

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

BOARD MEETING AGENDA

April 28, 2011

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, April 28, 2011, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Resolution of Local Support for Congestion Mitigation and Air Quality Improvement Program (CMAQ) Funds for the Downtown Berkeley BART Plaza and Transit Area Improvement Project.* Board requested to adopt.
- B. Award Contract No. 15QG-110, Replace Glass Panels at Fruitvale and West Oakland Stations.* Board requested to authorize.
- C. Award Contract No. 15QJ-110, Re-roof Daly City Yard Main Shop, Transportation Building, and S & I Pit.* Board requested to authorize.
- D. Award of Invitation for Bid No. 8886, Diesel Exhaust Filters.* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Fiscal Year 2012 Budget: Late Night Service Demonstration.*
For information.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Change Orders to Contract No. 02ED-110, Warm Springs Extension, Fremont Central Park Subway, with Shimmick Construction Co. Inc./Skanska USA Civil West California District Inc./ a Joint Venture.
 - a. Change Order No. 10, for Waterproofing – Additional Requirements for Installation, Protection and Repair.*
Board requested to authorize.
 - b. Change Order No. 11, for Waterproofing – Time Component.*
Board requested to authorize.

B. East Contra Costa BART Extension (eBART).

1. Public Comment
2. Final Environmental Impact Report (FEIR), and Project Adoption.
 - a. Consider an Addendum to the Final Environmental Impact Report for the eBART Project.
 - b. Find that no supplement to the FEIR is required.
 - c. Adopt Revised Project.
 - d. Authorize staff to implement the Adopted Project, as modified by some or all of the Revised Project elements.

Board requested to adopt.

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

Director Murray, Chairperson

NO REPORT.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

- A. Employee Recruitment & Relocation for the position of General Manager.*
Board requested to authorize.

- B. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LABOR NEGOTIATORS:

Designated representatives: Sherwood Wakeman, Interim General Manager; Elaine Kurtz, Acting Assistant General Manager – Administration, Rudolph Medina, Department Manager - Labor Relations

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



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wesley DeVander</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Administration Committee		
DATE: 4/20/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Donna Lee Dept. Grant Development <i>DL</i> Signature/Date:	General Counsel <i>Andrea Rojas</i> 4/19/11	Controller/Treasurer <i>[Signature]</i> 4/19/11	District Secretary []	BARC <i>[Signature]</i> 4/19/11
Status: Routed		Date Created: 03/04/2011		

Approval of a Resolution of Local Support for Congestion Mitigation and Air Quality Improvement Program (CMAQ) Funds for the Downtown Berkeley BART Plaza and Transit Area Improvement Project

NARRATIVE:

PURPOSE:

To obtain BART Board approval of a Resolution of Local Support for the Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds for the Downtown Berkeley BART Plaza and Transit Area Improvement ("Project").

DISCUSSION:

As a condition of receiving CMAQ funds, Metropolitan Transportation Commission ("MTC") requires that the BART Board of Directors approve a resolution formally accepting the grant with associated terms and conditions. BART staff has worked with community groups to develop a plan to address concerns about the role BART plazas play in their community and to improve accessibility to transit. MTC has partnered with BART by providing significant grant support for planning and construction of plaza improvements.

The City of Berkeley and BART jointly secured the CMAQ funds for the Downtown Berkeley BART Plaza and Transit Area Improvement Project. The City of Berkeley and BART are co-sponsors of the Project. The total CMAQ grant is \$1,805,000. The City of Berkeley is providing a \$400,000 local match and BART will provide a \$51,250 match from the District's Facility Rehabilitation Program. The total Project cost is \$2,256,250. The grant will provide for design of station entrance and access improvements, together with improvements to plaza lighting, landscaping, and bus shelters.

FISCAL IMPACT:

Approval of the Resolution of Local Support is a requirement for the District to receive an allocation in an amount not-to-exceed \$1,805,000 in CMAQ funding. This action will have no fiscal impact on un-programmed District Reserves. The City of Berkeley is providing a \$400,000 local match and BART is providing a match of \$51,250. Total funding in an amount not-to-exceed \$2,256,250 for the Project is provided through CMAQ, City of Berkeley local match, and BART match.

ALTERNATIVES:

Do not approve the Resolution of Local Support. If the Resolution is not approved BART would risk loss of the CMAQ grant funds in an amount not to exceed \$1,805,000 for the Downtown Berkeley BART Plaza and Transit Area Improvement Project.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The BART Board of Directors approve the attached Resolution of Local Support for Congestion Mitigation and Air Quality Improvement Program funds in the amount not to exceed \$1,805,000 for the Downtown Berkeley BART Plaza and Transit Area Improvement Project.

