

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

April 23, 2009
9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, April 23, 2009, commencing at 9:00 a.m. These meetings shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20 th Street Mall – Third Floor 344 – 20 th Street Oakland, CA 94612	The Portman Ritz-Carlton 1376 Nanjing Xi Road Shanghai, 200040, People's Republic of China
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Members of the public may address the Board of Directors and Standing Committees regarding any matter on these agendas. Please complete a "Request to Address the Board" form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under General Discussion and Public Comment.

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, at the address above.

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.
 - i. San Francisco Fire Chief Peter Howes: Recognition of BART Police Department Personnel: Officer Alex Casadonte and Officer Marc Brooks. (Director McPartland's request.) For information.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of April 9, 2009.* Board requested to authorize.
- B. Procurement of Replacement Service Vehicles.* Board requested to authorize.
- C. Award of Contract No. 15QC-140, Refurbish Parking Lots at Orinda and North Berkeley Stations.* Board requested to authorize.

RECESS TO STANDING COMMITTEES

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

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Murray, Chairperson

- A-1. Agreement for BART Police Department Comprehensive Review Services (Agreement No. 6M2019).* Board requested to authorize.
- A-2. Approval of Office Lease for M-Line Transportation and System Service Department Operations.* Board requested to authorize.
- A-3. (CONTINUED from April 9, 2009, Administration Committee Meeting)
Fiscal Year 2010 Preliminary Budget Overview.* For information.

- A-4. Oakland Airport Connector Project.*
- a. Funding Plan. For information.
 - b. Resolution of Local Support for Federal American Recovery and Reinvestment Act of 2009 Transit Funding. Board requested to adopt.
 - c. Certification of Savings from the Transbay Tube Seismic Retrofit Project and Request to Redirect Savings to the Project. Board requested to adopt.
 - d. Application for Transportation Infrastructure Finance and Innovation Act of 1998 Loans for the Project. Board requested to adopt.

A-5. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Award of Contract No. 03NN-110, Central Contra Costa County Crossover Project.* Board requested to authorize.
- B-2. Award of Contract No. 11OG-110, Balboa Park Station West Side Entrance and Walkway.* Board requested to authorize.
- B-3. East Contra Costa BART Extension Project (eBART).*
- a. Certification of the Final Environmental Impact Report.
 - b. Approval of the Recommended Project.
 - c. Adoption of Findings, Facts in Support of Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan.
 - d. Implementation Actions Including Acquisition of Property for Project.
 - e. Execution of Caltrans and Utility Agreements in connection with the Project.
- Board requested to authorize.

B-4. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Immediately following the Engineering and Operations Committee Meeting

Director Sweet, Chairperson

- C-1. (CONTINUED from April 9, 2009, Administration Committee Meeting)
Approval of Concession Permit to Manage and Operate District's Parking Permit Program.* Board requested to authorize.
- C-2. Approval of a Commercial Lease for Downtown Berkeley / BART Station Bicycle Facility.* Board requested to authorize.
- C-3. General Discussion and Public Comment.

RECONVENE BOARD MEETING

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Agreement for BART Police Department Comprehensive Review Services (Agreement No. 6M2019).* Board requested to authorize.
- A-2. Approval of Office Lease for M-Line Transportation and System Service Department Operations.* Board requested to authorize.
- A-3. (CONTINUED from April 9, 2009, Administration Committee Meeting) Fiscal Year 2010 Preliminary Budget Overview.* For information.
- A-4. Oakland Airport Connector Project.*
 - a. Funding Plan. For information.
 - b. Resolution of Local Support for Federal American Recovery and Reinvestment Act of 2009 Transit Funding. Board requested to adopt.
 - c. Certification of Savings from the Transbay Tube Seismic Retrofit Project and Request to Redirect Savings to the Project. Board requested to adopt.
 - d. Application for Transportation Infrastructure Finance and Innovation Act of 1998 Loans for the Project. Board requested to adopt.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Award of Contract No. 03NN-110, Central Contra Costa County Crossover Project.* Board requested to authorize.
- B-2. Award of Contract No. 11OG-110, Balboa Park Station West Side Entrance and Walkway.* Board requested to authorize.
- B-3. East Contra Costa BART Extension Project (eBART).*
 - a. Certification of the Final Environmental Impact Report.
 - b. Approval of the Recommended Project.
 - c. Adoption of Findings, Facts in Support of Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan.
 - d. Implementation Actions Including Acquisition of Property for Project.
 - e. Execution of Caltrans and Utility Agreements in connection with the Project.Board requested to authorize.

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

- C-1. (CONTINUED from April 9, 2009, Administration Committee Meeting)
Approval of Concession Permit to Manage and Operate District's Parking Permit Program.* Board requested to authorize.
- C-2. Approval of a Commercial Lease for Downtown Berkeley / BART Station Bicycle Facility.* Board requested to authorize.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. Report of the BART Police Department Review Committee. For information.
- B. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LABOR NEGOTIATORS:

Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy, Assistant General Manager – Administration; M. Carol Stevens, Burke, Williams & Sorensen, LLP

Employee Organizations: (1) Amalgamated Transit Union, Local 1555;
(2) American Federation of State, County and Municipal Employees, Local 3993;
(3) BART Police Officers Association;
(4) BART Police Managers Association;
(5) Service Employees International Union, Local 1021; and
(6) Service Employees International Union, Local 1021, BART Professional Chapter

Government Code Section: 54957.6

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Johnson et al. vs. BART

Government Code Section: Subdivision (a) of Government Code Section 54956.9



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Delaney</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 4/16/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept:	General Counsel <i>Andrew Rivas</i> 4/13/09	Controller/Treasurer <i>[Signature]</i> 4/13/09	District Secretary	BARC <i>Paul [Signature]</i> 4/16/09
Signature/Date:				
Status: Routed		Date Created: 02/10/2009		

TITLE:

Procurement of Replacement Service Vehicles

NARRATIVE:

PURPOSE

To authorize the General Manager to purchase replacement non-revenue service vehicles consisting of police sedans and light, medium, and heavy duty maintenance trucks and vans through the State's cooperative bid process.

DISCUSSION

These vehicles will directly replace an equal number of like vehicles throughout the District which have exceeded their serviceable life expectancy, in accordance with District guidelines. Retired vehicles are removed from the fleet and sold at auction. The new vehicles will be used by a variety of Departments for routine and emergency maintenance and other District business as required throughout the Bay Area.

California Government Code Section 54205 allows districts, such as BART, to request the California Department of General Services to make procurement of materials, equipment, and/or supplies on its behalf in accordance with Section 10298 of the Public Contract Code. Section 10298 also permits the Director of the California Department of General Services to consolidate the needs of its agencies for goods, information technology, and services and establish contracts, master agreements, multiple award schedules, cooperative agreements, and other types of agreements that leverage the State of California's buying power. In addition, the Department of General Services may make its services available, upon the same terms and conditions, to any district empowered to expend public funds for the acquisition of goods, information technology, and/or services. Districts may then enter into agreements, without further competitive bidding, with suppliers awarded contracts, master agreements, multiple award schedules, and cooperative agreements by the Department of General Services. These vehicles are now available from a variety of dealerships throughout Northern California determined by the State's procurement office to be the low bidder for their respective vehicles. It is recommended that orders be placed as early in the process as possible to ensure availability. Dealerships qualified by the State include those typically solicited by the District through its own procurement process. Historically, the District has achieved significant cost savings by procuring automotive vehicles through the State of California. Because the State (including local government agencies that purchase through the State's competitive bid process) purchases a substantially greater volume of vehicles, the cost of vehicles procured through the State is expected to be lower than what the

District could attain through its own contracting procedures. Additionally, cost savings are also achieved from a significant reduction in District labor hours required to process the State bid, as compared to the time required for in-house bid procedures.

Currently it is anticipated that the District will purchase about 5 police sedans, 14 passenger and crew vans, 4 hybrids and 37 light, medium and heavy duty pickup type trucks. These numbers are estimates and the mix might change somewhat due to immediate District needs.

FISCAL IMPACT

Funding of \$900,000 for purchase of non revenue vehicles is included in the total project budget for the FMS #79BJ - Replace Non Revenue Vehicles. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

FY07 - 11 Capital Allocation

51W

\$1,188,000

As of month ending 3/29/09, \$1,188,000 is available for commitment from this fund source for this project, and BART, to date, has committed \$0. There is \$0 pending commitment in BART's financial management system. This action will commit \$900,000, leaving an uncommitted balance of \$288,000 in this fund.

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

ALTERNATIVE

Non-revenue vehicles are essential to the safe and reliable operation of the District. Although these vehicles could be purchased through the District's Procurement Office, it is anticipated that the cost would be greater and the time required for procurement would be significantly increased. To not approve this purchase, will increase the mileage and use of vehicles already due for replacement significantly beyond the limits established by District guidelines. Use of vehicles beyond the recommended retirement criteria increases maintenance expenditures and vehicle unscheduled down time.

