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

BOARD MEETING AGENDA
April 22, 2010
9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, April 22, 2010, 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.

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, at the Office of the District Secretary, 23rd Floor, 300 Lakeside Drive, Oakland, California.

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.

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.
      1. James Kennedy, Redevelopment Director, Contra Costa County Department of Conservation and Development (Director Murray's request).

D. PUBLIC HEARING: Proposed East Bay Paratransit Fare Increase and East Bay Paratransit Policy Changes Regarding Billing the Rider for Rider Fault No-Shows and Charging Two Times the ADA Fare for Special Non-ADA Group Trip Service for Social Service Agencies.

2. CONSENT CALENDAR

A. Approval of Minutes of the Meeting of January 28, 2010.* Board requested to authorize.

B. Award of Contract No. 6M3066A, Furnish and Install Replacement Glass Systemwide as Needed.* Board requested to authorize.

C. Award of Agreement No. 6M3149, Glass and Window Washing Services.* Board requested to authorize.

D. Award of Contract No. 15EI-120A, Substation WSS and CCO 34.5 kV Transformer Upgrade and Replacement.* Board requested to authorize.

E. Award of Contract No. 15PQ-110, BART Earthquake Safety Program, Station Structure – C Line, Concord Station.* Board requested to authorize.

3. ADMINISTRATION ITEMS
Director Blalock, Chairperson

A. San Francisco International Airport Employee Premium Fare Program.* Board requested to authorize.

B. Issuance and Sale of the District's Sales Tax Revenue Bonds, Refunding Series 2010, and the Execution and Delivery of the Required Documents.* Board requested to authorize.

C. Approval of Northern California Power Agency (NCPA) Phase III Agreements for the Lodi Energy Center, Adoption of Related Environmental Findings and Designation of Official Responsible for Appointing District Representatives.* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS
Director Keller, Chairperson

A. Change Order to Contract No. 42EL-210B, Procurement of C-1 Car Auxiliary Power Supply Equipment, with Bombardier Transportation (Holdings) USA, Inc., to Exercise Contract Options A and B (C.O. No. 1).* Board requested to authorize.

B. Report on New Rail Car Replacement Program and Adoption of Joint Resolution with the Metropolitan Transportation Commission for Program Funding.* Board requested to authorize.

* Attachment available

5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS
Director Ward Allen, Chairperson

NO REPORT.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

A. Roll Call for Introductions.
B. Report of the Finance, Budget & Internal Audit Ad Hoc Committee. For information.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. PUBLIC EMPLOYMENT:
Title: Chief of Police
Gov't Code Section: 54957

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D: Approve and Forward to E&O Committee		
DATE: 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept: Maintenance and Engineering Signature/Date: 4/12/10	General Counsel 4/12/10	Controller/Treasurer [ ] 4/12/10	District Secretary [ ]	BARC 4/12/10 [ ]
Status: **Routed**		Date Created: **03/24/2010**		

TITLE:

Award of Contract 6M3066A for Furnish and Install Replacement Glass Systemwide as Needed

NARRATIVE:

Purpose:

To authorize the General Manager to award Contract No. 6M3066A for furnishing and installing replacement glass for all District stations and facilities to Best Contracting Services, Inc., of Hayward, California.

Discussion:

The Scope of Work of this Contract includes furnishing all labor, materials and equipment for glass replacement systemwide as needed and as directed by the District's representative. The representative will assign the Work by issuing Task Orders during the term of the Contract. This is a Public Works Construction Contract with no mimimum requirements. Estimated quantites are for bidding purposes only and historically actual expenditures have been well below the Total Bid Price. The bid consists of fourteen (14) line items of estimated quantities of glass, glazing materials and installation labor hours for the one year base contract and three additional one-year extensions. On February 26, 2009 the Board of Directors authorized Contract 6M3066 for replacement glass to be awarded to the apparent low bidder. This company was subsequently discovered to have submitted a nonresponsive bid, disqualifying the company from receiving the award. The second low bidder's bid had expired. Consequently, the Invitation to Bid for this work was reissued under Contract 6M3066A.

Advance Notice to Bidders was mailed on February 2, 2010 to twenty-three (23) prospective bidders as well as to twenty-four (24) Plan Rooms and Minority Assistance Organizations. On February 11, 2010, the 6M3066A Contract Book was advertised. A Pre-Bid Meeting was conducted on March 4, 2010. Eight (8) prospective bidders attended the meeting. Five (5) firms purchased copies of the Bid Documents and subsequently the District received four bids which were opened on March 16, 2010. One of the bids was found to be non-responsive, based on the failure to provide adequate bid security. The other three bids were found to all have arithmetic errors in their unit bid extensions. The Instructions to Bidders in the contract book specify that bid pricing is to be determined based on the unit price bid. After correction of the bid totals based on the Bidder's unit prices for estimated quantities, the resultant bids are shown as follows:

Bidder's Name	Base Year Price	1st Year Option	2nd Year Option	3rd Year Option	Total Bid Price including Sales Tax
Best Contracting Services, Inc, Hayward, CA	$148,260	$148,260	$158,260	$168,260	$623,040.00
Arrow Glass Company, Inc., Albany, CA	$218,168	$233,701	$252,628	$277,690	$982,187.00
East County Glass & Window, Inc., Pittsburg, CA	$237,316	$249,186	$261,636	$274,805	$1,022,943.00

Engineer's Estimate $340,720

Staff has determined that the apparent low bidder, Best Contracting Services, is competent to service this contract and has submitted a fully responsive bid to this Contract. Furthermore, a review of this proposer's license, business experience, and financial capabilities has resulted in the determination that the Bidder is responsible. Staff has also determined that the bid pricing is fair and reasonable.

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

District expenditures for this contract are estimated as follows:

FY10	$24,710
FY11	$148,260
FY12	$149,926
FY13	$159,926
FY14	$140,218

Funding for this contract will be provided from the FY10 through FY14 Risk Management Budget for Vandalism. Funding is currently in place for FY10A expenditures. Funding for the subsequent years FY11-FY14 will be requested in future operating budget cycles.

Alternative:

To not award this Contract will result in longer repair times for broken glass in District facilities with a greater number of associated customer complaints.

Recommendation:

Staff recommends that the Board adopt the following motion.

Motion: The General Manager is authorized to award Contract No. 6M3066A for Furnish and Install Replacement Glass Systemwide as Needed for the base period of one year, at the bid price of $148,260 to Best Contracting Services, Inc., of Hayward CA.,
pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures. The General Manager is also authorized to exercise the option of Option Year One for the bid price $148,260, the Option for Option Year Two for

the bid price of $158,260, and the option for Option Year Three for the bid price of $168,260. Each option consists of a one-year extension for Furnish and Install Replacement Glass Systemwide as Needed. Exercise of the options shall be subject to the availability of funding.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE: 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept: Signature/Date: 4/13/10	General Counsel 4/13/10	Controller/Treasurer 4/13/10 [ ]	District Secretary [ ]	BARC 4/13/10 [ ]
Status: Routed		Date Created: 04/02/2010		

TITLE:

Agreement No. 6M3149, Glass and Window Washing Services

NARRATIVE:

Purpose: To obtain Board authorization for the General Manager to award Agreement No. 6M3149 for Glass and Window Washing Services to Delta Window Cleaning of Santa Clara, CA.

Discussion:

This Agreement will provide for window washing services systemwide on a regular and on-call basis for a period of three years, with District options to extend the Agreement for two additional one-year periods. Advance Notice to Proposers was mailed on February 4, 2010. On February 8, 2010 the RFP No. 6M3149 was mailed to twenty-nine (29) prospective proposers, and e-mailed by the Office of Civil Rights to twenty (20) minority firms. The RFP was advertised in twelve (12) local and regional news publications. A preproposal conference was held on March 3, 2010 at 300 Lakeside Drive, and was attended by representatives of seventeen (17) companies. Subsequently, seven (7) proposals were received on March 16, 2010. These were reviewed by a committee to establish the responsiveness of proposals and evaluate the merits of each technical proposal. All seven (7) proposals were determined to have met the technical requirements and were found to be responsive to the general RFP requirements. Price proposals were then opened and evaluated. Proposed prices are as follows:

Proposer	Base 3 Year Price	Allowance	1st year Option Price	2nd year Option Price	Total Price Proposal
Delta Window Cleaning, Santa Clara, CA	$104,400	$15,000	$36,000	$37,200	$192,600.00
WWC Window Cleaning, Los Angeles, CA	$108,000	$15,000	$36,000	$36,000	$195,000.00
Big Al's Construction Cleanup, Hayward, CA	$113,850	$15,000	$37,950	$37,950	$204,750.00
Century Window Cleaning, Pleasant Hill, CA	$146,340	$15,000	$49,980	$51,240	$262,560.00
Universal Building Services, Richmond, CA	$183,744	$15,000	$63,084	$64,980	$326,808.00
Advanced Enterprises, Inc., San Francisco, CA	$234,000	$15,000	$78,000	$78,000	$405,000.00
Clean Innovation Corporation, San Francisco, CA	$230,940	$15,000	$79,200	$81,600	$406,740.00

Staff has determined that the apparent low proposer, Delta Window Cleaning of Santa Clara, CA, is technically competent to service this Agreement and has submitted a fully responsive proposal to this RFP. Furthermore, a review of this proposer's license, business experience, and financial capabilities has resulted in the determination that the proposer is responsible. Staff has also determined that the proposal price is fair and reasonable.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 16% for MBEs and 20% 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. However the Prime Contractor is a certified DBE.

Fiscal Impact

District expenditures for this agreement are estimated as follows:

FY10	$5,800
FY11	$37,800
FY12	$37,800
FY13	$38,000
FY14	$39,366
FY15	$33,834

Funding for this agreement will be provided from FY10 through FY15 Operating Budget for Cost Center 648, Maintenance Support. Funding is currently in place for FY10 expenditures. Funding for the subsequent years FY11-FY15 will be requested in future operating budget cycles.