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

In the Matter of Approval
Of a Resolution of Project Compliance
And Initial Project Report for Regional
Measure 2 Funds for the Downtown Berkeley BART
Plaza and Transit Area Improvement 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 \$1,805,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) Program for the Downtown Berkeley BART Plaza and Transit Area Improvement Project (herein referred to as PROJECT) for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA) (Public Law 109-59, August 10, 2005) authorized the Surface Transportation Program (23 U.S.C. § 133) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) through September 30, 2009; and

WHEREAS, SAFETEA has been extended through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and has been subsequently extended pending enactment of successor legislation for continued funding; and

WHEREAS, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) 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, MTC is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

WHEREAS, APPLICANT is an eligible project sponsor for STP/CMAQ funds; and

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

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
- 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM.; and
- 6) that the project (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT under the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding; and be it further

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

1. APPLICANT will provide \$51,250 in non-federal matching funds, the City of Berkeley will provide \$400,000 in non-federal matching funds; and
2. APPLICANT understands that the STP/CMAQ 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 STP/CMAQ funding; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. 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
5. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and
6. APPLICANT and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

RESOLVED that APPLICANT is an eligible sponsor of STP/CMAQ funded projects; and be it further

RESOLVED that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; 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 Executive Director, General Manager, or designee to execute and file an application with MTC for STP/CMAQ 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 this Resolution and to include the PROJECT, if approved, in MTC's TIP.

Adopted: _____

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EXECUTIVE DECISION DOCUMENT

Item No. 2 – B

GENERAL MANAGER APPROVAL: <i>Marcia Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board	
DATE: 4/20/11		BOARD INITIATED ITEM: No	
Originator/Prepared by: Ersten Yimaoka Dept: M & E <i>Ersten Yimaoka</i> Signature/Date: 4/19/11	General Counsel <i>Andrew Davis</i> 4/19/11 []	Controller/Treasurer <i>[Signature]</i> 4/19/11 []	District Secretary []
		BARC <i>Paul Overman</i> 4/20/11 []	
Status: Routed		Date Created: 04/11/2011	
TITLE:			

Award Contract No. 15QG-110, Replace Glass Panels at Fruitvale and West Oakland Stations

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15QG-110, Replace Glass Panels at Fruitvale and West Oakland Stations, to ACR Glass and Doors.

DISCUSSION: The work of this Contract includes furnishing all labor, equipment, materials and services to replace the original plate glass panels at the platform level at Fruitvale and West Oakland Stations with tempered glass to which anti-graffiti safety film is applied.

Advance Notice to Bidders was mailed on February 23, 2011, to 62 prospective Bidders. Contract Books were mailed to 24 plan rooms and minority assistance organizations. The Contract was advertised on March 1, 2011. Eight firms bought the Contract Book. A Pre-Bid meeting and site tour were conducted on March 15, 2011, with eight prospective Bidders attending the meeting, and eight prospective Bidders attending the site tour. The following four Bids were received on April 5, 2011:

BIDDER	LOCATION	TOTAL BID
ACR Glass and Doors	Livermore	\$131,636.00
East County Glass & Window, Inc.	Pittsburg	\$144,402.36
North State Specialty Contracting	Auburn	\$146,826.00
Lon's Glass & Mirrors, Inc.	San Leandro	\$176,450.00
Engineer's Estimate		\$222,360.00

After review by District staff, the Bid submitted by ACR Glass and Doors has been deemed 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 \$131,636, which is approximately 41% below the Engineer's Estimate, is fair and reasonable.

BART staff has determined that there will be no significant effect on the environment due to the replacement of glass panels on the platform level at these two BART stations, and that such work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities.

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 of the Work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

FISCAL IMPACT: Funding for this \$131,636 Contract award is included in the total project budget for Project 15QG, Replace Station Glass Panels Systemwide. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

<u>FY 10 Capital Maintenance Allocation</u>	<u>51W</u>	<u>\$131,636</u>
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As of the period ending 2/27/11, \$552,908 is available for commitment from this fund source for this Project and \$182,350 has been committed by BART to date. There are no pending commitments in BART's financial management system. This action will commit an additional \$131,636, leaving an uncommitted balance of \$238,922 in this fund source.

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

ALTERNATIVE: The alternative is to reject all Bids and not replace the plate glass on the platform level of these two stations with tempered glass and anti-graffiti safety film at this time, thus continuing the exposure of patrons to an unsafe condition.

RECOMMENDATION: Adoption of the following motion:

MOTION: The General Manager is authorized to award Contract No. 15QG-110, Replace Glass Panels at Fruitvale and West Oakland Stations, to ACR Glass and Doors for the Bid price of \$131,636, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

EXECUTIVE DECISION DOCUMENT

Item No. 2 - C

GENERAL MANAGER APPROVAL: <i>Marcus delBueno</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board	
DATE: 4/20/11		BOARD INITIATED ITEM: No	
Originator/Prepared by: Ersten Y Imaoka Dept: M & E <i>Ersten Imaoka</i> Signature/Date: 4/19/11	General Counsel <i>Andrew R. ...</i> 4/19/11 []	Controller/Treasurer <i>[Signature]</i> 4/19/11 []	District Secretary BARC <i>Paul Gervais</i> 4/20/11 []
Status: Routed		Date Created: 04/11/2011	

Award Contract No. 15QJ-110, Reroof Daly City Yard Main Shop, Transportation Bldg and S & I Pit

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 15QJ-110, Reroof Daly City Yard Main Shop, Transportation Bldg and S & I Pit, to State Roofing Systems, Inc.

DISCUSSION: The work of this Contract includes furnishing all labor, equipment, materials and services to remove existing roofing and install modified bitumen roofing using one-part cold adhesive on the existing roof decks of the Main Shop, Transportation Building, and S & I Pit at the Daly City Yard.