RECOMMENDATION

It is recommended that the Board adopt the following motion.

MOTION

The General Manager is authorized, pursuant to Government Code Section 54205 and Public Contract Code Section 10298, to purchase replacement non-revenue service vehicles through State of California Department of General Services contracts for an amount not to exceed \$900,000.00, including applicable taxes.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: DATE: 4/16/09		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board	
Originator/Prepared by: Ersten Y Imaoka Dept: M & E Signature/Date: 4/15/09		General Counsel: 4/16/09	Controller/Treasurer: 4-16-09
District Secretary: 4/16/09		BOARD INITIATED ITEM: No	

Status: Routed	Date Created: 04/08/2009
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TITLE:

Award Contract No. 15QC-140, Refurbish Parking Lots at Orinda and North Berkeley Stations

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15QC-140, Refurbish Parking Lots at Orinda and North Berkeley Stations, to Galeridge Construction.

DISCUSSION: The Work of this Contract includes furnishing all labor, equipment, materials and services required for refurbishing parking lots at Orinda and North Berkeley Stations.

Advance Notice to Bidders was mailed on March 2, 2009 to 92 prospective Bidders. Contract Books were mailed to 17 plan rooms and minority assistance organizations. The Contract was advertised on March 5, 2009. A Pre-Bid meeting was conducted on March 26, 2009, with 22 prospective Bidders attending the meeting. The following 14 Bids were received on April 7, 2009:

BIDDER	LOCATION	TOTAL BID
Dun-Rite Excavating, Inc.	Livermore	\$1,746,987
Galeridge Construction	Alviso	\$1,784,108
O.C. Jones & Sons, Inc.	Berkeley	\$1,818,100
MCK Services, Inc.	Concord	\$1,829,011
Bay Cities Paving & Grading	Concord	\$1,835,600
Jos. J. Albanese, Inc.	Santa Clara	\$1,853,350
Top Grade Construction	Livermore	\$1,875,480
Interstate Grading & Paving	South San Francisco	\$1,877,300
B & B Grading & Paving	Concord	\$1,901,936
Gallagher & Burk, Inc.	Oakland	\$2,130,500
Granite Construction Co.	Santa Clara	\$2,159,850
Duran & Venables	Milpitas	\$2,162,600
C.F. Archibald Paving, Inc.	Redwood City	\$2,265,060
Ghilotti Bros., Inc.	San Rafael	\$2,267,709
ENGINEER'S ESTIMATE		\$2,098,600

After review by District staff, the Bid submitted by the apparent low Bidder, Dun-Rite Excavating, Inc., was deemed to be non-responsive because it failed to identify the portion of Work by first-tier Subcontractors performing in excess of 1/2 of 1% of the Work, as required under Public Contract Code Section 4104. The Bid submitted by the apparent second low Bidder, Galeridge Construction, was found to be responsive. Furthermore, a review of this Bidder's license, business

experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has also determined that its Bid of \$1,784,108, which is approximately 15% below the Engineer's Estimate, is fair and reasonable.

Staff has determined that this Work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations Section 15301 Existing Facilities, because it consists of the repair and minor alterations of an existing facility involving no expansion of use.

FISCAL IMPACT: Funding for this \$1,784,108 Contract award is included in the total project budget for 15QC, Repave 3 Station Parking Lots. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost \$1,784,108 will be funded as follows:

Local	\$1,740,533
Federal	\$ 43,575
Total	\$1,784,108

As of the month ending March 29, 2009, the following funding is available for commitment from these sources:

Fund Grant	Funds Available	Committed	Pending Commitments	Funds Allocated to this EDD	Funds Remaining
01C-Local	\$ 2,806	\$ 0	\$ 0	\$ 2,806	\$ 0
40B-Local	\$ 29,380	\$ 0	\$ 0	\$ 29,380	\$ 0
50W-Local	\$1,009,026	\$ 150,000	\$300,000	\$ 559,026	\$ 0
50Z-Local	\$1,915,375	\$1,543,638	\$ 0	\$ 256,281	\$115,456
51W-Local	\$3,614,558	\$2,308,000	\$ 0	\$ 893,040	\$413,518
52U-Federal	\$ 43,575	\$ 0	\$ 0	\$ 43,575	\$ 0
TOTALS	\$6,614,720	\$4,001,638	\$300,000	\$1,784,108	\$528,974

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE: The alternative is to reject all Bids, which will result in deferral of pavement rehabilitation, further deterioration of the pavement surfaces, and more extensive and costlier repairs in the future.

RECOMMENDATION: Adoption of the following motion:

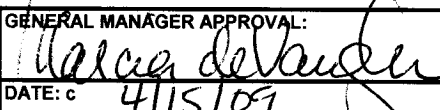

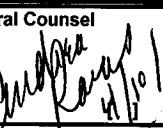

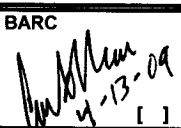
MOTION: The General Manager is authorized to award Contract No. 15QC-140, Refurbish Parking Lots at Orinda and North Berkeley Stations, to Galeridge Construction, for the Bid price of \$1,784,108, pursuant to notification to be issued by the General Manager and subject to the District's and FTA's requirements related to protests.

MEMORANDUM

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:	
DATE: c 4/15/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Patricia Schuchardt Dept:  Signature/Date: 4/10/09	General Counsel  4/10/09	Controller/Treasurer  4/10/09	District Secretary [] BARC  4-13-09 []

TITLE:

M-LINE LEASE FOR OFFICE SPACE - One Post Street, San Francisco

NARRATIVE:

PURPOSE:

To authorize the General Manager, or her designee, to enter into a lease with Glenborough One Post, LLC and Crocker Plaza Company (Landlord) for approximately 2,576 square feet of office space at One Post Street, San Francisco, for a six-year term commencing May 1, 2009.

DISCUSSION:

In August, 2004, the District entered into a lease for office space of approximately 2,877 square feet with R.C. Market Holdings, L.P. at 660 Market Street, San Francisco, which property was later sold to Union Capitol Property, LLC. The lease was for a five-year term commencing September 1, 2004 and expiring August 31, 2009. The current annual lease payment, plus operating expenses at 660 Market Street, is \$95,760.

The BART Transportation Department utilizes the space, which is located on the fourth floor of the building, for the M-Line Offices. A total of 15 staff are located there, including the Assistant Chief Transportation Officer, M-Line Manager, Senior Operations Supervisors, Operations Supervisors, System Service and Line Foreworkers. The office is occupied 24/7 for 3 shifts of employees.

BART Real Estate staff initially looked at nine different locations for a suitable new office space. Five spaces were further evaluated, based on District criteria. One Post Street was determined to be the location that best fit within the budget and criteria for the work location.

The commencement date of the lease term will be May 1, 2009, and it will expire on April 30, 2015. The first four months' rent on the premises is free.

The new annual lease payment for the first year of the term will be approximately \$37.00 per square foot per year (including operating expenses and amortization of a portion of the tenant improvements) with a \$1.00 per square foot increase every year, for five years.

The first year rent, including operating expenses and amortization of a portion of tenant improvements (with the first four months free), will be \$62,804. The rent for the remaining five years will be as follows:

M-LINE LEASE FOR OFFICE SPACE - One Post Street, San Francisco

Second year	\$96,782
Third year	\$99,358
Fourth year	\$101,934
Fifth year	\$104,510
Sixth year	\$107,086
Total	\$572,474

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

FISCAL IMPACT:

Funding for the rent payments during the first year are included in the FY10 Preliminary Budget for the Real Estate Department.

ALTERNATIVES:

Do not lease this space and extend on a month-to-month basis at the current location and search for another space.

RECOMMENDATION:

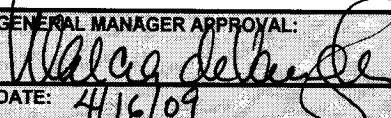

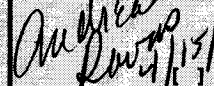
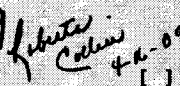

Adopt the following motion:

MOTION:

That the General Manager, or her designee, is authorized to execute a lease agreement with Glenborough One Post, LLC and Crocker Plaza Company (Landlord) for 2,576 square feet of office space at One Post Street, San Francisco for a six-year term for a total rental amount, including operating expenses, not to exceed \$572,474.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 4/16/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Alan Lee Dept: Capital Development Signature/Date:  4/15/09	General Counsel  4/15/09	Controller/Treasurer  4-15-09	District Secretary []	BARC  4/15/09
Status: Routed		Date Created: 04/10/2009		

TITLE:

Three Resolutions In Support of the Full Funding Plan for the Oakland Airport Connector Project

NARRATIVE:

Purposes:

- 1) To obtain BART Board approval of a Resolution of Local Support for \$70 million of Federal American Recovery and Reinvestment Act of 2009 ("ARRA") funding and stating assurances to implement the Oakland Airport Connector ("OAC") Project. The BART Board is being asked to adopt a Resolution of Local Support for submission to the Metropolitan Transportation Commission ("MTC") as a prerequisite to receipt of \$70 million in ARRA funding.
- 2) To obtain BART Board approval of a Resolution supporting proposed action by MTC to reassign \$50 million to the OAC Project, as those funds are no longer needed for the Transbay Tube Seismic Retrofit Project.
- 3) To obtain BART Board approval of a Resolution Authorizing BART Staff to Investigate and Apply for TIFIA Loans not-to-exceed \$150 million toward the Financing and Completion of the OAC Project.