Alternative:

The Board could choose not to award this Agreement. However this would result in a decrease in station cleanliness with associated disappointing experiences for patrons and staff. Cleaning as requested in yard towers and terminal zones also enhances the safe working environment for staff. District janitorial staff is not equipped to access skylights or windows in elevated locations.

Recommendation:

Staff recommends that the Board adopt the following motion.

Motion:

The General Manager is authorized to award Agreement No. 6M3149 to provide Glass and Window Washing Services Districtwide for the base proposal period of three years, for the proposal price of $104,400 plus a $15,000 Allowance pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures. The General Manager is also authorized to exercise the option for Option Year One for the proposal price of $36,000, and the option for Option Year Two for the proposal price of $37,200, each option consisting of a one-year extension for Glass and Window Washing Services. Exercise of the options shall be subject to the availability of funding.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE: c 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Abdulhaque Shaikh Dept: Maintenance & Engineering Signature/Date: 4/12/10	General Counsel 4/12	Controller/Treasurer 4/12/10	District Secretary [ ]	BARC 4/12/10 [ ]

TITLE:

Award Contract No. 15EI-120A for South San Francisco Substation ("WSS") and Concord Substation ("CCO") 34.5kV Transformer Upgrade and Replacement.

NARRATIVE:

PURPOSE:

To obtain Board authorization for General Manager to award Contract No. 15EI-120A, for South San Francisco Substation ("WSS") and Concord Substation ("CCO") 34.5kV Transformer Upgrade and Replacement, to E.W. Scott Electric Co., Inc.

DISCUSSION:

On November 3, 2007 cast coil transformer XO1 of substation WSS 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 requires use of natural (biodegradable) oil filled transformers only for 34.5kV Traction Power Substation applications.

Contract No. 15EI-120A for Substation WSS and CCO 34.5kV Transformer Upgrade and Replacement will provide for two (2) new, 4-megawatt, natural oil filled traction power transformers at substation WSS and will provide for the relocation of one (1) used, 4-megawatt, cast coil transformer to substation CCO. This will bring capacity of substations WSS and CCO to full level.

The District provided advance notice to 85 prospective Bidders and the Contract books were sent to 24 plan rooms. The Contract was advertised on February 19, 2010. Contract books were mailed to 24 plan rooms. A summary of the work was also available on the District's website as an Anticipated Procurement.

A pre-Bid meeting and site tour was held on Tuesday, March 2, 2010. One (1) addendum was issued. The following five (5) Bids were received and publically opened on March 23, 2010.

Bidder		**Total Bid Price**
1. E.W. Scott Electric Co., Inc.	Petaluma, CA	$1,025,000.00
2. Steiny and Company, Inc.	Vallejo, CA	$1,040,541.00
3. Blocka Construction, Inc.	Fremont, CA	$1,243,000.00
4. Dahl-Beck Electric	Richmond, CA	$1,405,920.00
5. Harris Electric	Dublin, CA	$1,579,000.00
Engineer's Estimate		$1,350,000.00

Bids were evaluated and staff determined that the apparent low Bid submitted by E.W. Scott Electric Co., Inc. of Petaluma, CA, is responsive to this solicitation. Furthermore, examination of the low Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible and that the Bid of $1,025,000 submitted by E.W Scott Electric Co., Inc. is fair and reasonable based upon adequate price competition.

The Office of Civil Rights has reviewed the scope of work for this Contract and determined that there were no subcontracting opportunities; therefore, no DBE participation goal was set for this Contract.

FISCAL IMPACT:

Funding of $1,025,000 for the award of Contract 15EI-120 is included in the total project budget for the FMS #15EI – Traction Power Transformers. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of $1,025,000 will be funded by FTA and BART.

As of month ending February 28, 2010, the following funding is available for commitment from these sources:

Fund Grant	Funds for this Project	Committed	Pending Commitments	**Funds For This EDD**	Funds Remaining
47Z - CA-05-0216 – FY07 Capital Improvement	$1,200,000	$79,800	$0	**$595,000**	$525,200
50Z - FY06-10 Capital Maintenance Allocation	$1,300,000	$917,561	$0	**$382,439**	$0
51W - FY07- 11 Capital Allocation	$271,930	$74,569	$0	**$47,561**	$149,800
Total				**$1,025,000**	

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of this Contract. However, if the Contract is not awarded, the traction power system reliability on W line and C line will remain below normal operating level.

RECOMMENDATIONS:

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

MOTION:

The General Manager is authorized to award Contract No. 15EI-120A, South San Francisco Substation ("WSS") and Concord Substation ("CCO") 34.5kV Transformer Upgrade and Replacement, to E.W. Scott Electric Co., Inc. for the Bid price of $1,025,000, including applicable taxes, subject to the District's protest procedures and FTA's requirements related to protest procedures.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD Signature/Date: 4/13/10	General Counsel 4/13/10 [ ]	Controller/Treasurer 4/14/10 [ ]	District Secretary [ ]	BARC 4/13/10 [ ]
Status: Approved		Date Created: 03/02/2010		

TITLE:

Award of Contract 15PQ-110, Earthquake Safety Program, Station Structure - C Line, Concord Station

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15PQ-110, for BART Earthquake Safety Program, Station Structure – C Line, Concord Station to Robert A. Bothman, Inc.

DISCUSSION:

Contract No. 15PQ-110 will provide for the seismic strengthening of Concord Station as part of BART's Earthquake Safety Program. The work consists of the structural retrofit of pile caps, columns, bent caps and the associated architectural and mechanical/electrical components impacted by the retrofits.

An Advance Notice to Bidders was mailed on February 10, 2010 to 102 firms. The Contract was advertised on February 11, 2010 and Contract Books were sent to 22 plan rooms. A total of 30 firms purchased copies of the Bid Documents. A Pre-Bid Meeting was held on February 24, 2010 with a total of 15 potential Bidders in attendance. A site tour was held following the Pre-Bid meeting on February 24, 2010. Seven bids were received. Bids were opened publicly on March 30, 2010.

After review by staff, the Bid submitted by Robert A. Bothman, Inc. was determined to be the low responsive bid. It should be noted that the Bids submitted by Robert A. Bothman, Inc., Angotti & Reilly, Inc., LC General Engineering, Inc. and River View Construction, Inc. were determined to have arithmetical errors in the Bid Item totals and/or in the total Bid Price. Paragraph 13.B, Evaluation, of the Instructions to Bidders in the Contract clearly states that item totals are provided by the Bidder for the convenience of the District, and that the District will independently calculate such prices based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations shall govern. The District's calculations find that Robert A. Bothman, Inc. is the apparent low bidder. Tabulation of the corrected Bids, including the Engineer's Estimate, is as follows:

BIDDER	LOCATION	TOTAL AMOUNT
1. Robert A. Bothman, Inc.	San Jose, CA	$1,335,325.50
2. Angotti & Reilly, Inc.	San Francisco, CA	$1,440,636.81
3. Valentine Corporation	San Rafael, CA	$1,473,369.00
4. LC General Engineering & Construction, Inc.	San Francisco, CA	$1,565,457.96
5. River View Construction, Inc.	Sacramento, CA	$1,919,398.06
6. Albay Construction Company	Martinez, CA	$1,979,618.00
7. Zovich & Sons, Inc.	Hayward, CA	$2,384,758.95
Engineer's Estimate		$1,660.000.00

The apparent low Bid submitted by Robert A. Bothman, Inc. was determined to be fair and reasonable and was deemed to be responsive to the solicitation. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

Pursuant to the District's Non-Discrimation in Subcontracting Program, the availability percentages for this Contract are 23% for MBEs and 12% for WBEs, The Office of Civil Rights has determined the apparent low bidder has exceeded both MBE and WBE availability percentages for this Contract.

FISCAL IMPACT:
Funding for $1,335,326 for award of Contract No. 15PQ-110 is included in the total project budget for the FMS #15PQ, ESP – Concord Station. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F – Earthquake Safety G.O. Bond:	$1,335,326

As of month ending 2/28/10, $4,310,000 is available for commitment from this fund source for this project and BART has committed $146,243 to date. There are pending commitments of $2,268,433 in BART's financial management system. This action will commit $1,335,326 leaving an uncommitted balance of $559,998 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:
The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic strengthening of this station at this time.