Advance Notice to Bidders was mailed on March 10, 2011, to 122 prospective bidders. Contract Books were mailed to 23 plan rooms and minority assistance organizations. The Contract was advertised on March 15, 2011. Ten firms purchased the Contract Book. A pre-bid meeting and site tour were conducted on March 29, 2011, with 15 prospective bidders attending the meeting, and 10 prospective bidders attending the job site tour. The following eight bids were received on April 12, 2011:

BIDDER	LOCATION	TOTAL BID
State Roofing Systems, Inc.	San Leandro	\$393,297.00
Pioneer Contractors, Inc.	San Francisco	\$399,000.00
IMR Contractor Corp	Hayward	\$400,000.00
Western Roofing Service	San Leandro	\$429,605.00
Best Contracting Services	Hayward	\$442,000.00
Andy's Roofing Company, Inc.	Milpitas	\$502,537.00
Waterproofing Associates	Mountain View	\$505,118.00
Fidelity Roof Company	Oakland	\$587,039.00
Engineer's Estimate		\$491,130.00

After review by District staff, the bid submitted by State Roofing Systems, Inc. has been deemed 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 \$393,297, which is approximately 20% below the Engineer's Estimate, is fair and reasonable.

BART staff has determined that there will be no significant impact on the environment due to the replacement of roofing at these three locations, and that such work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities.

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 of the Work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

FISCAL IMPACT: Funding for this \$393,297 Contract award is included in the total project budget for Project 15QJ, Reroof Structures Systemwide. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

<u>FY07-11 Capital Maintenance Allocation</u>	<u>51W</u>	<u>\$393,297</u>
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As of the period ending 02/27/11 \$690,000 is available for commitment from this fund source for this Project, and \$176,532 has been committed by BART to date. There are no pending commitments in BART's financial management system. This action will commit an additional \$393,297, leaving an uncommitted balance of \$120,171 in this fund source.

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

ALTERNATIVE: The alternative is to reject all bids, which will result in the deferral of roof replacement that is necessary for proper maintenance. Such deferral could lead to moisture and property damage caused by age-induced failure of the roofing systems.

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

MOTION: The General Manager is authorized to award Contract No. 15QJ-110, Reroof Daly City Yard Main Shop, Transportation Bldg and S & I Pit to State Roofing Systems, Inc., for the bid price of \$393,297, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia deKruiger</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: <i>4/20/11</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: Larry Fisher Dept: Maintenance and Engineering <i>[Signature]</i> <i>4/18/11</i>	General Counsel <i>Andrew Pines</i> <i>4/18/11</i> []	Controller/Treasurer <i>[Signature]</i> <i>4/19/11</i> []	District Secretary <i>Paul Evensen</i> <i>4/19/11</i> []
Status: Routed		Date Created: 03/15/2011	
TITLE:			

Award Invitation For Bid No. 8886

NARRATIVE:

Discussion: California Code of Regulations (CCR), Sections 2022 and 2022.1 require any municipality or utility that operates on-road diesel-fueled heavy-duty vehicles with certain engines and of certain weight classes to use the "best available" control technology (BACT) to reduce diesel particulate matter to levels specified in CCR Title 13, Sections 1956.8 and 2702. Pursuant to these requirements, the District advertised IFB 8886 to procure exhaust filters for 32 District diesel-powered vehicles. The IFB scope is for material, installation labor, and warranty servicing for a 5 year period. A notice requesting bids was published on December 28, 2010 and bid requests were mailed to six (6) prospective bidders. Bids were opened on January 25, 2011 and two (2) bids were recieved.

Ironman Parts & Services, Corona, CA	\$423,132.40
Cummins West, Inc., Oakland, CA	\$428,000.00
Engineer's estimate:	\$476,423.00

Staff has determined that the apparent low bidder, Ironman Parts and Services, submitted a responsive bid. Staff has also determined that the bid pricing is fair and reasonable, based on the District's previous experience in the purchases of this type of equipment. Delivery and installation shall begin within thirty (30) Days after award of the contract and shall be complete within six (6) months after award.

The District's Non-Discrimination in Subcontracting Program does not apply to emergency contracts, sole source contracts under \$50,000 or any Invitation for Bids. Pursuant to the Program the Office of Civil Rights did not set any availability percentages.

Fiscal Impact:

Funding of \$432,132 for contract 79BJ-2II 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.

F/G 51W – FY07 – 11 Capital Allocation**\$423,132**

As of month ending 02/27/11, \$3,632,300 is available for commitment from this fund source for this project and BART to date has committed \$1,339,054. There is \$0 pending commitment in BART's financial management system. This action will commit \$423,132 leaving an uncommitted balance of \$1,870,114 in this fund.

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

Alternative:

California Code of Regulations require that these vehicles be equipped with CARB Certified filters. If the District elects to not install these filters, the vehicles will have to be taken out of service.

Recommendation:

It is recommended that the Board adopt the following motion.