Discussion:

- 1) Resolution of Local Support for American Recovery and Reinvestment Act ("ARRA") Allocation of \$70 Million to OAC.

The ARRA includes \$48 billion for the Department of Transportation. Specifically, the ARRA includes \$27.5 billion in Federal Highway Administration (FHWA) funding and \$8.4 billion in Federal Transit Administration ("FTA") funds. It is estimated that the MTC will receive roughly \$150 million through the Surface Transportation Program sub-allocated program and \$340 million in Federal Transit Administration formula funds. Of the Regional amount of \$340 million, BART is programmed to receive \$70 million for the Oakland Airport Connector Project ("Project").

MTC requires Project Sponsors/Implementing Agencies to submit a Resolution of Local Support approved by the Project Sponsor/Implementing Agency's Board. Staff has prepared the attached Resolution of Local Support for adoption by the BART Board of Directors to meet the MTC requirement for the \$70 million in ARRA funding for the OAC Project.

2) Resolution Confirming a \$50 million cost savings from the Transbay Tube Seismic Retrofit Project and Request MTC to Reassign the savings to the OAC Project.

The Transbay Tube Seismic Retrofit Project has an underrun of \$50 million in Regional Measure 2 ("RM2") Bridge Tolls and other funding that is under the control of the MTC. In Resolution No. 3885 the MTC proposed that \$50 million of cost savings from the Transbay Tube Seismic Retrofit Project be reassigned to the OAC Project. MTC can allocate the cost savings to any RM2 eligible project in the nine counties of the San Francisco Bay region.

3) Resolution Authorizing BART Staff to Investigate and Apply for TIFIA Loans not-to-exceed \$150 million toward the Financing and Completion of the OAC Project

The Controller Treasurer is currently performing financial modeling to evaluate BART debt financing and cash flow needs for the OAC Project. The modeling is based on conservative financial and ridership assumptions for the OAC Project. A low interest Transportation Infrastructure Finance and Innovation Act ("TIFIA") federal financing program is currently the best option. TIFIA is a Federal credit program for eligible transportation projects of national or regional significance under which the U.S. Department of Transportation ("US DOT") provides loans and credit assistance. Staff is investigating applying for a low interest rate loan not-to-exceed \$150 million from the TIFIA federal program. A Letter of Interest has been submitted to US DOT; however, BART has not filed an application.

The Controller Treasurer will continue to work on the financial modeling and OAC Debt Financing and continue to review alternatives to the TIFIA program should it become necessary or should another alternative be deemed more advantageous. It is anticipated that debt service will be covered by revenue generated through ridership that has been modeled at a conservative level. There is the potential, however, that revenue may fall short of projections necessitating supplementation from the General Fund. Staff will bring any proposal for BART Debt Financing, specifically a TIFIA loan or other debt financing mechanism, back to the BART Board for consideration prior to entering into any agreement.

Fiscal Impact:

Approval of the Resolution of Local Support is a requirement for the District to receive an allocation of ARRA funding from the MTC in the amount of \$70 million for OAC. Approval of the Resolution Confirming the Cost Savings, if MTC takes the requested action, will reassign \$50 million in cost savings from the Transbay Tube Retrofit Project to the OAC Project. It is anticipated that debt service for the Resolution Authorizing BART Staff to Investigate and Apply for TIFIA Loans not-to-exceed \$150 million toward the Financing and Completion of the Oakland Airport Connector Project will be covered by revenue generated by OAC ridership.

These actions have no fiscal impact on unprogrammed District Reserves.

Alternatives:

Do not approve the Resolution of Support. This will jeopardize BART's eligibility to receive \$70 million in federal ARRA funds.

Do not approve the Resolution Confirming a \$50 million cost savings from the Transbay Tube Seismic Retrofit Project and request MTC to reassign the cost savings to the OAC Project. These funds are under the control of MTC and MTC can either reassign these cost savings to OAC or reassign these cost savings to any RM2 eligible project(s) in the nine counties of the San Francisco Bay region.

Do not approve the Resolution Authorizing BART Staff to Investigate and Apply for TIFIA Loans not-to-exceed \$150 million toward the Financing and Completion of the Oakland Airport Connector Project.

Recommendation:

Adoption of the following motions:

Motions:

- 1) Approve the attached Resolution of Local Support for the Oakland Airport Connector Project authorizing the filing of an application for federal American Recovery and Reinvestment Act of 2009 funding and stating assurances to implement the Project; and
- 2) Approve the attached Resolution that the Board Certifies the cost savings from the Transbay Tube Seismic Retrofit Project, and the Request of the BART Board to MTC for redirection of said savings to the Oakland Airport Connector Project; and
- 3) Approve the attached Resolution Authorizing BART Staff to Investigate and Apply for TIFIA Loans not-to-exceed One Hundred Fifty Million Dollars toward the Financing and Completion of the Oakland Airport Connector Project.

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

**Resolution of Local Support
American Recovery and Reinvestment Act of 2009 (ARRA) Transit Funding**

**In the Matter of Authorizing the filing of an application
for federal American Recovery and Reinvestment Act
of 2009 (ARRA) funding and stating assurances to implement
the Oakland Airport Connector Project /**

Resolution No. _____

WHEREAS, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$70,000,000 for the Oakland Airport Connector Project (herein referred as PROJECT) for the MTC Regional ARRA Program (MTC Resolution No. 3885) (herein referred as PROGRAM); and

WHEREAS, pursuant to ARRA, and regulations and/or guidance promulgated thereunder, eligible project sponsors wishing to receive Regional ARRA funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, ARRA funds for transit projects are provided through Federal Transit Administration (FTA) Formula Programs (49 U.S.C. §53); and

WHEREAS, APPLICANT is an eligible project sponsor for FTA Section 5307, Section 5309 FG, or Section 5311 funds; and

WHEREAS, APPLICANT is an eligible project sponsor for ARRA funds; and

WHEREAS, as part of the application for ARRA funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) that APPLICANT understands that the ARRA funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional ARRA or other MTC-programmed funds; and
- 2) that PROJECT will comply with all project specific requirements as set forth in MTC's Regional ARRA Program (MTC Resolution No. 3885); and PROJECT is as described in the application, and if approved, as included in MTC's TIP; and
- 3) that PROJECT will comply with all the project specific requirements as set forth in the federal ARRA and applicable regulations or guidance.

NOW, THEREFORE, BE IT RESOLVED that APPLICANT is authorized to execute and file an application for funding under the ARRA for PROJECT; and be it further

RESOLVED that the APPLICANT by adopting this Resolution does hereby state that:

- 1 APPLICANT understands that the ARRA funding for the PROJECT is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional ARRA or MTC programmed funds other than those currently identified in the PROJECT'S baseline budget; and
- 2 APPLICANT understands the funding deadlines associated with these funds and will comply with the applicable provisions and requirements of the Regional ARRA Program (MTC Resolution No. 3885); and
- 3 PROJECT will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP; and
- 4 PROJECT will comply with all the project specific requirements as set forth in the ARRA and appropriate applicable regulations or guidance; and be it further

RESOLVED that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED that APPLICANT authorizes its General Manager, or designee to execute and file an application with MTC for ARRA funding for the PROJECT as referenced in this Resolution; and be it further

RESOLVED that a copy of this Resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED that the MTC is requested to support the application for the PROJECT described in the Resolution and to include the PROJECT, if approved, in MTC's TIP.

