development <i>Thomas Horton</i> Signature/Date: 4/3/13	General Counsel <i>Audrey Rivas</i> 4/4/13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []
			BARC <i>Fault</i> <i>Wensley</i> 4/5/13 []
Status: Routed		Date Created: 02/25/2013	

TITLE:

Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109, Change Order No. 117

NARRATIVE:

PURPOSE:

To authorize the General Manager to Execute Change Order No. 117, Additional Costs for Extended Work Period, in an amount of \$956,236.67, to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109 with R&L Brosamer, Inc.

DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 15SU-110 to R&L Brosamer, Inc. on October 22, 2009, with a specified Contract duration of 760 calendar days. The Contractor submitted and the District approved a baseline schedule of 368 days. Due to extensive differing site conditions encountered during the Contract, the Contractor completed the work later than its approved baseline schedule date, but prior to the contractual end date. BART reimbursed the Contractor for the direct costs of the differing site conditions changes. However, these changes did not account for other expenses incurred, including: a) extended equipment time at the site and b) extended jobsite management expenses for labor of project managers, superintendents, project engineers, safety engineers and office personnel. This change reimburses the Contractor for the additional costs not covered by earlier Change Orders.

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

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

FISCAL IMPACT:

Funding of \$956,236.67 for award of Change Order No. 117 of Contract No. 15SU-110 is included in the total project budget for 15SW000, Aerial Structures – West Oakland. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

The total cost of \$956,236.67 will be funded as follows:

As of 03/11/13 \$28,140,607 is available for commitment for this project from the following sources:

F/G 801F - ESP GO Bond	\$13,616,338.01
F/G 801J - ESP GO Bond	\$ 5,966,327.15
F/G 3835 - FHWA	\$ 7,221,222.00
F/G 5362 - LSSRP	\$ 935,565.99
F/G 535S – Prop 1B	\$ 401,154.00
Total	\$28,140,607.15

BART has expended \$23,730,419 and committed \$413,118, and reserved \$172,209 to date for other actions. This action will commit \$956,236.67 leaving an available fund balance of \$2,868,624.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. The District will likely receive a claim from the Contractor for costs related to the additional jobsite expenses.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 117, Additional Costs for Extended Work Period, in an amount of \$956,236.67 to Contract No. 15SU-110, BART Earthquake Safety Program Aerial Structures West Oakland Abutment A-1 to Pier P-109 with R&L Brosamer, Inc.

EXECUTIVE DECISION SUMMARY

CHANGE ORDER SUMMARY

BACKGROUND

Name of Contractor: R.L. Brosamer, Inc.
Contract NO./NTP: 15su-110/ January 25, 2010
Contract Description: Aerial Structure Retrofit
Percent Complete as 2/25/2012: 100%

<u>COST</u>	<u>%of Award</u>	<u>CO Total</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$15,188,930.00
Approved Change Order	25.55%	\$3,881,186.46	
Board Approved CO.	4.62%	\$ 702,117.96	
Anticipated Board Approval CO	6.30%	\$ 956,236.67	
Subtotal of all Change Orders	36.47%	\$5,539,541.09	<u>\$5,539,541.09</u>
Revised Contract Amount			\$20,728,471.09

SCHEDULE

Original Contract Duration: 760 Days
Time Extension to date: 0 Days
Time Extension Due to Approved CO: 0 Days



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeLeon</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: c <i>4/3/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Anthony Seung Dept: Communications Engineering <i>Anthony Seung</i> Signature/Date: <i>4/2/13</i>	General Counsel <i>Andrew Kwan</i> <i>4/2/13</i> []	Controller/Treasurer []	District Secretary []	BARC <i>Paul Chen</i> <i>4/2/13</i> []

TITLE:

**CONTRACT NO. 79HT-110 - CIVIC CENTER, 19TH STREET AND DOWNTOWN
BERKELEY STATIONS SITE HARDENING
CHANGE ORDER NO. 008 PART II**

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Change Order No. 008 Part II, Asbestos Abatement, in the amount Not-to-Exceed \$365,972.23, to Contract No. 79HT-110 Civic Center, 19th Street and Downtown Berkeley Stations Site Hardening to Blocka Construction, Inc. ("Blocka"). The total value of the additional work is equal to \$465,973.23, or 16.2% of the original Contract price of \$2,876,150, but the Contractor for Change Order No. 008 part I and II, Blocka, is being directed to proceed now with a portion of the work under a Change Order No. 008 Part I in the amount of \$100,000, or 3.5% of the original Contract price to avoid delays.

DISCUSSION:

Award of Contract No. 79HT-110 - Civic Center, 19th Street and Downtown Berkeley Stations Site Hardening to Blocka was authorized by the Board on January 12, 2012. Notice to Proceed was granted on April 2, 2012. The Security Cameras project is part of the District's Infrastructure Security program to protect the BART System. Contract No. 79HT-110 will install more than 227 security cameras and seven (7) access controls and door locks. These security devices will be installed within the three (3) locations at Civic Center, 19th Street and Downtown Berkeley Stations. To date staff has issued Change Orders to alter power requirements for the Civic Center and 19th Street Stations in the amount of \$157,466. Change Order No. 008 Part II is to abate asbestos at 19th Street and Downtown Berkeley Stations in order to proceed with the original Contract installation of cameras, access control doors, conduits and junction boxes. Change Order No. 008 Part II is for the amount of \$365,972.23. Pursuant to Board Rule 5-2.4 (Change Orders), 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. Staff requests Board authorization for proceeding with Change Order No. 008 Part II in the amount of \$365,972.23.

Staff determined that it is in the District's interest to issue this Change Order No. 008 Part II asbestos abatement for the following reasons:

1. Existing asbestos site condition prevents the installation of cameras, conduits, access control

doors and junction boxes from moving forward.

2. The overall cost of awarding a new Contract for the asbestos abatement work will likely exceed the cost of the Change Order and would delay the installation of the CCTV cameras and equipment.

The Contractor's cost proposal has been determined to be fair and reasonable when compared to the Engineer's Estimate, \$454,114.

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

FISCAL IMPACT:

Funding for \$365,972.23 for executing Change Orders will come from project budget 79HT000 Site Hardening Project. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of the 02/12/2013, \$9,784,944 is available for this project from the following fund sources:

Description	Amount
F/G 3753 -FY2008 TSGP GRANT#2008	\$8,100,000.00
F/G 535T -FY07-08 CTSGP PROP 1B(HOMELND)	\$847,957.00
F/G 535F - FY08-09 PROP 1B Security	\$836,987.00
Total	\$9,784,944

BART has expended \$6,925,501.72 and committed \$1,871,302.05 to date for other actions. This action will commit an additional \$365,972.23 leaving an uncommitted balance of \$622,167.97 in these fund sources.

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

ALTERNATIVE:

Decline to issue Change Order No. 008 Part II for Contract No. 79HT-110 which will keep the District from implementing the corrective changes required to successfully complete this Department of Homeland Security (DHS) grant funded Contract. Moreover, failure to timely perform the work would risk loss of the DHS funding.

BART could also issue a separate contract for the asbestos abatement, however, this would likely exceed the cost of the Change Order, would delay the installation of the CCTV cameras, and would require securing an alternative source of funds to replace the DHS funding currently available.

RECOMMENDATIONS:

Staff recommends that the Board adopt the following Motion:

MOTION:

The General Manager is authorized to execute Change Order No. 008 Part II Asbestos Abatement to Contract No. 79HT-110 - Civic Center, 19th Street and Downtown Berkeley Stations Site Hardening to Blocka Construction, Inc. in an amount Not-to-Exceed \$365,972.23.