Motion:

The General Manager is authorized to award IFB No. 8886 for procurement of Diesel Exhaust Filters (CARB Certified) to Ironman Parts and Services for an amount of \$423,132.40, (which includes all applicable taxes), pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedure.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c 4/20/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Transit System Development 4/19/11 Signature/Date:	General Counsel 4/19/11	Controller/Treasurer 4/19/11	District Secretary []	BART 4/20/11

TITLE:

CHANGE ORDER NO. 10 TO CONTRACT 02ED-110, WSX FREMONT CENTRAL PARK SUBWAY (WATERPROOFING - ADDITIONAL REQUIREMENTS FOR INSTALLATION, PROTECTION AND REPAIR)

NARRATIVE:

PURPOSE: To obtain Board authorization for the execution of Change Order No. 10 (Resolution of Potential Claim No. 10, Potential Claim No. 10 Part A, and Potential Claim No. 10 Part B, collectively, Additional Manufacturer Requirements for Installation, Protection and Repair of Cold Fluid-Applied Waterproofing) in the amount of \$1,145,000.00 to Contract No. 02ED-110, WSX Fremont Central Park Subway.

DISCUSSION: Award of Contract No. 02ED-110 to Shimmick Construction Co. Inc./Skanska USA Civil West California District Inc./a Joint Venture, in the amount of \$136,750,550.00 was authorized by the Board on May 28, 2009. Notice to Proceed was issued on August 24, 2009. To date, the Subway Contract is approximately 61% complete, on schedule and within budget.

This Contract, which will construct an approximately one mile long cut and cover subway beneath Fremont Central Park, includes provision of a waterproofing system which the project team, including BART Maintenance and Engineering staff, determined would offer the best chance to minimize groundwater leakage into the subway structure.

Waterproofing of underground structures is a challenging and continuously evolving undertaking for transit operators worldwide, and BART, which has had to contend with significant leakage issues at many locations throughout the operating system, is no exception. Underground concrete structures in seismically active regions such as the Bay Area are particularly susceptible to cracking and hence leakage.

The Fremont Central Park Subway is located very near the Hayward Fault and almost entirely within the Upper Hayward Fault Aquifer. The potential for significant levels of groundwater intrusion into the subway structure during its operational life was recognized at the early stages of design. Significant leakage would not only affect the long-term integrity of the subway structure itself, but also the reliability of the BART operating system within it. Furthermore, the potential for continuous operation of subway sump pumps would also increase BART operating and maintenance expenses.

The waterproofing system was specified in the Fremont Central Park Subway Contract

documents as brandname or approved equal. The system specified in this fashion was a relatively new Cold Fluid-Applied Waterproofing system commercially marketed under the brand name "Turbo Seal" by RE Systems Group, USA. Turbo Seal consists of a number of components including a rubberized ("HDPE") membrane, a plastic mesh and a poly rubber gel. The gel is specifically formulated to never cure and to thus offer a "self-healing" quality to the system in the event of cracks in the structural concrete coupled with any damage or flaws elsewhere in the waterproofing system. The intent was and remains to completely surround the subway structure with the Turbo Seal system.

It is important to note that the waterproofing system is not applied directly to the exterior of the subway walls. Instead, in a so called "blind side" application, the waterproofing system is applied in reverse sequence to the inside face of marine plywood affixed to the adjacent excavation support system walls. The blind side application of the waterproofing system, coupled with appropriate quality control and assurance provisions, allows for substantially reduced costs for the excavation support system, as well as for excavation, hauling and backfilling operations. The cost savings associated with the blind side application of the waterproofing system for this Contract, which was realized by the District at the time of bid, is estimated to be in excess of \$15 Million.

However, in order to allow for the efficient placement of subway structural reinforcing steel, formwork and concrete for the invert slab and then again for the walls themselves, the blind side placement of the Turbo Seal waterproofing system must be in place many weeks in advance of placement of the final subway exterior wall concrete.

During construction of the first 1,000 feet of subway structure (approximately 1/5 of the total length of the subway) it became apparent that an element of the waterproofing system for the subway walls installed in the blind side manner, specifically the poly rubber gel, was experiencing significant degradation prior to concrete pours, possibly due to exposure to high air temperatures and/or ultraviolet light. The manufacturer's instructions available at the time of bid were silent on both issues. However in July and again in September of 2010, nearly one year after NTP and well into the initial stages of subway waterproofing work, the manufacturer issued two Technical Bulletins revising the installation and protection instructions for the Turbo Seal system in blind side applications. The bulletin affecting installation established a maximum tolerance for irregularities in the "substrate" backing upon which the HDPE membrane is placed. The bulletin affecting protection warned against the effects of ultraviolet light (UV) and high temperatures associated with exposure to direct sunlight.

To date, significant constructive collaboration has occurred between the Contractor, waterproofing system manufacturer and the BART project team, and lessons learned together with revised means and methods have been and continue to be employed to address waterproofing installation problems as they arise. Nevertheless, unforeseen costs associated with the installation, protection and repair of the waterproofing system sufficient to maintain the manufacturer's product warranty have been and continue to be incurred by the Contractor. Such costs are the subject of Potential Claim No. 10 (installation), Potential Claim No. 10 Part A (repair), and Potential Claim Part B (protection).