Adopted: _____

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

In the Matter of the Certification
of Savings from the Transbay Tube
Seismic Retrofit Project, and the
Request to redirect said Savings to the
Oakland Airport Connector Project /

Resolution No. _____

WHEREAS, the American Recovery and Reinvestment Act (ARRA) has made funds available toward the completion of the Oakland Airport Connector Project in concert with the infusion of other sources of funding; and

WHEREAS, it appears that the Transbay Tube Seismic Retrofit Project involving the Transbay Tube can be completed without consuming all the available funds (Thirty-Seven Million Dollars (\$37,000,000) in RM2 funding and Thirteen Million Dollars (\$13,000,000) in state funding) provided by the Metropolitan Transportation Commission (MTC); and

WHEREAS, MTC has requested that the BART Board of Directors confirm the underrun of costs (i.e. savings) by the Transbay Tube Seismic Retrofit Project in the amount of Fifty Million Dollars (\$50,000,000); and

WHEREAS, such an underrun of costs would permit the MTC to allocate the referenced funds toward alternative transportation projects; and

WHEREAS, the District wishes that said funds be redirected to the Oakland Airport Connector Project;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby certifies the existence of savings from the Transbay Tube Seismic Retrofit Project:

Upon staff's review of financial records, the District confirms that funds in the amount of Fifty Million Dollars (\$50,000,000) have been realized as savings from the estimated cost of the Transbay Tube Seismic Retrofit Project, and that this sum is available for other applications as may be determined by the MTC.

BE IT FURTHER RESOLVED, that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby requests that the MTC redirect all said savings toward the Oakland Airport Connector Project, and authorizes the General Manager to take all appropriate actions to facilitate such a transfer.

Adopted: _____

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

In the Matter of the Authorizing BART
Staff to Investigate and Apply for TIFIA
Loans not to exceed One Hundred
Fifty Million Dollars toward the
Financing and Completion of the
Oakland Airport Connector Project /

Resolution No. _____

WHEREAS, the Controller Treasurer is performing financial modeling to evaluate BART debt financing and cash flow needs for the Oakland Airport Connector (OAC) Project; and

WHEREAS, it appears that the pledged sources of funding will be unable to cover the full cost of the OAC Project; and

WHEREAS, the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) established a Federal credit program for eligible transportation projects of national or regional significance under the U.S. Department of Transportation (DOT) and provides three forms of credit assistance, including loans; and

WHEREAS, BART may be able to secure advantageous TIFIA loans from the Federal Government in an amount sufficient to complete the Project;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby authorizes BART staff to investigate and apply for TIFIA loans not-to-exceed One Hundred Fifty Million Dollars (\$150,000,000) on terms determined to be advantageous by the Controller/Treasurer. Staff will bring any proposal for a BART Debt Financing mechanism back to the Board of Directors for consideration prior to entering into any agreement.

Adopted: _____

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DelBue</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the April 23, 2009, E and O Committee Meeting		
DATE: 4/17/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Steve J Kappler Dept: M and E <i>Steve Kappler</i> Signature/Date: 4-17-09	General Counsel <i>Andrew K...</i> 4/17/09	Controller/Treasurer <i>Robert...</i> 4-17-09 []	District Secretary []	BARC <i>Paul Jensen</i> 4/17/09 []
Status: Routed		Date Created: 04/13/2009		
TITLE:				

AWARD OF CONTRACT 03NN-110 CENTRAL CONTRA COSTA COUNTY CROSSOVER

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 03NN-110, Central Contra Costa County Crossover

DISCUSSION: The Contract will install two new District furnished mainline crossovers between the Pleasant Hill and Walnut Creek Stations along the C-line. The Contract will also install District furnished train control equipment. In addition, two new 1000V traction power stations, new 34.5kV feeder cables and new communication systems will be furnished and installed.

The purpose of the crossovers is to provide the means to cross from one track to the other when presently there is none. As passenger loads have increased over more than 35 years of operation, this deficiency has not only proved to cause operational problems during a train failure and schedule recovery, but also means that the District must turn trains back towards San Francisco during morning and evening rush hours at Concord Station. The preferred, more efficient turn-back location is Pleasant Hill Station.

Advance Notice to Bidders was mailed out on July 3, 2008 to 172 prospective bidders. Contract Books were mailed to 19 plan rooms and two minority assistance organizations. The contract was advertised on July 11, 2008. A pre-bid meeting and site visit were held on July 29, 2008, with 16 firms attending. In all, 67 sets of bid documents were sold to prospective bidders. Two bids were received and opened on September 9, 2008. The bids received and the Engineer's Estimate are indicated below:

Bidders	Total Bid Amount
1. Shimmick Construction Co. Inc. / Balfour Beatty Rail Services, Inc. a Joint Venture, Oakland, California	\$27,860,000
2. Stacy and Witbeck, Inc., Alameda, California	\$29,966,400
Engineer's Estimate	\$20,921,000

The apparent low bidder, Shimmick/Balfour Beauty Rail Services, Inc., a Joint Venture (Shimmick/Balfour Beatty) submitted a bid that is 33% higher than the Engineer's Estimate. After review, District staff has determined that the total price of \$27,860,000 submitted by Shimmick/Balfour

Beatty, is fair and reasonable. Staff has also determined that the bid of Shimmick/Balfour Beatty is responsive to the solicitation. Furthermore, a review of the bidder's business experience and financial capabilities has resulted in a determination that the bidder is responsible.

ENVIRONMENTAL IMPACT: Pursuant to the California Environmental Quality Act (CEQA), BART prepared a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Crossover Project which was approved by the BART Board of Directors in March 2006. BART recently determined that the project is eligible for federal funding under a Department of Transportation/Federal Transportation Agency (FTA) American Recovery and Reinvestment Act of 2009 (ARRA) grant, which requires that the action be eligible for a categorical exclusion in compliance with the National Environmental Protection Act (NEPA), as specified in FTA's federal policy guidelines in 23CFR771 (c) and (d). BART has determined that the Crossover Project qualifies for a Class II (c) exemption for track and railbed maintenance /improvements when carried out within the existing right of way (c-18) and has applied for the grant funds.

Fiscal Impact:

Funding for the \$27,860,000 for award of Contract 03NN-110 is included in the project budgets for: a) 03NN, Central Contra Costa Crossover, \$24,610,000 and b) 15EJ, Traction Power, \$3,250,000.

03NN:

Federal Stimulus Funds

\$13,000,000

The District recently applied for and was granted an ARRA Grant in the amount of \$65,368,239 of which \$13,000,000 is designated for project 03NN. Execution of the ARRA Grant Agreement is anticipated within the next 30 days. The award of the Contract will be issued only after the Controller-Treasurer has certified that funds are available for this contract.

03NN:

RM2 - Regional Traffic Relief Plan

61T

\$11,610,000

As of the month ending 03/29/09, \$25,000,000 is available for commitment from Fund Source 61T for project 03NN, and \$9,705,555 has been committed by BART to date. There is \$10,000 in pending commitments in BART's Financial Management System. This action will commit \$11,610,000, leaving an uncommitted balance of \$3,674,445 in this fund source.

15EJ:

FTA CA-90-Y541

52Z

\$ 3,250,000

As of the month ending 03/29/09, \$4,703,654 is available for commitment from Fund Source 52Z for Project 15EJ, and \$0.00 has been committed by BART to date. There are no pending commitments in BART's Financial Management System. This action will commit \$3,250,000, leaving an uncommitted balance of \$1,453,654 in this fund source.

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

ALTERNATIVES: The alternative is not to award the contract and risk loss of the ARRA Grant Funds. If the contract is not awarded, BART will continue to operate the C-line in its present state of turning trains back towards San Francisco at Concord Station in lieu of the desired location at Pleasant Hill Station.

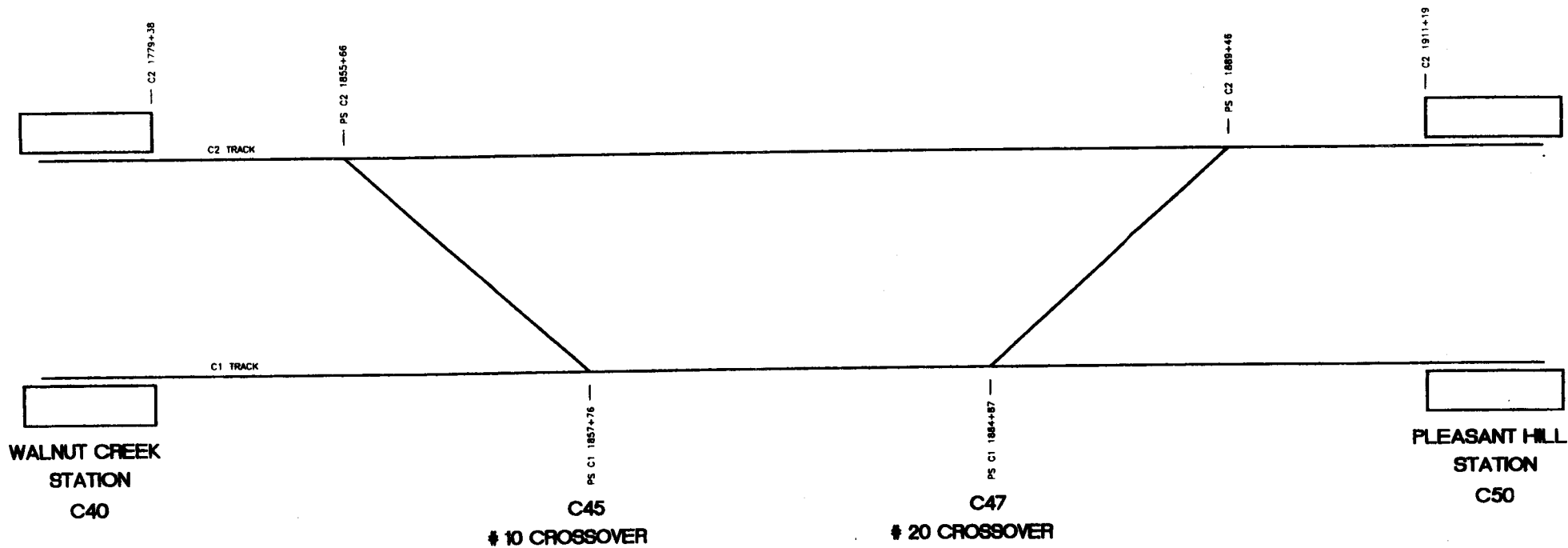
RECOMMENDATION: That the Board adopt the following motion:

MOTION:

Upon certification by the Controller Treasurer that American Recovery and Reinvestment Act of 2009 (ARRA) funds are available for this contract, the General Manager is authorized to award Contract 03NN-110, Central Contra Costa County Crossover, to Shimmick Construction Co. Inc. / Balfour Beatty Rail Services, Inc., a Joint Venture, for the bid price of \$27,860,000 pursuant to notification to be issued by the General Manager and subject to District's protest procedures and FTA's requirements related to protest procedures.


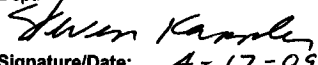
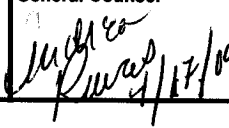
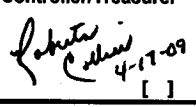

CENTRAL CONTRA COSTA COUNTY CROSSOVER PROJECT

TRACKWORK CONFIGURATION





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the April 23, 2009, E and O Committee Meeting	
DATE: 4/17/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Steve J Kappfer Dept:  Signature/Date: 4-17-09	General Counsel  4/17/09	Controller/Treasurer  4-17-09 []	District Secretary [] BARC  4/17/09
Status: Routed		Date Created: 04/13/2009	

TITLE:

AWARD OF CONTRACT 11OG - 110 BALBOA PARK STATION WEST SIDE ENTRANCE AND WALKWAY

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 11OG-110, Balboa Park Station West Side Entrance and Walkway.

DISCUSSION: The Contract will provide a new 1200 square foot mezzanine level constructed with light steel trusses and concrete. A new entrance will be cut into the existing concrete perimeter parapet wall.

Exterior to the station will be a new entrance plaza, concrete retaining wall, security cameras, lighting and an ADA accessible concrete ramp up to Ocean Avenue. A new metal emergency exit staircase will also be provided.

Advance Notice to Bidders was mailed out on July 3, 2008 to 172 prospective bidders. Contract Books were mailed to 19 plan rooms and two minority assistance organizations. The Contract was advertised on July 11, 2008. A pre-bid meeting and site visit were held on July 30, 2008, with six firms attending. In all, 18 sets of bid documents were sold to prospective bidders. Six bids were received and opened on August 26, 2008. The bids received and the Engineer's Estimate are indicated below:

Bidders Bid	Location	Total Amount
1. Cal Pacific Construction Inc.	Pacifica, CA	\$2,352,639 *
2. West Bay Builders, Inc.	Novato, CA	\$2,832,000 **
3. Taber Construction	Martinez, CA	\$3,097,000
4. William P. Young Construction, Inc.	San Leandro, CA	\$3,101,525
5. Con-Quest Contractors, Inc.	San Francisco, CA	\$3,125,000
6. Alpha Bay Builders, Inc.	San Francisco, CA	\$3,433,015
Engineer's Estimate		\$2,690,000

* Bidder permitted to withdraw due to "calculation error"

** Corrected for arithmetical error

The apparent low bid at the time of bid opening was submitted by Cal Pacific Construction Inc. of Pacifica, California. Pursuant to Article 12 of the Instructions to Bidders, if a bidder makes a mistake in its bid, it is the responsibility of the Bidder to give the District a written notice of the mistake within five (5) calendar days after the opening of the Bids. The notice shall specify in detail how the mistake occurred. Cal Pacific Construction was relieved of its bid after it submitted timely written notice of a material mistake in filling out the bid.

The bid form submitted by West Bay Builders, Inc., the apparent second low bidder at the time of award, contained a discrepancy between the sum of the individual Item Totals (\$2,832,000) and the amount the Bidder indicated for the Total Amount Bid (\$2,813,000). Pursuant to the instructions in the bid documents, where there is such a discrepancy, the amount of the bid is determined by the sum of the Item Totals, in this case \$2,832,000.

The bid submitted by West Bay Builders, Inc., is responsive to the solicitation and is 5% higher than the Engineer's Estimate. After review, District staff has determined that the total bid price of \$2,832,000 submitted by West Bay Builders is fair and reasonable. Furthermore, a review of the bidder's business experience and financial capabilities has resulted in a determination that the bidder is responsible.

ENVIRONMENTAL IMPACT: The project is exempt from California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines section 15301 ("Existing Facilities"), which provides a categorical exemption for minor alterations of existing facilities involving negligible or no expansion of use. BART filed a Notice of Exemption with the City and County of San Francisco on April 5, 2005. The Notice cited categorical exclusion 15301(c) which provides for modification of existing facilities to meet current standards of public health and safety.

FISCAL IMPACT: Funding for the \$2,832,000 for award of Contract 110G-110 is included in the project budget for 110G, Balboa Park Station Westside Entrance and Walkway.

110G:

Federal Stimulus Funds

\$2,000,000

The District recently applied for and was granted an American Recovery and Re-investment Act of 2009 (ARRA) grant in the amount of \$65,368,239 of which \$2,000,000 is designated for project 110G. Execution of the ARRA Grant Agreement is anticipated within the next 30 days. The award of the contract will be issued only after the Controller / Treasurer has certified that funds are available for this contract.

110G:

Federal Funds from ADA Program

52T

\$832,000

As of the month ending 3/29/09, \$1,080,199 is available for commitment for fund source 52T and \$79,081 has been committed by BART to date. There are no pending commitment in BART's financial system. This action will commit \$832,000, leaving an uncommitted balance of \$169,118.

ALTERNATIVES: The alternative is not to award the contract and risk loss of the ARRA Grant Funds. If the contract is not awarded, there will be no ADA accessible access to the station from Ocean Avenue.

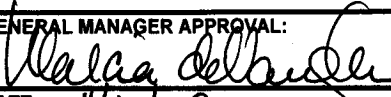
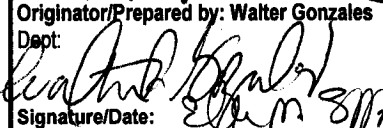
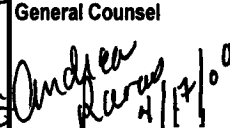
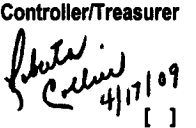
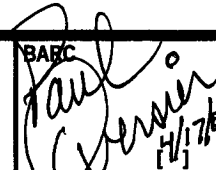

RECOMMENDATION: That the Board adopt the following motion:

MOTION:

Upon certification by the Controller-Treasurer that American Recovery and Reinvestment Act of 2009 (ARRA) funds are available for this contract, the General Manager is authorized to award Contract 11OG-110, Balboa Park Station Westside Entrance and Walkway to West Bay Builders, Inc., for the bid amount of \$2,832,000 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c 4/17/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Walter Gonzales Dept: 	General Counsel 	Controller/Treasurer 	District Secretary []	BART 
Signature/Date:  4/17/09				

TITLE:

ADOPT THE EAST CONTRA COSTA BART EXTENSION (eBART PROJECT)

NARRATIVE:

PURPOSE

1. Obtain Board action on the BART East Contra Costa BART Extension (eBART Project).
2. Certify the Final Environmental Impact Report for the eBART Project.
3. Adopt Findings, Facts in Support of Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan for the eBART Project.
4. Authorize the General Manager or her designee to proceed with implementation actions, including acquisition of property as funding is identified.
5. Authorize the General Manager or her designee to execute Caltrans Agreements and Utility Agreements in connection with the eBART Project in a cumulative amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000).