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

MOTION:
The General Manager is authorized to award Contract No. 15PQ-110, Earthquake Safety Program, Station Structure - C Line, Concord Station to Robert A. Bothman, Inc. for the Bid

amount of $1,335,325.50 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 4/12/10	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	$105,000,000	**$226,200,000**	
Other GEC	$81,478,000	**$0**	
Subtotal GEC	$186,478,000	**$226,200,000**	
CM	$61,498,000	**$79,000,000**	
Environmental	$1,042,796	**$2,198,237**	
TOTAL E, E & CM	**$249,018,796**	**$307,398,237**	
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	**$76,030,000**	
Stitching	$82,962,000	**$0**	
Aerial Guideways			
West Oakland/North Oakland	$112,923,000	**$90,000,000**	
Fremont	$178,224,000	**$117,800,000**	
Concord	$36,500,000	**$45,300,000**	.
Richmond	$80,155,000	**$75,800,000**	
San Francisco/Daly City	$36,590,000	**$9,991,645**	.
Stations (18)	$126,961,000	**$118,896,318**	
Other Structures			
LMA	$5,529,000	**$5,267,440**	
Yds & Shops	$12,436,000	**$17,557,497**	.
Parking Structures	$14,437,000	**$13,500,000**	
At Grade Trackway	$22,361,000	**$0**	
34.5kV Replacement		**$40,000,000**	
Systems	$7,066,000	**$18,000,000**	
TOTAL CONSTRUCTION	**$909,469,000**	**$645,650,843**	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	$159,894,204	**$241,801,763**	
Contingency	$32,104,000	**$58,583,314**	
TOTAL PROGRAM COSTS	**$191,998,204**	**$300,385,077**	
BASELINE FUNDING	**$1,350,486,000**		
REVISED FUNDING		**$1,253,434,157**	

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE: 4/16/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Planning & Budget Signature/Date: PH 04/15/10	General Counsel 4/16/10 [ ]	Controller/Treasurer 4/16/10 [ ]	District Secretary [ ]	BARC 4-16-10 [ ]

Status: Approved	Date Created: 04/09/2010

TITLE:

San Francisco International Airport Employee Premium Fare Program

NARRATIVE:

60093v1

PURPOSE

To authorize the General Manager to execute Amendment No. 1 to the Lease, Use, and Operating Agreement for BART Station and Related Facilities and Grant of Easement at San Francisco International Airport (Lease Amendment) with the San Francisco International Airport (SFO). This Lease Amendment, together with a letter agreement outlining related projects (Letter Agreement) and a Memorandum of Understanding Regarding a Media Trade in Support of Each Agency's Marketing Efforts (MOU), will implement a SFO Employee Premium Fare Program (Program) so that the amount of the SFO Premium Fare that will be collected from participating SFO employees will equal $1.50 each way for trips to or from the SFO BART Station for the remainder of the Lease term.

To ensure that the Program is revenue-neutral to BART, the Program contains various projects and components, such as requiring SFO to pay for Program implementation and allowing BART to sell advertising space in the SFO Station, which are addressed in the above-referenced documents and described more fully below.

DISCUSSION

Background

The Board approved a revenue enhancement package effective July 1, 2009 to help address the large projected deficit of $54 million for Fiscal Year 2010. The package included an increase to the SFO Premium Fare, charged for trips to or from the SFO Station, from $1.50 to $4.00.

SFO wishes to offer its employees a transit benefit so that the amount of the SFO Premium Fare that will be collected from participating SFO employees making trips to or from SFO BART Station will be equal to $1.50. In addition, the BART Board has directed staff to work with SFO staff to create a program revenue-neutral to BART that would help lessen the impact of the SFO Premium Fare increase on Airport employees at SFO. In response, SFO and BART have jointly created the proposed Program whereby the portion of the SFO Premium Fare that will be collected from participating SFO employees will equal $1.50 each way for trips to or from the SFO BART Station for the remainder of the fifty-year lease term between BART and SFO. The Program includes benefits to BART that serve to underwrite the difference between the SFO Premium Fare and the amount of the SFO Premium Fare to be paid by the participating SFO employees.

Proposed Program

Airport employees wishing to participate in the Program will complete an enrollment form on BART's website. BART will verify the employee's eligibility using an Airport-badged employee database provided by SFO. BART will then create a smart card with the employee's photo ID and mail the encoded smart card to the Airport employee. Program participants will have the amount of the SFO Premium Fare equal to $1.50 deducted at the fare gate when they use the smart card to pay for trips to or from the SFO BART Station. Airport employees can add value to the smart card by using debit cards issued by transit pre-tax service providers or by using personal debit and credit cards.

The Program has various projects and components that are addressed in either the Lease Amendment, the Letter Agreement or the MOU. Some of the more significant projects and components, and the documents in which each is addressed, include the following:

Lease Amendment

- Amount of the SFO Premium Fare

The amount of the SFO Premium Fare deducted at the fare gates for trips taken to or from the SFO BART Station by SFO employees participating in the Program will be equal to $1.50 for the remainder of the Lease term.

- Advertising

SFO will allow BART to sell advertising in the SFO station for the remaining duration of the Lease term. This advertising will bring at least $270,000 to BART in the first year, with increases in guarantee payments and possible revenue share bonuses in subsequent years.

- Monthly Rent Payment

The Lease will be amended to state that BART is allowed to pay its $2.5 million annual rental payment in twelve equal monthly installments rather than up front as currently stated in the Lease.

- No Faithful Performance Deposit

The faithful performance deposit language, under which BART could be required to either fund a $2.3 million security deposit or purchase a letter of credit, will be eliminated.

Letter Agreement

- Implementation Costs

SFO will reimburse BART up to $112,000 to offset the costs of BART's development efforts required to implement these Program functionalities.

- Shuttle Operation

SFO will also cease running the shuttle it is currently operating for Airport employees between Millbrae Station and SFO.

- BART Information Booth

An information booth to assist airline passengers, BART customers, and the public is planned for the International Terminal near the entrance of the SFO BART station. The booth will be staffed seven days per week by personnel trained to administer the BART Travel Voucher Exchange Program (a program to pre-sell BART ticket vouchers through the travel industry) and to sell BART tickets. The Airport's administration of the travel voucher program will save BART about $54,000 per year.

- BART Real-Time Train Information

SFO will own and operate eight Electronic Display Monitors (EDMs) where BART Real Time Train Information will be displayed along with other Airport information. The EDMs will be located at the information booths in all terminals. BART also may provide up to four EDMs at four additional locations at BART's own cost.

MOU

- Joint Marketing Barter Agreement

SFO and BART will trade marketing space to support each other's marketing efforts. SFO will provide BART with space in its terminals and, in exchange, BART will provide SFO with space in BART stations and trains. The campaigns will include mutually beneficial messaging. Agency staff will execute a MOU for this trade. The value to BART is $223,000. In addition, in consideration of the Program, SFO has agreed that it will not use space in BART stations and trains during the year 2010.

At the April 22, 2010 BART Board meeting, the Board will be asked to authorize the General Manager to execute the Lease Amendment. No further Board authority is needed for the General Manager to execute the Letter Agreement and MOU. SFO staff will bring this matter to the Airport Commission and San Francisco Board of Supervisors to obtain signatory authority for the Airport Director.

FISCAL IMPACT

Receiving $1.50 of the $4.00 SFO Premium Fare under the Program is estimated to result in a loss of about $300,000 to $400,000 annually. However, the programs in the agreements described above that have been developed by BART and SFO are estimated to generate revenue that offsets the estimated annual revenue loss, resulting in a revenue-neutral program for BART.

ALTERNATIVES

Change the amount of the SFO Premium Fare deducted from $1.50 to another amount; direct staff to negotiate with SFO different programs and/or terms for the programs.

RECOMMENDATION

Adoption of the following motion. The Office of the General Counsel will approve the Lease Amendment, Letter Agreement, and MOU as to form.

MOTION

The General Manager is authorized to execute Amendment No. 1 to the Lease, Use, and Operating Agreement for BART Station and Related Facilities and Grant of Easement at San Francisco International Airport.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE: c 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Scott Schroeder Dept: Controller-Treasurer (Michaela Morales) Signature/Date:	General Counsel 4/14/10 [ ]	Controller/Treasurer 4/14/10 [ ]	District Secretary 4/14/10 [ ]	BARC 4-14-10 [ ]

TITLE:

TO AUTHORIZE THE ISSUANCE AND SALE OF THE DISTRICT'S SALES TAX REVENUE BONDS, REFUNDING SERIES 2010, AND THE EXECUTION AND DELIVERY OF THE REQUIRED DOCUMENTS

NARRATIVE:

PURPOSE:

To request Board adoption of a resolution, which, among other things, authorizes the issuance of the Sales Tax Revenue Bonds, Refunding Series 2010, and approves the Official Statement for such debt and authorizes the Controller-Treasurer to (1) award the Bonds to the winning bidder of a competitive bid process, (2) implement the preparation, execution and delivery of the necessary documents including the Preliminary Official Statement, the Official Statement, Eleventh Supplemental Indenture, Official Notice of Sale, Continuing Disclosure Agreement, and related agreements and, (3) negotiate and commit to or provide for bidder's option bond insurance or other credit support agreements in connection with the issuance of the Bonds.

DISCUSSION:

In May 2010, the District proposes to issue Sales Tax Revenue Bonds, Refunding Series 2010, in the principal amount of approximately $150,000,000. After setting aside approximately $400,000 for costs of issuance, the District intends to apply the net proceeds to refund outstanding 1998 bonds eligible for refunding and any other refunding candidates eligible and economically feasible.

The proposed Board resolution will authorize the Controller-Treasurer to develop the competitive bid structure and negotiate the cost of issuance of the Bonds. In addition, the resolution authorizes the preparation, execution and delivery of the necessary documents including the Preliminary Official Statement, the Official Statement, Eleventh Supplemental Indenture, Official Notice of Sale, Continuing Disclosure Agreement, and related agreements, and the negotiation and commitment to or provision for bidder's option bond insurance or other credit support agreements in connection with issuance of the Sales Tax Revenue Bonds, Refunding Series 2010.

The District will utilize a competitive bid process in which interested parties will submit a bid through an electronic bidding platform. The winning bid will be selected based on the highest price and lowest yield. All bid submittals must be for the entire amount of the refunding.

A competitive bid process typically works well with well-known and well-understood issuers and incorporates a simple refunding structure. Costs of issuance may be reduced as well. On the other hand, competitive bids can restrict flexibility and market timing, resulting in a less than favorable market environment. Thus, there are advantages and disadvantages to both negotiated and competitive sales.

FISCAL IMPACT:

The District expects to realize approximately $15,000,000 in net present value debt service savings over the next twenty years. The total cost for legal counsel, financial advisors, rating agencies, trustee services, and verification agent should not exceed $400,000. All fees shall be paid out of bond sale proceeds; therefore, no direct costs will be paid by the District. Interest and principal debt service on the bonds will be paid in accordance with the provisions of the Eleventh Supplemental Indenture via allocation from the District's annual adopted operating budget.

ALTERNATIVES:

The District may elect not to issue the Sales Tax Revenue Bonds, Refunding Series 2010, which would preclude securing the debt service savings at this time.