The purpose of this Board action is to resolve the cost component of Potential Claim No. 10 in its entirety and a portion of the cost component of Potential Claim No. 10 Parts A and B by authorizing the execution of Change Order No. 10. The cost component of Potential Claim No. 10 is for all reasonable and actual costs associated with installation of the waterproofing substrate. The cost component of Potential Claim No. 10 Parts A and B cover two types of costs: a) all reasonable and actual costs of all subcontractors associated with repair and protection of the waterproofing system up through February 18, 2011, and b) all reasonable and actual costs of the Contractor associated with repair and protection of the waterproofing system for subway construction segments 11 through 33. (Further cost components of the resolution of Potential Claim No. 10 Parts A and B, specifically future protection and repair costs, will be the subject of one or more separate Change Orders.)

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

The Office of the General Counsel will approve this Change Order as to form prior to execution.

The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT: Funding of \$1,145,000 is included in the total project budget for the FMS#02ED –WSX Fremont Central Park Subway. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 63K – Warm Springs Ext RM2/ACTIA Blend

\$1,145,000

As of month ending 02/27/11, \$189,398,000 is available for commitment from this fund source for this project and BART to date has committed \$159,099,666. There is \$3,214,129 pending commitment in BART's financial management system. This action will commit \$1,145,000 leaving an uncommitted balance of \$25,939,205 in this fund.

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

ALTERNATIVE: Not implementing Change Order No.10 would prevent the District from resolving the issues at this time, which would likely result in mediation or litigation, and potentially delay completion of contract work.

RECOMMENDATION: Recommend that the Board approve the following motion.

MOTION: The General Manager is authorized to execute Change Order No. 10 to Contract No. 02ED-110, WSX Fremont Central Park Subway, for the resolution of i) the cost component of Potential Claim No. 10 in its entirety; ii) the cost component of Potential Claim No. 10 Parts A and B with respect to all subcontractors through February 18, 2011; and iii) the cost component of Potential Claim No. 10 Parts A and B with respect to the Contractor for subway

construction segments 11 through 33, altogether totalling \$1,145,000.00.

FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget 2007	Forecast 6/23/10	REMARKS
ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	Completed
TOTAL E, E & CM	\$92,958,175	\$97,987,009	
CONSTRUCTION			
Fremont Subway	\$282,000,000	\$164,100,660	Includes capacity for CO#10 (\$1,145,000) and CO#11 (\$1,148,528)
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
TOTAL CONSTRUCTION	\$658,000,000	\$538,200,660	
BART SERVICES			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
TOTAL BART SERVICES	\$0	\$15,000,000	
PROGRAM COSTS			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	
Right-Of-Way Acquisitions	\$80,394,486	\$81,202,672	
Contingency	\$2,776,319	\$86,048,837	
TOTAL PROGRAM COSTS	\$139,041,825	\$238,812,331	
TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c 4/20/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Transit System Development Signature/Date: 4/20/11	General Counsel 4/20/11 []	Controller/Treasurer 4/20/11 []	District Secretary []	BART 4/20/11 []

TITLE:

CHANGE ORDER NO. 11 TO CONTRACT 02ED-110, WSX FREMONT CENTRAL PARK SUBWAY (WATERPROOFING - TIME COMPONENT)

NARRATIVE:

PURPOSE: To obtain Board authorization for the execution of Change Order No. 11 (Schedule Delay Avoidance Measures due to Waterproofing System Installation/Repair/Protection Delays, Potential Claim No. 10, Potential Claim No. 10 Part A, and Potential Claim No. 10 Part B) in the amount of \$1,148,528.00 to Contract No. 02ED-110, WSX Fremont Central Park Subway.

DISCUSSION: Award of Contract No. 02ED-110 to Shimmick Construction Co. Inc./Skanska USA Civil West California District Inc./a Joint Venture, in the amount of \$136,750,550.00 was authorized by the Board on May 28, 2009. Notice to Proceed was issued on August 24, 2009. To date, the Subway Contract is approximately 61% complete, on schedule and within budget.

This Contract, which will construct an approximately one mile long cut and cover subway beneath Fremont Central Park, includes provision of a waterproofing system which the project team, including BART Maintenance and Engineering staff, determined would offer the best chance to minimize groundwater leakage into the subway structure.

Waterproofing of underground structures is a challenging and continuously evolving undertaking for transit operators worldwide, and BART, which has had to contend with significant leakage issues at many locations throughout the operating system, is no exception. Underground concrete structures in seismically active regions such as the Bay Area are particularly susceptible to cracking and hence leakage.

The Fremont Central Park Subway is located very near the Hayward Fault and almost entirely within the Upper Hayward Fault Aquifer. The potential for significant levels of groundwater intrusion into the subway structure during its operational life was recognized at the early stages of design. Significant leakage would not only affect the long-term integrity of the subway structure itself, but also the reliability of the BART operating system within it. Furthermore, the potential for continuous operation of subway sump pumps would also increase BART operating and maintenance expenses.

The waterproofing system was specified in the Fremont Central Park Subway Contract documents as brandname or approved equal. The system specified in this fashion was a relatively new Cold Fluid-Applied Waterproofing system commercially marketed under the

brand name "Turbo Seal" by RE Systems Group, USA. Turbo Seal consists of a number of components including a rubberized ("HDPE") membrane, a plastic mesh and a poly rubber gel. The gel is specifically formulated to never cure and to thus offer a "self-healing" quality to the system in the event of cracks in the structural concrete coupled with any damage or flaws elsewhere in the waterproofing system. The intent was and remains to completely surround the subway structure with the Turbo Seal system.