DISCUSSION

Background: In 2000, the Contra Costa Transportation Authority (CCTA) and BART formed a partnership to conduct the State Route 4 (SR 4) East Corridor Transit Study, which covered an approximately 23-mile corridor from Pittsburg in the west to the unincorporated communities of Byron and Discovery Bay in the east. The feasibility study looked at a full range of bus and rail transit improvements in the corridor. The study was one of BART's first efforts to comply with and implement the System Expansion Policy process outlined in the BART Strategic Plan, and was marked by a high degree of collaboration between BART and local policy makers. When the study was completed in 2002, the Policy Advisory Committee for the feasibility study made a unanimous recommendation to advance a transit system into east Contra Costa County based on a rail technology using independently propelled rail cars known as Diesel Multiple Units or DMUs. This fuel-efficient technology uses rail cars that have engines that burn low sulfur diesel fuel that meets state and federal air emission standards.

Also in 2002, BART and CCTA agreed to move forward with the environmental analysis and preliminary engineering for the proposed extension into east Contra Costa County. The proposed plan called for an extension of transit service approximately 23 miles east of the existing BART terminus in Pittsburg in order to provide additional service to the City of Pittsburg and direct service to the communities of Antioch, Oakley, Brentwood, and Byron/Discovery Bay. The original alignment for the new trains followed the median of SR 4 from the existing Pittsburg/Bay Point Station to Loveridge Road and then along Loveridge Road to connect to Byron/Discovery Bay via the Union Pacific Railroad (UPRR) Mococo Line. Approximately six stops were included as a part of this plan. While the need for the extension was based on the results of the prior studies and the existing traffic conditions, the cost for implementing such improvements presented obstacles for implementation. In addition, the planned alignment on the UPRR right of way proved not to be available on reasonable terms. Accordingly, the project as now recommended by BART staff consists of the first two stations that were originally proposed in Pittsburg and Antioch, on an alignment within the SR 4 median.

In 2004, Bay Area voters passed Regional Measure 2, which raised bridge tolls in the San Francisco Bay

Area and Measure J in Contra Costa County, which continued a local quarter-cent sales tax increase, both for the purpose of relieving traffic congestion. On March 23, 2005, the Metropolitan Transportation Commission (MTC) approved the use of funds from Regional Measure 2 for additional study of transit service improvements in the SR 4 corridor in east Contra Costa County. On August 3, 2005, a Memorandum of Understanding (MOU) was signed by the Cities of Pittsburg, Antioch, Brentwood, Oakley, the County of Contra Costa, CCTA, East Contra Costa Transit Authority (Tri Delta Transit), and BART in connection with the goal of bringing high quality rapid transit service to east Contra Costa County. As part of the MOU, the cities took direct responsibility for the development and implementation of Ridership Development Plans (RDPs) at each of the six proposed stations along the east Contra Costa County corridor. It is this regional directive that has enabled further planning, design, and environmental review of the eBART Project.

Despite regional support for the 23-mile eBART expansion, the feasibility of implementing construction of the entire corridor is limited under current funding conditions. While the expansion of eBART to Byron/Discovery Bay is anticipated at some point in the future, the practicality for such an expansion does not currently exist. BART is now proposing that service in the project corridor be extended in a series of segments to be constructed as funding and right-of-way become available. The first segment, for which funding currently exists, encompasses an initial alignment of approximately 10 miles from the existing Pittsburg/Bay Point Station to the area east of the Hillcrest Avenue interchange in the City of Antioch, via SR 4.

Final EIR: The Final Environmental Impact Report (FEIR) has been prepared in compliance with the California Environmental Quality Act (CEQA). The FEIR provides full disclosure of the anticipated environmental impacts of the construction and operation of the eBART Project and identifies measures to mitigate significant environmental impacts. The Findings, Facts in Support of Findings, and Statement of Overriding Considerations provide the findings and support for findings that a public agency must make in order to approve a project for which an FEIR has been prepared. The FEIR identifies significant effects on the environment and measures to mitigate those effects where feasible, as required by Public Resources Code Section 21081. The Mitigation Monitoring and Reporting Plan (MMRP) defines a program to ensure implementation of specific mitigation measures identified in the FEIR as required by Public Resources Code section 21081.6

To adopt a project, the Board must review and consider the information contained in the FEIR, make specific findings, and certify that the FEIR has been completed in compliance with CEQA. The FEIR consists of the following documents: 1) a Draft Environmental Impact Report (DEIR) containing evaluation of impacts and proposed mitigation measures for a proposed project and alternatives, 2) related appendices, and 3) a Response to Comments volume containing comments received during public review of the DEIR, responses to those comments, and revisions to the DEIR.

The project goals and objectives addressed in the FEIR include BART's System Expansion Policy directives adopted in December 2002. The policy directives include substantial goals, project requirements and procedures to address transit ridership related to land use planning, access planning and policy support for transit-oriented development by local jurisdictions. Procedures have also been established for the assessment of system impacts, cost effectiveness and stakeholder/community partnering. As the eBART Project has proceeded through environmental review and preliminary engineering, significant efforts have been made by staff to reflect BART Board policies. The System Expansion Policy has been incorporated into the goals and objectives of the project, and consistency with the System Expansion Policy's substantive goals is evaluated as part of the FEIR process.

In addition, BART staff has worked extensively with the Cities of Pittsburg and Antioch to address regional Smart Growth objectives by advancing a comprehensive station area planning approach. As required by BART's System Expansion Policy, in determining whether to adopt a system expansion project and where to locate new stations, BART shall consider whether RDPs developed for each station can collectively demonstrate that the project will achieve a threshold ridership level, along with meeting the goals of the System Expansion Policy. Both the City of Pittsburg and the City of Antioch are currently undertaking substantial planning efforts in the form of the Railroad Avenue Specific Plan and the Hillcrest Station Area

Specific Plan, respectively. Each station plan is designed to address transit-oriented planning, zoning, and infrastructure development. The City of Pittsburg recently completed its comment period for the Railroad Avenue Specific Plan and DEIR and is now entering a review process with the City Planning Commission and City Council for adoption of the Specific Plan. Pittsburg is expected to complete this process in June 2009. The City of Antioch has completed its environmental review process for the Hillcrest Station Area Specific Plan. It is anticipated that the Antioch City Council will adopt the Plan on April 14, 2009. Given the fact that the cities may be unable to complete the adoption process by their respective City Councils prior to project review by the BART Board, the City of Antioch and the City of Pittsburg submitted letters of support for the proposed project, requesting that the BART Board consider the eBART Project based on the draft versions of their Specific Plans. Moreover, the requirements of the System Expansion Policy are already met under existing conditions.

Recommended Project: The recommended project would expand the existing BART system by ten miles, and extend transportation services to communities in east Contra Costa County that are currently not served by rail transit. Stations within the SR 4 median would be designed to provide intermodal regional links to bus, shuttle, automobile, bicycle, and pedestrian networks. The recommended project would enhance the public's access to jobs, education, shopping, and social activities throughout the Bay Area. As part of the recommended project, DMU trains would operate on tracks to be constructed in the median of SR 4 between the existing Pittsburg/Bay Point BART Station and the vicinity of the Hillcrest Avenue interchange in the City of Antioch. One transfer platform and two stations would be constructed along the 10-mile corridor. In addition, four optional locations for the terminus station are evaluated in the FEIR.

The recommended DMU rail technology uses a self-propelled passenger vehicle that has one or more diesel engines for propulsion power. The power comes from an on-board diesel engine. These rail cars have similar amenities and operating characteristics to BART vehicles, but generate their own power and can operate on standard gauge rail tracks.

The DMU trains would operate on tracks to be constructed in the median of SR 4. The portion of SR 4 between the Pittsburg/Bay Point BART Station and Loveridge Road has already been widened to accommodate transit service. The portion of SR 4 between Loveridge Road and Hillcrest Avenue is proposed for widening by the State Department of Transportation (Caltrans) and CCTA and has undergone environmental review. The schedule for construction and operation of eBART is contingent on the scheduled Caltrans widening of SR 4 east of Loveridge Road.

A transfer platform and two stations would be constructed as part of the eBART Project. The transfer platform would be constructed east of the existing Pittsburg/Bay Point BART Station in the existing BART tailtrack area. A new passenger station paid for by the City of Pittsburg would be constructed at Railroad Avenue. A terminus station would be constructed in the vicinity of Hillcrest Avenue in Antioch. In addition, a maintenance facility would be constructed east of the Hillcrest Avenue Station.

The FEIR describes a project (the "Proposed Project") in which the BART preferred terminus station would be constructed in the median of SR 4, east of the Hillcrest Avenue Interchange. The City of Antioch has proposed that, instead, a station be built in the median approximately 700 feet east of the proposed BART median station. The alternative station is described in the FEIR as the Revised Median Station East. It is the opinion of the City of Antioch that this more eastern location would provide added benefits to the Transit Oriented Development potential for the station. After studying this alternate location, BART staff has estimated that the incremental cost of constructing the Revised Median Station East and related maintenance facility (estimated at \$29M) and other required infrastructure improvements (estimated at \$22M) would be approximately Fifty One Million Dollars (\$51,000,000). Therefore, additional funds would be required for infrastructure improvements at this alternate location. Both station locations are analyzed in the FEIR.