RECOMMENDATION:

Adopton of the following motion.

MOTION:

That the attached resolution be adopted.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

RESOLUTION NO. ____

RESOLUTION OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT AUTHORIZING AND APPROVING TIMELY REFINANCING OF OUTSTANDING DEBT TO ACHIEVE NET PRESENT VALUE SAVINGS, AND THE DELEGATION TO THE CONTROLLER/TREASURER POWER TO DETERMINE THE TIMES AND TERMS OF SUCH REFINANCINGS; AUTHORIZING AND APPROVING THE ISSUANCE AND SALE OF SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT SALES TAX REVENUE BONDS, REFUNDING SERIES 2010; AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL INDENTURE PURSUANT TO WHICH SUCH BONDS ARE TO BE ISSUED AND A NOTICE OF SALE PURSUANT TO WHICH SUCH BONDS ARE TO BE SOLD AND THE PUBLICATION OF NOTICE OF INTENTION TO SELL; APPROVING AN OFFICIAL STATEMENT RELATING TO SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE, SALE AND SECURITY OF SUCH BONDS, INCLUDING A CONTINUING DISCLOSURE AGREEMENT AND AN ESCROW AGREEMENT; DELEGATING TO THE CONTROLLER/TREASURER OF THE DISTRICT POWER TO DETERMINE FINAL TERMS OF SUCH BONDS, TO COMPLETE SAID DOCUMENTS AND TO NEGOTIATE CREDIT SUPPORT FOR SAID BONDS; DECLARING THE DISTRICT'S INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF INDEBTEDNESS; AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO.

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District (the "Board") recognizes the need to take advantage of rapidly changing market conditions by implementing refinancings that will lower the cost of debt financing for the San Francisco Bay Area Rapid Transit District (the "District") and that such refinancings could be better implemented by reducing the time required to authorize such refinancings;

WHEREAS, the Board desires to establish appropriate delegations that enable the more efficient and timely execution of such refinancings;

WHEREAS, the District desires to issue San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Refunding Series 2010 (the "Series 2010 Bonds") to provide funds to refund such portions of the outstanding San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Series 1998 (hereinafter collectively referred to as the "Prior Bonds"), as shall be determined appropriate by the Controller/Treasurer of the District in order to achieve debt service savings and/or to restructure existing debt service in order to provide more manageable debt service (such purpose being hereinafter collectively referred to as the "Series 2010 Refunding Plan");

WHEREAS, pursuant to Resolution No. 4363 of the District, adopted June 28, 1990, the District heretofore authorized and issued $158,478,429.95 principal amount of the San Francisco Bay Area Rapid Transit District Sales Tax Revenue Refunding Bonds, Series 1990 (the "Series 1990 Bonds"), of which $28,775,000 remains outstanding;

WHEREAS, pursuant to Resolution No. 4683 of the District, adopted December 4, 1997, the District heretofore authorized and issued $348,510,000 principal amount of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Series 1998 (the "Series 1998 Bonds"), of which $145,450,000 remains outstanding;

WHEREAS, pursuant to Resolution No. 4804 of the District, adopted June 14, 2001, the District heretofore authorized and issued $168,650,000 principal amount of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Series 2001 (the "Series 2001 Bonds"), of which $43,765,000 remains outstanding;

WHEREAS, pursuant to Resolution No. 4953 of the District, adopted July 28, 2005, the District heretofore authorized and issued $352,095,000 principal amount of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Refunding Series 2005 A (the "Series 2005A Bonds"), of which $296,530,000 remains outstanding;

WHEREAS, pursuant to Resolution No. 4987 of the District, adopted June 8, 2006, the District heretofore authorized and issued $64,915,000 principal amount of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Series 2006 (the "Series 2006 Bonds"), of which $64,915,000 remains outstanding;

WHEREAS, pursuant to Resolution No. 4996 of the District, adopted October 26, 2006, the District heretofore authorized and issued $108,110,000 principal amount of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Refunding Series 2006A, (the "Series 2006 A Bonds"), and together with the Series 1990 Bonds, the Series 1998 Bonds, the Series 2001 Bonds, the Series 2005 A Bonds, and the Series 2006 Bonds, referred to herein as the "Bonds"), of which $107,545,000 remains outstanding;

WHEREAS, the Bonds were issued under and pursuant to an Indenture, dated as of July 1, 1990, as supplemented and amended by the First Supplemental Indenture, dated as of August 7, 1990, the Second Supplemental Indenture, dated as of August 29, 1991, the Third Supplemental Indenture, dated as of June 7, 1995, the Fourth Supplemental Indenture, dated as of April 1, 1997, the Fifth Supplemental Indenture, dated as of March 12, 1998, the Sixth Supplemental Indenture, dated as of October 7, 1999, the Seventh Supplemental Indenture, dated as of July 12, 2001, the Eighth Supplemental Indenture, dated as of September 7, 2005, the Ninth Supplemental Indenture, dated as of June 29, 2006, and the Tenth Supplemental Indenture, dated as of November 30, 2006 (hereinafter collectively referred to as the "Original Indenture"), between the District and U. S. Bank National Association ("U. S. Bank"), successor by merger to U. S. Bank Trust National Association, which was successor to First Trust of California, National Association, which was successor to Bank of America National Trust and Savings Association, which was successor to Security Pacific National Bank, as trustee (the "Trustee");

WHEREAS, the District desires to issue the Series 2010 Bonds, payable on a parity with the Bonds, pursuant to the Original Indenture and an Eleventh Supplemental Indenture thereto (hereinafter collectively referred to as the "Indenture"), which is proposed to be entered into by the District and the Trustee;

WHEREAS, there has been prepared and submitted to this meeting a proposed form of Eleventh Supplemental Indenture (such Eleventh Supplemental Indenture, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being hereinafter referred to as the "Supplemental Indenture");

WHEREAS, the District desires to sell the Series 2010 Bonds to a bidder or bidders to be selected pursuant to a competitive sale process;

WHEREAS, there has been prepared and submitted to this meeting a proposed form of Official Notice of Sale for the Series 2010 Bonds (the "Notice of Sale") and a Notice of Intention to Sell the Series 2010 Bonds (the "Notice of Intention to Sell") to be published pursuant to Section 53692 of the California Government Code;

WHEREAS, there has been prepared and submitted to this meeting a proposed form of Official Statement in preliminary form (the "Preliminary Official Statement") to be used in connection with the offering and sale of the Series 2010 Bonds;

WHEREAS, in order to assist the purchasers of the Series 2010 Bonds in complying with Securities and Exchange Commission Rule 15(c)2-12(b)(5), there has been prepared and submitted to this meeting a proposed form of Continuing Disclosure Agreement (such Continuing Disclosure Agreement, in the form presented to this meeting, with such changes, omissions and insertions as are made pursuant to this Resolution, being hereinafter referred to as the "Continuing Disclosure Agreement"), which is proposed to be entered into by the District and U. S. Bank, as trustee and dissemination agent;

WHEREAS, in order to provide for the refunding of the Prior Bonds, there has been prepared and submitted to this meeting a proposed form of Escrow Agreement (such Escrow Agreement, in the form presented to this meeting, with such changes, omissions and insertions as are made pursuant to this Resolution, being hereinafter referred to as the "Escrow Agreement"), which is proposed to be entered into by the District and U. S. Bank, as trustee and escrow agent;

WHEREAS, the District may seek commitments from financial institutions or municipal bond insurance companies to provide credit support for the Series 2010 Bonds;

WHEREAS, Orrick, Herrington & Sutcliffe, LLP and Lofton & Jennings are acting as co-bond counsel and co-disclosure counsel, and KNN Public Finance, a Division of Zions First National Bank, is acting as financial advisor to the District (the "Financial Advisor") with respect to the Series 2010 Bonds;

WHEREAS, the District intends to design, acquire, construct and improve transit facilities in connection with the Warm Springs Extension Project and to renovate or replace the District's revenue vehicle fleet (collectively, the "Project");

WHEREAS, the District expects to pay certain expenditures (the "Reimbursement Expenditures") in connection with the Project prior to the issuance of indebtedness by the District or a conduit issuer for the purpose of financing costs associated with the Project on a long-term basis;

WHEREAS, the District reasonably expects that debt obligations in an amount not expected to exceed $600,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, Section 1.150-2 of the Treasury Regulations (26 CFR 1.150-2) requires the District to declare its reasonable official intent to reimburse prior expenditures for the Project with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District as follows:

Section 1. The District finds and determines that the foregoing recitals are true and correct.

Section 2. The issuance by the District of San Francisco Bay Area Rapid Transit District Sales Tax Revenue Bonds, Refunding Series 2010, payable on a parity with the Bonds, in an aggregate principal amount sufficient: (i) to refund such portion of the Prior Bonds as shall be determined appropriate by the Controller/Treasurer of the District in order to achieve the Series 2010 Refunding Plan, and to direct nominal excess proceeds to be expended pursuant to the Capital Improvement Program of the District, (ii) to increase the amount on deposit in the Bond Reserve Fund (as such term is defined in the Indenture) to fund an appropriate reserve for the Series 2010 Bonds, and (iii) to pay costs of issuance of the Series 2010 Bonds, on the terms and conditions set forth in, and subject to the limitations specified in, the Supplemental Indenture, as finally executed and delivered, is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to determine the principal amount, interest rate or rates, reserve funding, and other terms of the Series 2010 Bonds to be issued, including determining whether such Series 2010 Bonds shall be issued as current interest bonds (subject to the aforesaid limitations and the limitations hereinafter specified), and to specify said terms in the Supplemental Indenture. The Controller/Treasurer's determination with regard to the size of the bond issue shall be based on the funding requirements for the Series 2010 Refunding Plan, including the availability of debt service savings and more manageable debt service resulting from the restructuring of existing debt service and expected earnings from the reserve deposit, at the time the Series 2010 Bonds are sold and which, based on the issue as a whole, shall provide present value debt service savings in an amount not less than 4% of the principal amount of the refunded Prior Bonds.