It is important to note that the waterproofing system is not applied directly to the exterior of the subway walls. Instead, in a so called "blind side" application, the waterproofing system is applied in reverse sequence to the inside face of marine plywood affixed to the adjacent excavation support system walls. The blind side application of the waterproofing system, coupled with appropriate quality control and assurance provisions, allows for substantially reduced costs for the excavation support system, as well as for excavation, hauling and backfilling operations. The cost savings associated with the blind side application of the waterproofing system for this Contract, which was realized by the District at the time of bid, is estimated to be in excess of \$15M.

However, in order to allow for the efficient placement of subway structural reinforcing steel, formwork and concrete for the invert slab and then again for the walls themselves, the blind side placement of the Turbo Seal waterproofing system must be in place many weeks in advance of placement of the final subway exterior wall concrete.

During construction of the first 1,000 feet of subway structure (approximately 1/5 of the total length of the subway) it became apparent that an element of the waterproofing system installed in the blind side manner, particularly the poly rubber gel, was experiencing significant degradation prior to concrete pours, possibly due to exposure to high air temperatures and/or ultraviolet light. The manufacturer's instructions available at the time of bid were silent on both issues. However in July and again in September of 2010, nearly one year after NTP and well into the initial stages of subway waterproofing work, the manufacturer issued two Technical Bulletins revising the installation and protection instructions for the Turbo Seal system in blind side applications. The installation issue established a maximum tolerance for irregularities in the "substrate" backing upon which the HDPE membrane is placed. The protection issue warned against the effects of ultraviolet light (UV) and high temperatures associated with exposure to direct sunlight.

To date, significant constructive collaboration has occurred between the Contractor, waterproofing system manufacturer and the BART project team, and lessons learned together with revised means and methods have been and continue to be employed to address waterproofing installation problems as they arise. Nevertheless, unforeseen delays and disruption associated with the new requirements for installation, protection and repair of the waterproofing system have been and continue to be incurred by the Contractor. Since September 2010, actual production rates for the subway wall and roof construction have been significantly lower than planned. To date, a cumulative total of 18 days of schedule delay associated with waterproofing issues have been incurred. This delay has so far been absorbed without impact to the Contract's critical path. However, even with improved installation and protection methods, there is

significant risk of further delays associated with waterproofing which would impact the Contract's critical path. The financial exposure to BART for delay to the Contract end date is estimated to be on the order of \$5 Million.

The purpose of this Board action is to resolve the time components of Potential Claim No. 10, Potential Claim No. 10 Part A and Potential Claim No. 10 Part B by authorizing the execution of Change Order No. 11. The time component of Potential Claim No. 10 is for delays associated with installation of the waterproofing substrate. The time component of Potential Claim No. 10 Part A is for delays associated with waterproofing repairs. The time component of Potential Claim No. 10 Part B is for delays associated with waterproofing protection. The result of Change Order No. 11 will be to address delays to the Contract completion date associated with Cold Fluid-Applied Waterproofing. Staff has determined that to address the effects of delays due to waterproofing, a second subway construction heading (operation) is required. The costs for the additional forms, labor and equipment to establish and produce completed work in a second subway heading are the subject of this Change Order.

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

The Office of the General Counsel will approve this Change Order as to form prior to execution.

The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT: Funding of \$1,148,528 is included in the total project budget for the FMS#02ED –WSX Fremont Central Park Subway. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 63K – Warm Springs Ext RM2/ACTIA Blend

\$1,148,528

As of month ending 02/27/11, \$189,398,000 is available for commitment from this fund source for this project and BART to date has committed \$159,099,666. There is \$4,359,129 pending commitment in BART's financial management system. This action will commit \$1,148,528 leaving an uncommitted balance of \$24,790,677 in this fund.

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

ALTERNATIVE: Not implementing Change Order No.11 would result in the likelihood of significant delay to the Contract completion date due to lower than planned production rates associated with subway construction. Such delays would increase costs.

RECOMMENDATION: Recommend that the Board approve the following motion.

MOTION: The General Manager is authorized to execute Change Order No. 11 to Contract No. 02ED-110, WSX Fremont Central Park Subway, in the amount of \$1,148,528.00 for the

resolution of the time components of Potential Claim No. 10, Potential Claim No. 10 Part A and Potential Claim No. 10 Part B.

FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget 2007	Forecast 6/23/10	REMARKS
ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	Completed
TOTAL E, E & CM	\$92,958,175	\$97,987,009	
CONSTRUCTION			
Fremont Subway	\$282,000,000	\$164,100,660	Includes capacity for CO#10 (\$1,145,000) and CO#11 (\$1,148,528)
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
TOTAL CONSTRUCTION	\$658,000,000	\$538,200,660	
BART SERVICES			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
TOTAL BART SERVICES	\$0	\$15,000,000	
PROGRAM COSTS			
Program Costs (HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	
Right-Of-Way Acquisitions	\$80,394,486	\$81,202,672	
Contingency	\$2,776,319	\$86,048,837	
TOTAL PROGRAM COSTS	\$139,041,825	\$238,812,331	
TOTAL FUNDING	\$890,000,000	\$890,000,000	