BART staff has been in discussions with the City of Antioch to secure the incremental funding needed for the Revised Median Station East. Contingent upon a commitment from Antioch or other funding sources by July 2009 in the amount of Two Million Dollars (\$2,000,000) for design and right-of-way acquisition

associated with the Revised Median Station East, BART staff has determined that a one-year time period (through March 31, 2010) is available to allow the City to secure the additional funds necessary to build the Revised Median Station East. If adequate funding is secured by the City of Antioch, BART would build the Revised Median Station East instead of the Median Station. Accordingly, the Recommended Project for adoption by the Board includes the Proposed Project with a Median Station as described in the FEIR, with an option for construction of the Revised Median Station East instead, provided that construction of the Revised Median Station East option is contingent on the City of Antioch securing the additional funding necessary for its construction.

All agreements related to: 1) proceeding with implementation actions, including acquisition of property as funding is identified, and 2) execution of Caltrans Agreements and Utility Agreements in connection with the eBART Project in a cumulative amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) will be approved as to form by the Office of the General Counsel.

FISCAL IMPACT

The estimated capital cost for the Proposed Project described in the FEIR is \$479 million (in 2009 dollars). Escalated to the midpoint of construction, the cost to construct is estimated at \$502 million. Capital expenses for the project are expected to be met by a combination of state, county, regional, and local funds. The funding plan consists of the following sources: \$52 million in Regional Measure 1 funds, \$96 million in Regional Measure 2 funds, \$175 million in voter approved funds pursuant to Measure J, \$5 million in TCRP funds, \$115 million in AB 1171 funds, \$13 million in STIP funds, \$40 million in Proposition 1B funds, and \$6 million in ECCRFFA funds.

The estimated capital cost of \$479 million does not include the estimated cost of \$22 million for the Railroad Avenue Station or parking and access needs required at the Hillcrest Avenue Station which are anticipated to develop with increased ridership sometime between 2015 and 2030. The City of Pittsburg has proposed to fund the design and construction costs for the Railroad Avenue Station. Negotiations for a funding agreement between Pittsburg and BART are underway. The City of Antioch has agreed to work with BART and others to secure funding for the additional cost of parking and access needed at the Hillcrest Avenue Station by 2030.

Please see attachment for funding plan.

ALTERNATIVES

The East Contra Costa BART Extension FEIR considered several project alternatives as outlined below.

1. **No Project Alternative:** In the No Project Alternative, BART would continue to operate at current levels. This alternative would involve continuation of the existing Tri Delta Transit District bus system and implementation of additional express bus service from East County communities to the BART system.
2. **Bus Rapid Transit (BRT) Alternative:** The proposed Bus Alternative was designed to provide high quality service similar to the Proposed Project by incorporating features of BRT. The Bus Alternative would seek to emulate the service levels provided by a rail system. BRT components of the Bus Alternative include exclusive right of way for part of the route, limited stops, improved passenger boarding facilities, pre-paid fares, real-time passenger information, traffic priority at intersections and other preferential treatments when in traffic.
3. **Light Rail Vehicle (LRV) Alternative:** The proposed LRV Alternative would use an electric-powered light rail vehicle technology operating in the same alignment as the eBART Project. This alternative would require the installation of overhead lines and electrical substations to transmit the electricity that would power the vehicles.
4. **Conventional BART Extension Alternative:** The proposed conventional BART Extension Alternative would use full-length BART trains and systems in the same alignment as the eBART Project. This alternative would consist of an extension of the electrically powered, exclusive-use right-of-way BART system with one station at Hillcrest Avenue, together with a maintenance yard facility.

RECOMMENDATION

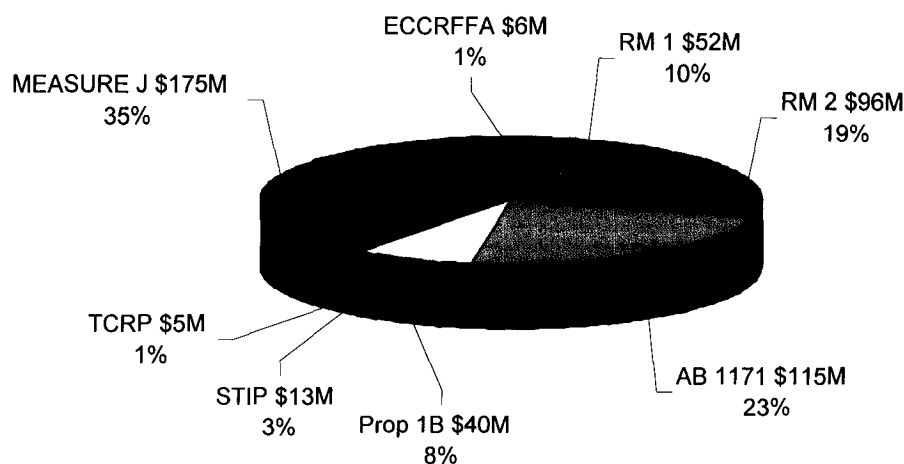
Adoption of the following motion.

MOTION

Having reviewed and considered the information contained in the Final Environmental Impact Report, the Findings, Facts in Support of Findings, Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Plan dated April 2009, the BART Board of Directors hereby:

1. Certifies that the Final Environmental Impact Report has been completed in compliance with CEQA.
2. Approves the Recommended Project consisting of a 10-mile extension of the BART system, using DMU technology, from the existing Pittsburg/Bay Point BART Station in the median of SR 4, with a transfer platform in the existing Pittsburg/Bay Point Station BART tailtracks, a station at Railroad Avenue in the City of Pittsburg, a terminus station east of the Hillcrest Avenue Interchange in the City of Antioch, and a maintenance facility east of the Hillcrest Avenue Station. The Recommended Project includes the Proposed Project with a Median Station as described in the FEIR, with an option for construction of the Revised Median Station East instead, provided that construction of the Revised Median Station East option is contingent upon the City of Antioch or others securing the additional funding necessary as follows: 1) Two Million Dollars (\$2,000,000) for design and right-of-way acquisition by July 2009; and 2) approximately Fifty One Million (\$51,000,000) for construction and related infrastructure improvements by March 31, 2010.
3. Adopts the Findings, Facts in Support of Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan.
4. Authorizes the General Manager or her designee to proceed with implementation actions, including acquisition of property as funding is identified.
5. Authorizes the General Manager or her designee to execute Caltrans Agreements and Utility Agreements in connection with the eBART Project in a cumulative amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000).

eBART Funding Plan \$502 MILLION



Proposed Project – Estimated Capital Costs (2009 Dollars) ^a			
Line Item Description	DMU Project Cost (\$Million)	Project Components Proposed to be Funded by Others ^b	
		Component	Cost (\$Millions)
Preliminary Engineering and Environmental Review	\$26	--	--
Project Components		--	--
Transfer Platform	36	--	--
Railroad Avenue Station	--	Station	22
Hillcrest Avenue Station (median)	23	--	--
Hillcrest Parking Lot and Access	14	--	--
Guideway & Systems	147	--	--
Aerial Structures	26	--	--
Vehicles (8)	65	--	--
<i>Subtotal</i>	<i>\$311</i>		
Subtotal	\$337		
Project Contingency	17		
Project Subtotal	\$354		
Caltrans/CCTA Additional Cost to Accommodate eBART in Median ^c	125		
TOTAL PROJECT COST^d	\$479		

Source: BART, 2008.

Notes:

- Estimates based on preliminary engineering, escalated to the midpoint of construction, the cost to construct the project would be \$502 million
- Pittsburg has proposed funding design and construction of the Railroad Avenue Station. Negotiations for a funding agreement are underway.
- Cost for widened median and construction of median barrier.
- When costs are escalated to the midpoint of construction, project cost would escalate to an estimated \$502 million.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve the EDD and Forward to the PPAAL Committee		
DATE: c 4/26/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Hagerty Dept: Signature/Date: 3/30/09	General Counsel: Signature/Date: 3/21/09	Controller/Treasurer: Signature/Date: 3/15/09	District Secretary: Signature/Date: []	BART: Signature/Date: 4/20/09

TITLE: AUTHORITY TO ISSUE CONCESSION PERMIT TO ADMINISTER THE DISTRICT'S PARKING PERMIT PROGRAMS

NARRATIVE:

NARRATIVE:

PURPOSE:

To authorize the General Manager or her designee to issue Concession Permit No. M321-09 to joint venture Pacific Park Management/Parking Carma to administer the District's Parking Permit Programs. The Concession Permit is for a three-year term with an option by the District to extend for up to two additional one-year periods.

DISCUSSION:

BART currently operates three parking permit programs: Monthly Reserved, Single Day Reserved and Airport Long Term. The permit programs are currently administered under a concession permit by professional parking vendor, Clancy Systems International, who was selected using a competitive selection process. The concession permit expired on February 28, 2009 but has been extended on a month-to-month basis, pending issuance of a new permit.