Section 3. The Supplemental Indenture in the form presented to this meeting is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to execute and deliver the Supplemental Indenture in substantially the form presented to this meeting with such changes, insertions and omissions as may be approved by him, said execution being conclusive evidence of such approval; and the District Secretary is hereby authorized to attest to such signature. The proceeds of the Series 2010 Bonds (after payment of the costs of issuance thereof) will be applied to provide funds for the purposes hereinabove described. The maximum term of the Series 2010 Bonds shall not exceed thirty years. The maximum rate of interest to be payable on the Series 2010 Bonds shall not exceed 8% per annum. Optional redemption of the Series 2010 Bonds shall be provided for at not later than ten years from the date of issuance at a premium not greater than 3%; provided, however, that the

Controller/Treasurer of the District is hereby authorized to cause all or any portion of the Series 2010 Bonds to be issued as noncallable bonds. The interest payment dates, denominations, forms, manner of execution, terms of redemption and other terms of the Series 2010 Bonds shall be as provided in the Supplemental Indenture as finally executed.

Section 4. The Notice of Intention to Sell in the form presented to this meeting is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to cause said Notice of Intention to Sell to be published once in The Bond Buyer, a newspaper of general circulation in the District, at least five days prior to the sale of the Series 2010 Bonds.

Section 5. The Notice of Sale in the form presented to this meeting is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to execute and deliver the Notice of Sale in substantially the form presented to this meeting with such changes, insertions and omissions as may be approved by him, said execution being conclusive evidence of such approval. The Financial Advisor is hereby authorized to circulate said Notice of Sale to potential purchasers of the Series 2010 Bonds. Electronic proposals shall be received by the Controller/Treasurer of the District up to the hour of 8:00 a.m. California time on May 5, 2010 or on such earlier or later date or time determined by the Controller/Treasurer of the District as set forth in the Notice of Sale. The bids for the Series 2010 Bonds shall be for the purchase of the Series 2010 Bonds for cash at not less than ninety-eight percent (98%) of their principal amount. The Controller/Treasurer of the District is hereby authorized to determine whether to award the Series 2010 Bonds to the highest responsible bidder resulting in the lowest true interest cost to the District or to reject any or all bids. The Controller/Treasurer of the District is further authorized to adjust the principal amounts of the Series 2010 Bonds and the purchase price thereof in accordance with the Notice of Sale to achieve the Series 2010 Refunding Plan. The proceeds of the sale of the Series 2010 Bonds shall be applied simultaneously with the delivery of the Series 2010 Bonds, as required by the terms of the Supplemental Indenture and Escrow Agreement as finally executed.

Section 6. The Preliminary Official Statement in the form presented to this meeting is hereby approved, and the distribution of the Preliminary Official Statement in connection with the offering and sale of the Series 2010 Bonds, with such changes, omissions and insertions as shall be approved by the Controller/Treasurer, is hereby authorized and approved. The Controller/Treasurer is hereby authorized to review the Preliminary Official Statement and to certify on behalf of the District that the Preliminary Official Statement is "deemed final" as of its date, except for certain terms and pricing information permitted to be omitted therefrom pursuant to Securities and Exchange Commission Rule 15c2-12.

The Controller/Treasurer of the District is hereby authorized and directed to prepare a final version of the Official Statement (such final version of the Official Statement, in the form of the Preliminary Official Statement, with such changes, insertions and omissions as shall be approved by the Controller/Treasurer of the District, being hereinafter referred to as the "Official Statement") and to execute the Official Statement and any amendment or supplement thereto, in the name of and on behalf of the District, and cause the Official Statement and any such amendment or supplement to be delivered to the purchasers and distributed in connection with the sale of the Series 2010 Bonds.

Section 7. The Continuing Disclosure Agreement in the form presented to this meeting is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to execute and deliver a Continuing Disclosure Agreement in substantially the form presented to this meeting, with such changes, insertions and omissions as may be approved by him, said execution being conclusive evidence of such approval.

Section 8. The Escrow Agreement in the form presented to this meeting is hereby approved. The Controller/Treasurer of the District is hereby authorized and directed to execute and deliver an Escrow Agreement in substantially the form presented to this meeting, with such changes, insertions and omissions as may be approved by him, said execution being conclusive evidence of such approval.

Section 9. The Controller/Treasurer of the District is hereby authorized and directed to take such actions as are necessary in connection with the investment of funds deposited in the escrow fund established pursuant to the Escrow Agreement (the "Escrow Fund"), and, if applicable, U.S. Bank, in its capacity as trustee for the Prior Bonds is hereby authorized and directed to file such applications and other documents on behalf of the District as may be required to order and obtain U.S. Treasury Obligations – State and Local Government Series to be purchased with proceeds of the Series 2010 Bonds and other funds deposited in the Escrow Fund.

Section 10. The Controller/Treasurer of the District is hereby authorized to solicit or cause to be solicited proposals from financial institutions or municipal bond insurance companies, and, if the Controller/Treasurer of the District determines that it is in the best interest of the District to arrange for the issuance of a bond insurance policy, or an irrevocable letter of credit in connection with the Series 2010 Bonds, and the Controller/Treasurer of the District is hereby authorized to execute and deliver all documents necessary in connection therewith or may provide for bidder's option insurance pursuant to the Notice of Sale.

Section 11. The Controller/Treasurer of the District is hereby authorized and directed, if necessary, to solicit proposals from financial institutions, as applicable, in order to secure an irrevocable letter of credit or a surety bond (both a "Reserve Facility Instrument") in order to increase the amount on deposit in the Bond Reserve Fund upon the issuance of the Series 2010 Bonds and, if the Controller/Treasurer determines that it is in the best interest of the District to utilize a Reserve Facility Instrument to increase the amount on deposit in the Bond Reserve Fund, the Controller/Treasurer of the District is authorized to select and secure a Reserve Facility Instrument on such terms as the Controller/Treasurer of the District determines are appropriate in order to increase the amount on deposit in the Bond Reserve Fund and to execute and deliver all documents necessary in connection with such Reserve Facility Instrument.

Section 12. The Controller/Treasurer of the District is hereby authorized to enter into or to instruct the Trustee to enter into one or more investment agreements, float contracts, swaps or other hedging products (hereinafter collectively referred to as the "Investment Agreement") providing for the investment of moneys in any of the funds and accounts created under the Indenture or the Escrow Agreement, on such terms as the Controller/Treasurer of the District shall deem appropriate including providing investments with terms up to the final maturity date of the Bonds. Pursuant to Section 5922 of the California Government Code, the Board of

Directors of the District hereby finds and determines that the Investment Agreement will reduce the amount and duration of interest rate risk with respect to amounts invested pursuant to the Investment Agreement and is designed to reduce the amount or duration of payment, rate, spread or similar risk or result in a lower cost of borrowing when used in combination with the Series 2010 Bonds or enhance the relationship between risk and return with respect to investments.

Section 13. The Controller/Treasurer of the District, the District Secretary and any other proper officer of the District, acting singly, is, and each of them hereby is, authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper to carry out the transactions contemplated by the Supplemental Indenture, the Notice of Sale, the Preliminary Official Statement, the Official Statement, the Continuing Disclosure Agreement, the Escrow Agreement (collectively, the "Refunding Documents") and by this Resolution, including without limitation, the delivery of tax certifications, the delivery of any documents necessary in connection with the refunding of the Prior Bonds, the delivery of any documents relating to the investment of bond proceeds, the delivery of an agreement for financial advisory services with the Financial Advisor, and the making of any determinations or submission of any documents or reports which are required by any governmental entity in connection with the issuance and sale of the Series 2010 Bonds.

Section 14. All actions heretofore taken by the officers, representatives or agents of the District in connection with the issuance and sale of the Series 2010 Bonds are hereby ratified, confirmed and approved.

Section 15. The Controller/Treasurer is hereby further authorized and directed, from time to time, for and in the name and on behalf of the District, to take any and all actions necessary to refinance any outstanding Bonds if the refinancing transaction will result in net present value savings of at least 4% of the principal amount of the Bonds being refunded, as determined by the Controller/Treasurer and which determination shall be final and conclusive. The Controller/Treasurer is authorized to engage such consultants, bond counsel, underwriters, or other parties and to execute, acknowledge and deliver, and to prepare and review, as he deems appropriate, all indentures, official statements and all other documents, certificates, agreements and information necessary to accomplish such refinancing transactions taking as guidance the forms and provisions of the Refunding Documents authorized herein.

Section 16. The District hereby declares its official intent to use proceeds of indebtedness to reimburse itself for Reimbursement Expenditures. This declaration is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations.

This Resolution shall take effect immediately upon its adoption.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:	GENERAL MANAGER ACTION REQ'D: Approve and Place on April 22, 2010 Administration Committee Agenda
DATE: c 4/15/10	BOARD INITIATED ITEM: No

Originator/Prepared by: Frank Schultz Dept: Operating Budgets and Analysis Signature/Date: 4/15/10	General Counsel 4/15/10	Controller/Treasurer 4/15/10 [ ]	District Secretary [ ]	BARC 4-15-10 [ ]

TITLE:

Approval of Northern California Power Agency Phase III Agreements for the Lodi Energy Center and Adoption of Related Environmental Findings

NARRATIVE:

PURPOSE

To authorize the General Manager to execute the Northern California Power Agency (NCPA) Phase III Agreements that authorize the District's participation in the Lodi Energy Center (LEC) and to adopt related environmental findings.