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: c 4/24/11		BOARD INITIATED ITEM: No	
Originator/Prepared by: Olga Pérez Dept. Transit System Development <i>[Signature]</i> 4/20/11	General Counsel <i>[Signature]</i> 4/20/11	Controller/Treasurer <i>[Signature]</i> 4/20/11	District Secretary <i>[Signature]</i> 4/20/11
Signature/Date:		BARC <i>[Signature]</i> 4/20/11	

TITLE:

PROJECT CHANGES AND ADDENDUM TO THE EAST CONTRA COSTA BART EXTENSION (eBART PROJECT) ENVIRONMENTAL IMPACT REPORT

NARRATIVE:

PURPOSE

To consider an Addendum to the Final Environmental Impact Report (FEIR) pursuant to the California Environmental Quality Act (CEQA) for the East Contra Costa BART Extension (eBART Project), evaluating the potential environmental impacts of changes to the eBART Project (Revised Project); find that a subsequent or supplemental environmental impact report is not necessary, based upon the Addendum; and adopt the Revised Project.

DISCUSSION

On April 23, 2009, the BART Board of Directors (Board) certified the FEIR and adopted the eBART Project. The eBART Project described in the FEIR and adopted by the Board (Adopted Project) consists of an approximately 10-mile extension of the BART system starting from the existing Pittsburg/Bay Point BART Station and extending in the median of State Highway 4 (SR 4). The Adopted Project will use a Diesel Multiple Unit (DMU) technology, rather than conventional BART technology, and includes a transfer platform in the existing Pittsburg/Bay Point Station 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 design, plans and construction schedule for the Railroad Avenue and Hillcrest Avenue Stations have evolved since adoption of the FEIR. As described in the Addendum, several changes to the Adopted Project are now being contemplated as part of Revised Project. The Revised Project would be an extension of the BART System from the existing Pittsburg/Bay Point Station, with a transfer platform, a terminus station in the City of Antioch, and allowing for the possibility of deferring construction of the station in the City of Pittsburg. The Addendum also describes changes to the Hillcrest Station parking lot location and elevation, expansion and relocation of the maintenance facility, and related changes. Changed conditions have brought about the proposed project revisions since adoption of the FEIR as set forth below. However, incorporating these changes into the project depends upon funding availability and other contingencies. Accordingly, while these changes are evaluated for environmental clearance in the Addendum, BART retains the flexibility to construct the Adopted Project as originally described in the FEIR or to incorporate some or all of the Revised Project elements described in the Addendum.

The FEIR identifies funding for the Railroad Avenue eBART Station as being provided by the City of Pittsburgh. Due to economic circumstances, it is uncertain when and if funding for the Railroad Avenue Station will be available. The City of Pittsburgh had proposed to use its Redevelopment Agency funds for the design and construction of the Railroad Avenue Station, however, as of this date, all statewide funding for Redevelopment Agencies is uncertain. As a result of funding constraints, two potential changes to the Railroad Avenue Station are being considered: (i) initial construction of the eBART Project without the Railroad Avenue Station, where the Railroad Avenue Station could be constructed after funding becomes available; and (ii) potential elimination of the Railroad Avenue Station west entrance.

The proposed changes to the Hillcrest Avenue Station and station area evolved as a result of a decision by the Contra Costa Transportation Authority (CCTA) and the State Department of Transportation (Caltrans) in fall 2009 that Caltrans would need the existing BART park-and-ride property near Hillcrest Avenue to construct interchange improvements at Hillcrest Avenue. However, the Adopted Project contemplated using the park-and-ride lot as part of opening day parking for Hillcrest Station, as BART expected CCTA/Caltrans to build the interchange in the area at a later date.

As a result of the accelerated CCTA/Caltrans interchange plan, it became necessary to relocate the eBART parking area approximately 800 feet to the east, to maintain the same quantity of parking without use of the park-and-ride lot. Through a collaborative process with the City of Antioch, CCTA, Tri Delta Transit, the East Bay Bicycle Coalition, TransForm and others, eBART Project staff developed an access plan that includes elevation of the parking area to provide a connection to future Viera Avenue and improved access via all modes. At the same time, plans evolved for a larger maintenance facility, requiring a larger property.

In the Addendum, a number of changes to the adopted Hillcrest Median Station site plan are being considered: (i) relocating the parking lot approximately 800 feet to the east; (ii) raising the relocated parking area relative to its existing elevation, including importation of fill, to allow a future connection to Viera Avenue over the UPRR tracks; (iii) expanding the DMU maintenance facility; (iv) realigning the proposed maintenance access road; (v) installing solar panels over the center of the parking lot; (vi) excavating the knoll at the east end of the eBART Project area to provide a level site for the maintenance facility and additional fill for the regraded parking lot; and (vii) relocating certain utilities to accommodate these changes.

The Addendum has not identified any substantial changes in the existing environment, nor has it identified any new or more severe impacts that would result from the revised project that were not already identified in the FEIR. Therefore, the Revised Project does not meet the conditions that would require a subsequent or supplemental EIR. In addition, in completing the Addendum, staff noted that two mitigations provided for in the Mitigation Monitoring and Reporting Plan (MMRP) for the adopted eBART Project required updating. Other than those two mitigation measures, which have been updated in the Addendum, all mitigation measures included in the adopted MMRP would also apply to the Revised Project.