The primary work performed under the Concession Permit consists of selling Internet based monthly reserved, single day reserved and airport long term parking permits for designated station parking, using a connection from BART's web page to the Permittee's web page and supporting customer services. Most patrons purchase the permits using their credit cards. The Permittee is compensated a fee for processing each parking permit. BART does not have the resources or the equipment to operate this program in-house.

On January 9, 2009, BART issued a request for qualifications and proposals (RFQ/P) for Concession Permit No. M321-09 to operate the District's Parking Permit Programs. The District advertised the RFQ/P in four local newspapers and mailed RFQ/P documents to ten potential vendors. Four companies, Clancy Systems International Inc., iParq, Pacific Park Management/Parking Carma and T2 Systems Inc. submitted proposals prior to the February 3, 2009 deadline.

A six-person Selection Committee representing BART's Civil Rights, Customer Access, Information Technology, Marketing, Police and Transportation Departments reviewed the proposals. A best value approach was used that combined technical qualifications and price analysis to determine the proposal most advantageous to the District. The proposals from iPArc and T2 Systems Inc. were determined by the Selection Committee to be non-responsive and those vendors were disqualified from proceeding further in the selection process.

The Selection Committee evaluated and scored the qualifications and technical proposals and conducted and scored oral interviews of the two finalists, Clancy Systems International and Pacific Park Management/ Parking Carma. Finally, price proposals were scored. The points from the technical evaluation, oral interview and price proposals were totaled. The proposal from Pacific Park Management/Parking Carma was rated the highest. Pacific Park Management/Parking Carma's proposed fees for processing monthly reserved, single day reserved and airport long term permits were 10% below those submitted by Clancy Systems International. Pacific Park Management/ Parking Carma's proposed fees are set forth in Attachment A.

The proposal submitted by Pacific Park Management/Parking Carma has been determined to be responsive to the solicitation and the price offered is fair and reasonable. The Office of General Counsel will approve the concession permit as to form.

FISCAL IMPACT:

Under the existing and proposed permits, the Permittee deducts authorized fees from monies collected, and forwards the balance to the District. Estimated authorized Permittee expenses for FY10 are \$436,000, for FY11, \$443,000 and for FY12, \$449,000.

During FY 2008 Parking Permit Program generated \$5.3 million in net revenue to the District. The Program is estimated to generate \$5.5 million in net revenue to the District during FY09. During FY10, FY11, and FY12, respectively, the Program is estimated to generate \$5.6 million, \$5.7 million, and \$5.8 million in net revenue.

ALTERNATIVES:

Reject the Pacific Park Management/Parking Carma proposal and reissue the Parking Permit Vendor RFQ/P.

RECOMMENDATION:

Adoption of the following motion

MOTION:

The General Manager is authorized to issue Concession Permit No M321-09 to Pacific Park Management/ Parking Carma, a joint venture, to administer the District's Parking Permit Programs, for a three-year period, with an option by the District to extend for up to two additional one-year periods.

Attachment A

Pacific Park Management/Parking Carma Concession Fees

1. One- Time Fees

- | | |
|---|---|
| a) Systems integration, installation, setup and training | \$0 |
| b) Initial process and mailing of monthly reserved permit | \$4.95 to be paid by customer when permit is first issued |

2. Monthly fee (monthly reserved parking program)

- | | |
|--|-----------------------------|
| a) Monthly reserved permit process fee | \$2.70 per permit per month |
|--|-----------------------------|

3. Other (monthly reserved parking program)

- | | |
|---|---|
| a) Telephone permit processing fee | \$ 2.70 per permit/transaction |
| b) Provide parking permits | \$ 900.00 per 1,000 |
| c) Remail (lost, replacement processing charge) | \$ 4.46 mailing /processing charge to be paid by customer |

4. Airport/Long-Term parking program

- | | |
|---|----------------|
| a) Airport/long-term parking permit fee | \$.90 per day |
|---|----------------|

5. Single-day reserved parking program

- | | |
|---|---------------------------|
| a) single day reserved parking permit fee | \$.55 per permit per day |
|---|---------------------------|

6. Other



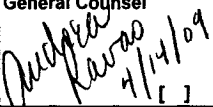
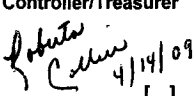
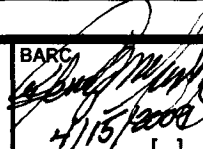
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|-----------------------------------|--|
| a) Telephone customer service fee | \$ 0 per hour (with documentation) |
| b. Other permittee tasks TBD | \$ 68.00 per hour (as requested by the District) |

7. Optional

- | | |
|---|------------------------------|
| a) Lease of parking enforcement equipment | \$ 125.00 per unit per month |
|---|------------------------------|



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c 4/15/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Sarah Syed Dept: Customer Access Ext. 6426 Signature/Date:  4/14/09	General Counsel  4/14/09 []	Controller/Treasurer  4/14/09 []	District Secretary []	BARC  4/15/2009 []

TITLE:

Downtown Berkeley Bike Station Commercial Space – 2210 Shattuck Avenue, Berkeley

NARRATIVE:

PURPOSE:

To authorize the General Manager or her designee to enter into a lease with NFLP Berkeley Center DE, LLC (Landlord) for approximately 4000 square feet of commercial space at 2210 Shattuck Avenue, Berkeley for a five-year term commencing July 1, 2009.

DISCUSSION:

This lease agreement will secure space necessary for the relocation and expansion of the Downtown Berkeley Bike Station to a storefront space better to serve BART customers, visitors, employees, and Downtown residents, while eliminating the limited capacity and operational issues of the existing facility. The attached Project Area Map illustrates the proposed location and nearby BART entrances.

The existing Bike Station opened in 1999 and is located on the concourse level of the Downtown Berkeley BART Station. The Bike Station has 77 spaces, yet regularly parks over 100 bikes. The District has been planning for the expansion of the Berkeley Bike Station for several years in partnership with the City of Berkeley and regional funding agencies. The new Bike Station will provide a minimum of 250 bicycle parking spaces and will provide space for additional services and amenities including bicycle repair, rentals, retail, and community bicycle education classes.

The City of Berkeley and BART jointly secured \$496,784 in Regional Measure 2 Safe Routes to Transit capital funding for the Bike Station Expansion. Leasing this space will ensure compliance with conditions and deadlines established by grantor, Metropolitan Transportation Commission.

The commencement date of the lease will be July 1, 2009 and the lease term expires on June 30, 2014. The monthly lease payment for the Base Rent on the 4000 square foot space will start at \$1.70 per square foot per month, with annual increases limited to no more than three percent. The District will also pay a maximum of \$0.50 per square foot per month for common area maintenance charges including real property taxes, insurance, management, and trash. Utilities will be paid separately by the District and are estimated at \$2,000 monthly for a total of \$120,000 over the five-year term.

Year	Annual Lease
1	\$105,600
2	\$108,720
3	\$111,862
4	\$115,025
5	\$118,212
Total	\$559,419

The Office of the General Counsel will approve the lease, any subleases, and all related documents as to form.

FISCAL IMPACT:

The lease and utilities for FY10-FY14 will be paid out of the BART Customer Access Department Operating Budget. The following funds will cover this total cost of approximately \$679,419 over the five-year term:

1. An annual contribution approved by the Berkeley City Council in December 2008 to provide \$60,000 per year for up to a total of \$300,000 over the five-year lease term.
2. Proposed sublease agreements with project partners offering services complementary to the Bike Station which are anticipated to generate sublease rentals of approximately \$34,403 annually for a total of \$172,015 over the five-year term.
3. Prior year allocations from the Station Access Improvement Fund of \$25,000 per year for a total of \$125,000 over the five-year term will be transferred to the General Fund to be available for this purpose.
4. The difference, estimated at \$16,481 annually for a total of \$82,404 over the five-year term, will come out of existing Customer Access Department Operating Budget funds and will be included in the annual budget from FY10-FY14.

ALTERNATIVES:

Do not enter into the lease for this space and search for another space adjacent to the Downtown Berkeley BART Station. If a space is not secured by May 30, 2009, the Metropolitan Transportation Commission will rescind the \$496,784 Regional Measure 2/Safe Routes to Transit capital grant. This would delay implementation of improvements to the Downtown Berkeley Bike Station several years as new funding would need to be secured, a new space of similar size and location would need to be found, and a new lease negotiated.

RECOMMENDATION:

Adopt the following motion:

MOTION:

The General Manager or her designee is authorized to execute a lease agreement with NFLP Berkeley Center DE, LLC (Landlord) for approximately 4000 square feet of commercial space at 2210 Shattuck Avenue, Berkeley for a five-year term for a total lease amount not to exceed \$559,419 (including common area charges) and BART to pay utilities.

Downtown Berkeley Bike Station Project Area Map