DISCUSSION

The LEC is a natural gas generation plant being developed by NCPA with fourteen public agency participants. On January 10, 2008, the Board authorized the General Manager to enter into the NCPA Phase II Agreement for the District to participate in the development of the LEC. The Phase II development process consists of regulatory permitting, environmental approval and engineering design. In addition, on November 20, 2008, the Board approved Amendment No. 1 to the Phase II Agreement that expanded the scope of the Agreement to allow payment for a deposit on the power generation equipment. The total amount of District funds allocated for Phase II development costs is $2,352,765.

The District's share of the LEC specified in the Phase II Agreement is 5.9%. This represented approximately 15.0 megawatt (MW) of the LEC's preliminary estimate of generating capacity of 255 MW. The LEC is currently rated at 280 MW, and BART is currently subscribed at a 6.25% share. This will provide to BART approximately 17.5 MW or about one third of the District's annual electric energy need.

Phase II of the Project is nearing completion. The California Energy Commission (CEC) is the regulatory and environmental licensing agency for the project. Final approval of the license is expected on April 21, 2010. All LEC related air emission reduction credits, water supply agreements, land use agreements, and air permits have been attained and the generating equipment is ordered. Detailed Project engineering is approximately 50% complete.

In order to proceed with Phase III - Project financing and construction and to provide for Project operation, all Participants must approve the Phase III power sales and operation agreements and a final determination of each participants generation share is necessary. Upon such approval, financing activities will begin, with construction scheduled to start in July 2010 and commercial operation date targeted for June 2012.

The NCPA Commission is scheduled to approve the Phase III agreements on April 22, 2010. The power sales agreement contains provisions prescribing how the LEC Project will be financed, and establishes three separate indenture groups associated with Project financing. Indenture Group A will consist of the ten NCPA member Project Participants (which includes BART) plus two non-NCPA Participants. Indenture Group B consists of the California Department of Water Resources and Indenture Group C consists of the Modesto Irrigation District. NCPA will separately sell bonds for the share of Project costs represented by Indenture Group A and Indenture Group B and Modesto will finance its share independently.

Upon financing of the Project, BART will be bound and obligated to pay its share of Project cost based on billing amounts to be calculated by NCPA each month for a period of thirty years or the life of the Project, whichever is longer. The first monthly invoice from NCPA will be issued prior to the June 2012 expected date of LEC commercial operation. In return for such Project commitment, BART will receive its proportionate share of the electricity produced from the LEC.

Other key elements of the power sales agreement include:

- Option for Independent Fuel Purchase: Participants may provide physical fuel for the plant or rely on NCPA to obtain such fuel supply. NCPA intends to develop a gas hedging program separate from the LEC Project in which NCPA Members may elect to participate. In addition, BART is participating in a NCPA study to examine the feasibility to use biomethane to provide a portion of the plant's fuel supply.
- Step-up Obligations: The "step-up" obligation among Participants in case of payment default is specific to each of the 3 indenture groups. Indenture Group A, which includes BART, has a 35% maximum step-up obligation. Prior to exercising these provisions, there would be the opportunity for voluntary step-ups among all NCPA members. Any defaulting participant remains liable for all costs despite any step-up by other Participants.

The second Phase III agreement, the plant operating agreement, establishes the roles, obligations and responsibilities of the participants and NCPA in operating the LEC. A project committee will be responsible for the governance of Project activities and will act and vote on Project related matters in an official capacity. The decisions by the committee will be binding upon Project Participants and upon NCPA as the Project operator. Each Project Participant will have one representative whose vote will be cast in accordance with the respective Participant's share of the plant.

Each Project Participant has the right to adjust downward its share of the plant's capacity prior to executing the power sales agreement. In order to finance the Project, the LEC's 280 MW capacity must be fully subscribed. Recognizing that one or more Project Participants may reduce their level of participation, staff recommends that BART authorize an increase in generation share up to a maximum of 6.6% (one additional megawatt or about 18.5 MW). This is in the event that one or more Participants reduce their share and such increase by BART becomes necessary to assure Project financing and construction. Staff requests delegation of final determination of plant generation share, up to this maximum of 6.6%, be given to the BART General Manager. Any such change would occur prior to execution of the power sales agreement.

The Office of General Counsel will approve the Phase III agreements as to form.

Environmental Analysis
The CEC license includes various environmental analysis, findings and mitigation measures that constitute the equivalent of an environmental impact report for purposes of the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq* .). The CEC in effect has acted as the "lead agency" for this Project for purposes of environmental analysis. As a consequence, rather than conducting its own independent environmental analysis under CEQA, BART is acting as a "responsible agency" under CEQA and is thus responsible for considering the analysis, findings and mitigation measures of the CEC and reaching its own independent conclusions on whether and how to approve the LEC Project (CEQA Guidelines section 15096). Specifically, as a responsible agency, BART must consider the lead agency findings for each significant effect of the Project and make its own appropriate findings. The attached resolution makes all necessary findings for BART acting as a responsible agency and specifically accepts the CEC's prepared environmental documents.

FISCAL IMPACT
The estimated cost of the development and construction of the LEC Project is $375.3 million, together with the addition of approximately $76 million in financing related cost, results in total estimated Project cost of $451 million. The District will be responsible for paying for the financing costs and the fuel and plant operating expenses necessary to generate the power. For BART, at a 6.25% to 6.6% share of the plant's generation capacity, the initial annual power cost is approximately $11.3 million including transmission and distribution costs. Upon completion, LEC will be the most efficient gas powered power plant in Northern California. As a result, it is expected to generate power at an average cost lower than the market alternative. The estimated savings to the District over market supply is estimated to range from $68 to $218 million over the life of the plant. The financing, fuel and operating costs would be paid through the District's annual operating budget, no capital outlay is required.

ALTERNATIVES
The Board may choose to end the District's participation in the LEC. In the absence of generation from this plant, the District would have to continue to rely on more expensive market power supply. The development costs that the District has paid so far would be refunded if another project participant takes up BART's share and the LEC goes into commercial operation.

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

MOTION
That the Board approves the attached resolution that:
1. Authorizes the General Manager to execute on behalf of BART the NCPA Phase III

Agreements - the Power Sales Agreement and the Plant Management and Operations Agreement. This includes the delegation of authority for the General Manager to increase BART's Generation Entitlement Share (GES) as indicated in such agreements up to a maximum of 6.6% in the event one or more Project Participants reduce their GES and such increase is necessary to assure Project financing and construction; and,

2. Adopts the CEC environmental analysis, findings, and mitigation measures along with the Board's own findings (Exhibit A attached to the Resolution) regarding the same as responsible agency for the significant impacts of the LEC Project and directs the BART General Manager, or designee, to immediately record a Notice of Determination with the County of Alameda;
3. Designates the General Manager as the official responsible for appointing, and from time-to-time changing as necessary, BART's representatives on the LEC participant committee.

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

In the Matter of Approving the Lodi Energy Center Power Sales Agreement and the Project Management and Operation Agreement and Authorizing the General Manager to Execute These Agreements on Behalf of the District, Subject to Revision of Generation Entitlement Shares; and Authorizing the General Manager to Designate Representatives to the Project Participant Committee and Making Findings as a Responsible Agency Under the California Environmental Quality Act.

Resolution No.

WHEREAS, BART has elected to participate in the 280 MW Lodi Energy Center (LEC) Project being developed by NCPA, and;

WHEREAS, BART's Generation Entitlement Share in the Project is 6.25 percent or approximately 17.50 megawatts and;

WHEREAS, the California Energy Commission (CEC) has approved the project Application for Certification (AFC) on April 21, 2010 and such approval by the CEC includes various environmental analysis, findings and mitigation measures under the terms of the Warren-Alquist Act (Public Resources Code section 25500 *et seq.*). The CEC's analysis, findings, and mitigation measures, constitute the equivalent of an environmental impact report for purposes of the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*) as a "certified regulatory program" pursuant to CEQA Guidelines section 15251(j). The CEC has acted as the "lead agency" for this Project for purposes of environmental analysis. As a consequence, rather than conducting its own independent environmental analysis under CEQA, BART is acting as a "responsible agency" under CEQA and is thus responsible for considering the analysis, findings and mitigation measures of the CEC and reaching BART's independent conclusions on whether and how to approve the LEC Project. (CEQA Guidelines section 15096.), and;

WHEREAS, BART acting as a responsible agency has independently considered the analysis, findings, and mitigation measures prepared by CEC as reflected in Exhibit A attached to this Resolution , and

WHEREAS, the Northern California Power Agency (NCPA) has prepared a Power Sales Agreement (PSA) which upon execution by all the LEC Project Participants and NCPA will permit financing, construction and operation of the Project, and;

WHEREAS, the BART Board understands that if one or more other Project Participants reduce their Generation Entitlement Share (GES), BART may have to increase its GES to a maximum of 6.6% in order to effectuate Project financing and construction, and;

WHEREAS, the BART is desirous of NCPA managing and operating the LEC Project on its behalf, and on behalf of other Project participants, and NCPA has prepared a Project Management and Operation Agreement (PMOA) which upon execution by LEC Project Participants and NCPA provides for Project management and operation by NCPA, and ;

WHEREAS, the BART acknowledges that the PSA forms a Project Participant Committee (PPC) which will provide Project governance and to establish, and from time to time revise, directives related to Project capital expenditures, budgets, operations and maintenance, among other items, and that the BART is to designate a BART official responsible for appointing BART's representative and alternate representative on the PPC,

NOW, THEREFORE BE IT RESOLVED, as follows:

1. That acting in its capacity as a responsible agency for purposes of the California Environmental Quality Act (CEQA), BART hereby makes the findings as provided in Exhibit A of this resolution. The BART General Manager or her designee is hereby directed to record a Notice of Determination in the County of Alameda reflecting these findings.

2. That it hereby approves the Power Sales Agreement and the Project Management and Operation Agreement, and authorizes its General Manager to execute these agreements on behalf of BART. It additionally authorizes the General Manager to increase BART's Generation Entitlement Share as reflected in the PSA and PMOA up to a maximum of 6.6% in the event one or more Project Participants elects to reduce their GES; and

3. That it designates the BART General Manager as BART's official responsible for appointing, and from time to time replacing, BART's representative and alternate representative on the PPC, and designating such representatives to NCPA.

# # #

bart

EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board.		
DATE: 4/14/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Henry Kolesar Dept: Rolling Stock & Shops Signature/Date: 4/12/10	General Counsel 4/12/10 [ ]	Controller/Treasurer 4/12/10 [ ]	District Secretary [ ]	BARC 4/12/10 [ ]

Status: Approved	Date Created: 03/29/2010

TITLE:

Change Order No. 1 to Contract No. 42EL-210B, Procurement of C-1 Car Auxiliary Power Supply Equipment

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 1 to Contract No. 42EL-210B, Procurement of C-1 Car Auxiliary Power Supply Equipment (APSE), with Bombardier Transportation (Holdings) USA, Inc., in the amount of $4,907,600, plus applicable sales tax.

DISCUSSION:

On October 8, 2009, the Board authorized the General Manager to award Contract No. 42EL-210B to Bombardier Transportation (Holdings) USA, Inc., in the amount of $3,982,860, plus applicable sales tax, for the Base Bid of 30 APSE units, using funding from the American Recovery and Reinvestment Act of 2009. The Contract contains two options (A and B), each for an additional 20 units. The Bid Price for Option A is $2,508,000, and the Bid Price for Option B is $2,399,600. The total price for both Options is $4,907,600, plus applicable sales tax. Tier 2 funding of the American Recovery and Reinvestment Act of 2009 has become available in an amount such that both Options can be exercised at this time.

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

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

FISCAL IMPACT:

Funding of $5,386,091 for Change Order No. 1 to Contract No. 42EL-210B is included in the total project budget for the FMS#42EL – Auxiliary Power Supply Equipment (APSE). The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

CA-96-X001 American Recovery and Reinvestment Act of 2009(ARRA) Stimulus Fed. 54K $5,386,091

As of the month ending 03/30/2010, $11,200,000 is available for commitment from this fund source for this project and BART to date has committed $0. There is $4,371,189 pending commitment in BART's financial management system. This action will commit an additional $5,386,091, leaving an uncommitted balance of $1,442,720 in this fund.

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

ALTERNATIVES:

The Board could elect not to exercise the two Options and instead solicit new bids for the 40 APSE units. Stimulus funding, however, is granted under specific time constraints and delays associated with re-advertising and re-bidding this procurement could jeopardize that funding.

RECOMMENDATION:

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

MOTION:

The General Manager is authorized to execute Change Order No. 1 to Contract No. 42EL-210B, Procurement of C-1 Car Auxiliary Power Supply Equipment (APSE), with Bombardier Transportation (Holdings) USA, Inc., to exercise Contract Options A and B for a total of 40 additional APSE units, in the amount of $4,907,600, plus applicable sales tax, pursuant to notification to be issued by the General Manager.

ba

EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors	
DATE: 4/14/10		BOARD INITIATED ITEM: No	

Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control x6160 Signature/Date: 4/8/10	General Counsel 4/9/10 [ ]	Controller/Treasurer 4/12/10 [ ]	District Secretary [ ]	BARC 4/13/10 [ ]

Status: Routed	Date Created: 03/29/2010

TITLE:

BART and MTC Joint Resolution for Funding of the Rail Car Replacement Program

NARRATIVE:

Purpose:

To obtain BART Board approval of a Joint Resolution ("Resolution") with the Metropolitan Transportation Commission ("MTC") for funding of the Rail Car Replacement Program ("Project"), which consists of the replacement of the District's 669 rail cars. The Resolution provides a Phase 1 funding plan for the first 200 cars and a policy framework for funding of Phase 2, the remainder of the Project. Additional rail cars needed for system or capacity expansion are not included in the Resolution.

Discussion:

BART and MTC staff have been working together for several years on the development of a funding plan for the Project. The primary funding source is MTC's Transit Capital Priorities ("TCP") program which consists of federal formula funds that are available to fund the region's fixed guideway needs. Expansion and system capacity needs are not an eligible use of TCP funds, thus additional cars beyond the 669 replacement cars are not included in the Resolution.

The total Project cost is forecast at $3.2 billion in escalated dollars. The Resolution provides a funding plan for Phase 1, the initial order of 200 cars which is forecast to cost approximately $1 billion, and a policy framework for Phase 2, the balance of the $3.2 billion Project cost of $2.2 billion. Negotiations between BART and MTC staff have focused primarily on the Phase 1 cost of $1 billion because MTC anticipates being able to fund this amount within their 10 year capital improvement program ("CIP") which was developed following the adoption of Transportation 2035 ("T2035"), the region's long-term transportation plan. T2035 established the policy that replacement of revenue vehicles is the highest priority for regional funds. MTC's CIP forecasts all of the region's high priority replacement and rehabilitation needs over the FY10-19 period, and projected regional funds would be sufficient to cover Phase 1 of the Project within their CIP timeframe.

Attachments B-1 and B-2 of the Resolution describe the assumptions and detail the funding plan for Phase 1 of the Project. This includes $870 million of regional funds, of which $730 million is federal formula funding and $140 million is FHWA regional funds, otherwise known as STP funds. Of the $870 million, approximately $103.3 million has already been awarded with $90.7

million of this amount being swapped and placed in an interest bearing reserve account, as the grants are earned, because it is not yet needed for Project expenses. This method of placing regional funds in a reserve account which generates interest for the Project is expected to continue. MTC has established a Vehicle Procurement Reserve Program and has agreed to program a total of $80 million in federal formula funds for FY11 and FY12, with interest earnings dedicated to the Project and offsetting future programming of STP funds. Annual programming is expected to continue using this methodology, with amounts of up to $94 million/year programmed through FY19. BART is required to provide the local match to the regional funds, using primarily High Speed Rail ("HSR") funds totaling $150 million.

The Resolution also includes a framework and principles for funding the remainder of the Project, Phase 2 which totals $2.2 billion. These are included in Attachment A. It is expected that a firm commitment of funding for Phase 2 will need to be established in 2015, in advance of the award of the first contract option in 2017. Although the Phase 1 funding plan includes approximately 85% from regional funds, Attachment A calls for the region to fund a total of approximately $2.4 billion, or about 75% of total Project cost for the combined Phase 1 and 2. BART will be required to fund about 25% of total Project cost or approximately $805 million for the total Project. The regional share may include federal formula, STP, or any other MTC-controlled funds. BART's share may include HSR, revenue based STA, parcel tax, or any other BART-pursued revenue augmentation. Since Attachment A is a preliminary framework, it is expected that BART and MTC staff will be working together over the next several years on a funding plan for Phase 2 which will result in a Resolution brought to the Board for approval.

The attached Joint Resolution will be brought before the MTC Commission for approval in May or June 2010.

Fiscal Impact:
Approval of the Resolution is a requirement for MTC to program the revenues described in the Phase 1 funding plan. These revenues total $870 million in regional funds. Of the $870 million, approximately $103.3 million has already been awarded with $90.7 million of this amount being swapped and placed in an interest bearing reserve account, as the grants are earned, because it is not yet needed for Project expenses.

Alternatives:
Do not approve the Resolution. Failure to approve the Resolution may result in schedule delays and cost increases for the Rail Car Replacement Program.

Motion:
The Board of Directors approves the Joint Resolution, a copy of which is attached.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
AND METROPOLITAN TRANSPORTATION COMMISSION
JOINT RESOLUTION
MTC Resolution 3918
BART Resolution No.

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code 66500 et. seq.; and

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART) is a rapid transit district providing heavy rail transit service in the San Francisco Bay Area; and

WHEREAS, BART wishes to replace 669 rail cars through its Rail Car Replacement Program (PROJECT); and

WHEREAS, BART and MTC wish to establish a funding framework and understanding for the PROJECT; and

WHEREAS, BART and MTC wish to establish a policy-level commitment of funding toward a PHASE 1 FUNDING PLAN in fiscal years 2011 through 2019 in order for BART to award a contract for the PROJECT;

NOW THEREFORE BE IT RESOLVED, that BART and MTC have agreed to the Principles for Funding Framework BART Car Replacement Program set forth in Attachment A and incorporated herein; and

RESOLVED, that BART and MTC have agreed to and approve the PHASE 1 FUNDING PLAN ASSUMPTIONS set forth in Attachment B-1 and incorporated herein; and

RESOLVED, that BART and MTC have agreed to and approve the PHASE 1 FUNDING PLAN set forth in Attachment B-2 and incorporated herein; and

RESOLVED, that BART and MTC agree that MTC's commitment of funding for the PHASE 1 FUNDING PLAN for the PROJECT is limited to the total amount of MTC Funding shown in the PHASE 1 FUNDING PLAN ; and

RESOLVED, that MTC agrees to program Federal Transit Administration and Federal Highway Administration funds as set forth in Attachment B-2, subject to Congressional authorization and appropriation, availability of funds, and other critical regional transit capital needs in a timely manner in order to meet PHASE 1 FUNDING PLAN cash flow needs and minimize financing costs; and

RESOLVED, that MTC may substitute other MTC-controlled funds in place of available Federal Transit Administration and Federal Highway Administration funds specified in the PHASE 1 FUNDING PLAN;

RESOLVED, that BART agrees to use its High Speed Rail funds and the BART Car Replacement Funding Exchange Account funds as shown in Attachment B-2 to meet the local match requirements of federal funds for the PHASE 1 FUNDING PLAN; and

RESOLVED, that BART agrees to comply with all applicable local, state, and federal requirements for funds programmed by MTC; and

RESOLVED, that BART and MTC agree to work with the Bay Area Partnership to ensure that the PROJECT funding plan will be developed and programmed in agreement with the region's overall approach to the Transit Capital Priorities program; and

RESOLVED, that BART acknowledges that it has received regional funds from MTC to extend the life of some of its current fleet of rail cars so that they will remain in service while the replacement cars are being procured and delivered, and agrees to maintain its current fleet of rail cars so that they will remain in service while the replacement cars are being procured and delivered; and

RESOLVED, that BART agrees that it will not request regional funds from MTC for a rehabilitation of its current fleet of railcars; and

RESOLVED, that BART and MTC will work with the Federal Transit Administration (FTA) to ensure the federal funds are available to the PROJECT.

ATTACHMENT A
PRINCIPLES FOR FUNDING FRAMEWORK
BART CAR REPLACEMENT PROGRAM

1. Project Definition

The BART Car Replacement Program (PROJECT) consists of replacing 669 A, B, C1 and C2 cars at an estimated cost of $3.2 billion (in escalated dollars). The procurement of additional capacity expansion cars is outside of the scope of these Principles.

The PHASE 1 FUNDING PLAN will address the costs of replacing approximately the first 200 cars at an estimated cost of $1.0 billion (in escalated dollars).

The PHASE 2 FUNDING PLAN will address the costs of replacing approximately the remaining 469 cars at an estimated cost of $2.2 billion (in escalated dollars).

Due to the long term nature of this project, BART's base contract will be for approximately 200 cars, and there will be options for additional cars. Subject to the availability of funding, BART anticipates exercising the first option in 2017.

2. Background

The funding plan for the PROJECT will be modeled on MTC Resolution 2672, in which MTC entered into an agreement with BART as part of a larger regional framework for transit capital replacement and expansion that provided regional investments to cover 70% of the costs of BART's A-B Car Rehabilitation project.

Transportation 2035, the region's long- range plan that was adopted in April 2009, includes $15.1 billion (in escalated dollars) in projected capital replacement and rehabilitation needs for BART between FY 2009 and FY 2033. The total includes $10.8 billion in Score 16 (the highest priority for funding under the region's Transit Capital Priorities Process and Criteria) needs and $4.3 billion in other needs. The Score 16 needs includes the PROJECT at a cost of $2.7 billion, and Fixed Guideway and other Score 16 needs totaling $8.1 billion.

Transportation 2035 projects that $4.3 billion of Committed Transit Capital Revenues will be available to meet BART's Score 16 needs. Of this total, approximately $0.6 billion is from operating funds that BART is projected to contribute to its capital program.

Transportation 2035 projects $23.1 billion in transit capital revenues for all transit capital needs in the region, including $6.4 billion in Discretionary Revenues. Of the $6.4 billion in Discretionary Revenues dedicated to Score 16 needs throughout the region, $4.7 billion or 73% is projected to come from anticipated sources that MTC and its transit operator partners will need to identify and secure for transit capital needs.

3. Regional Share of Project Costs

Consistent with Resolution 2672 and Transportation 2035, and in order to meet the PROJECT cost of $3.2 billion, MTC would cover approximately $2.4 billion, or about 75%, of PROJECT costs. This includes projected FTA 5307 and 5309 FG, FHWA STP, Population-based Spillover (or successor programs) and/or other anticipated funding sources included in Transportation 2035, as well as funds that have been programmed to the PROJECT prior to the adoption of Transportation 2035 and projected earnings on the BART Car Replacement Funding Exchange Account.

Assumptions for Regional Share

- The total cost of the project is $3.2 billion and includes replacement of 669 cars.
- Major transit capital rehabilitation and replacement needs in the Region can be met as anticipated in the Plan, including 100% of the cost of replacing revenue vehicles and approximately 60% of the cost of replacing and rehabilitating Fixed Guideway and other Score 16 assets.
- The Region will receive $13.5 billion in Committed Revenues, including FTA Section 5307 and 5309 (or their successors) and AB664 bridge tolls, between FY 2009 and FY 2033 as anticipated in Transportation 2035.
- The Region will receive $6.4 billion in Discretionary Revenues, including Anticipated Funds, FHWA STP (or its successor), and Population-based Spillover, between FY 2009 and FY 2033 as anticipated in Transportation 2035.
- The Region's Score 16 transit capital replacement and rehabilitation needs between FY 2009 and FY 2033 will not exceed $28.6 billion as anticipated in Transportation 2035.

Should these assumptions, including the cost of the PROJECT, change substantively over time, the terms of this project funding framework will be re-examined and an alternate approach will be agreed to by MTC and BART that could include extending the timing of fund commitments, seeking alternate fund sources, or other actions.

4. BART Share of Project Costs

Consistent with Resolution 2672 and Transportation 2035, and in order to meet the PROJECT cost of $3.2 billion, BART will cover approximately $0.8 billion, or about 25%, of PROJECT costs. BART will dedicate $150 million of its High Speed Rail funds to the PROJECT, and BART will either direct future BART-controlled revenue, such as State Transit Assistance Revenue-Based funds, after meeting revenue sharing and coordination expenses, or raise additional funds through General Obligation bonds, parcel taxes, fare increases or other means to help fund its share of PROJECT costs and/or fixed guideway needs.

If necessary, BART can meet this commitment, in whole or in part, by funding a larger share of its fixed guideway capital needs, and reducing the need for regional investments in BART's fixed guideway needs below the level currently projected in Transportation 2035.

5. Funding Commitment Timeframe
The total PROJECT will be funded in two phases as described in Table 1. MTC and BART agree to commit to fully funding the Phase 1 Funding Plan as described in Attachments B-1 and B-2.

The funding framework and assumptions for the Phase 2 Funding Plan, including BART and MTC shares, will be reconfirmed in the next regional transportation plan, currently planned for adoption in 2013.

A firm funding commitment for the Phase 2 Funding Plan should be established by 2015, in advance of BART's anticipated exercise of the first contract option in 2017.

Table 1. BART Car Replacement Project Preliminary Funding Plan
$ millions, escalated

	No. of cars	Cost Estimate		Proposed Approximate Funding Participation		Proposed Approximate % Shares	
		T2035	Current*	Regional	BART	Regional %	BART %
Total Project	669	$2,697	$3,222	$2,416	$805	75%	25%
Phase 1	200		1,026	871	155	85%	15%
Phase 2	469		$2,196	$1,545	$651	70%	30%

* Current cost estimate for Total Project derived from BART's current estimate for 700 cars of $3,371 million by prorating (669/700).

ATTACHMENT B-1

PHASE 1 FUNDING PLAN ASSUMPTIONS

Background and Prior Actions
BART expects the first phase of the funding plan (PHASE 1 FUNDING PLAN) for the PROJECT to pay for approximately 200 rail cars. BART currently estimates the escalated cost of the PHASE 1 FUNDING PLAN for the PROJECT to be approximately $1 billion over the period fiscal years 2008 through 2023.

Pursuant to MTC Resolution No. 3738, Revised, MTC has previously approved approximately $90.7 million in Surface Transportation Program funds (STP) in Fiscal Years 2006, 2007, 2008 and 2009 which have been the subject of a fund exchange and placed in the BART Car Replacement Funding Exchange Account to be used for the PROJECT.

Pursuant to MTC Resolution No. 3854, Revised, MTC has previously programmed approximately $12.6 million in Federal Transit Administration (FTA) Fixed Guideway Modernization Program funds for the PROJECT in FY 2009.

BART has previously provided $4.6 million in funding for pre-construction activities for the PROJECT.

10-Year Regional Capital Improvement Program (CIP)
MTC will participate in the PHASE 1 FUNDING PLAN for the PROJECT by programming funding in fiscal years 2011 through 2019.

In 2009, MTC completed a ten-year Regional Capital Improvement Program (CIP) for the period FY2010 through 2019, including projections of Score 16 transit capital needs based on data from the Regional Transit Capital Inventory and transit capital revenues based on the revenue projections included in Transportation 2035.

The CIP identified Score 16 capped transit needs of $4.1 billion for all Bay Area transit operators, and assumed $4.1 billion in federal formula transit and highway funds would be available toward all Bay Area transit capital replacement and rehabilitation needs over the ten-year period.

Phase 1 Funding Plan Assumptions
The CIP assumed approximately $730 Million in FTA formula funding toward the PHASE 1 FUNDING PLAN between FY 2010 and FY 2019.

The PHASE 1 FUNDING PLAN assumes that any FTA programming not needed for direct project expenditures in the year of programming will be exchanged for BART funds, which will be deposited in the BART Car Replacement Funding Exchange Account (as with the STP funds).

The PHASE 1 FUNDING PLAN assumes that a combination of earnings credited to the BART Car Replacement Funding Exchange Account and, if earnings are insufficient, additional programming of STP or other funding sources will provide $50 million for the PHASE 1 FUNDING PLAN.

The PHASE 1 FUNDING PLAN assumes that state High Speed Rail Connectivity funds will be available to BART to meet their $150 million contribution between FY 2011 and FY 2017.

ATTACHMENT B-2

PHASE 1 FUNDING PLAN FOR BART CAR REPLACEMENT PROGRAM

$000

Funding Source	Prior to FY10	FY10 - FY19	Total
MTC Funding			
FTA Formula Programs	12,565	717,435	730,000
FHWA Regional Discretionary Programs*	90,726	50,274	141,000
Subtotal MTC Funding	103,291	767,709	871,000
BART Funding			
BART High Speed Rail Funds		150,000	150,000
Other BART Funds	4,600		4,600
Subtotal BART Funding	4,600	150,000	154,600
Total Funding	107,891	917,709	1,025,600

* Funding from FHWA Regional Discretionary Programs includes BART funds deposited and earnings credited to the BART Car Replacement Funding Exchange Account.

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