FISCAL IMPACT

There is no increase to the eBART Project budget or the current estimated capital cost of \$463.25 million. All revisions are within the funded project budget.

ALTERNATIVES

The alternative is not to adopt the Revised Project. Failure to adopt the Revised Project would render the eBART Project infeasible in that the Adopted Project consists of two stations. Based on the current unavailability of funds for the station in the City of Pittsburgh, it would not be possible to proceed with a two-station project at this time. Failure to adopt the Revised Project would also result in the inability to construct recommended improvements at Hillcrest Avenue.

RECOMMENDATION

Adoption of the attached Resolution.

MOTION

Having reviewed and considered the information contained in the Addendum, the BART Board of Directors hereby:

Adopts the attached Resolution In the matter of adopting modifications to the East Contra Costa BART Extension (eBART Project).

EDD: PROJECT CHANGES AND ADDENDUM TO THE EAST CONTRA COSTA BART EXTENSION (EBART PROJECT)

Attachments

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

**In the matter of adopting modifications to the
East Contra Costa BART Extension (eBART Project)**

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the BART Board of Directors on April 23, 2009, certified the Final Environmental Impact Report (FEIR) and adopted the eBART Project (Adopted Project). The Adopted Project consists of an approximately 10-mile extension of the BART system starting from the existing Pittsburg/Bay Point BART Station and extending in the median of State Highway 4 (SR 4).

WHEREAS, The Adopted Project will use a Diesel Multiple Unit (DMU) technology, rather than conventional BART technology, and includes a transfer platform in the existing Pittsburg/Bay Point Station 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; and

WHEREAS, in order to respond to changed circumstances, the design, plans and construction schedule for the Railroad Avenue and Hillcrest Avenue Stations have evolved since the Adopted Project was approved in 2009; and

WHEREAS, several changes to the Adopted Project are now being contemplated, to wit:

Railroad Avenue Station:

1. Initial construction of the eBART system without the Railroad Avenue Station, where the Railroad Avenue Station would be constructed after funding becomes available.
2. Potential elimination of the Railroad Avenue Station's west entrance.

Hillcrest Median Station:

1. Relocation of the parking lot to the east.
2. Raising the relocated parking area relative to its existing elevation, which includes importation of fill, to allow connection to a future Viera Avenue over the Union Pacific Railroad (UPRR) tracks.
3. Expansion of the DMU maintenance facility.
4. Realignment of the proposed maintenance access road.

5. Installation of solar panels over the center of the parking lot.
6. Excavation of the small knoll at the east end of the eBART Project area.
7. Potential relocation of certain utilities.

WHEREAS, Section 15164 of the CEQA Guidelines allows a lead agency to prepare an Addendum to a previously certified EIR, rather than a subsequent EIR (SEIR), if some changes or additions to a project are necessary, as long as none of the conditions described in Section 15162 requiring the preparation of an SEIR have occurred. Section 15162 states that, when an EIR has been certified, no SEIR shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, that there are substantial changes proposed in the project which require major revisions of the previous EIR, substantial changes occur with respect to the circumstances under which the project is undertaken, or there is new information of substantial importance regarding new or substantially more severe significant effects, new mitigation measures or alternatives, or the feasibility of mitigation measures or alternatives previously considered.

WHEREAS, staff has revisited the analysis conducted in the FEIR and evaluated the potential effects of the Revised Project as described in the Addendum, surrounding circumstances and new information; and

WHEREAS, based upon the evaluation, none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a SEIR have occurred; and therefore an Addendum is appropriate; and

WHEREAS, CEQA Guidelines Section 15164(d) provides that the lead agency's decision-making body shall consider an Addendum, together with the FEIR, prior to making a decision on the project.

THEREFORE, BE IT RESOLVED, that the BART Board of Directors, having reviewed and considered the information contained in the Addendum and the FEIR for the East Contra Costa BART Extension (eBART Project):

- 1) Finds that, on the basis of substantial evidence contained in the FEIR and Addendum and in light of the whole record, that:
 - (a) there are no substantial changes proposed in the Revised Project that will require major revisions to the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
 - (b) there are no substantial changes with respect to the circumstances under which the Revised Project is undertaken which will require major revisions of the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
 - (c) there is no new information of substantial importance, which was not known at the time the FEIR was certified, showing that:
 - (i) the Revised Project will have new or substantially more severe significant effects,

- (ii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce significant effects of the Revised Project, or
 - (iii) mitigation measures or alternatives considerably different from those analyzed in the FEIR would substantially reduce significant effects of the Revised Project, and
- 2) Adopts the Revised Project, and
- 3) Authorizes staff to implement the Adopted Project as modified by some or all of the Revised Project elements, depending on funding availability and other contingencies as appropriate.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 4/22/11		BOARD INITIATED ITEM: No		
Originator/Prepared by: Elaine M. Kurtz Dept: Human Resources <i>[Signature]</i> Signature/Date: 4-22-11	General Counsel <i>[Signature]</i> 4/22/11	Controller/Treasurer <i>[Signature]</i> 4/22/11	District Secretary <i>[Signature]</i> 4/22/11	BARC <i>[Signature]</i> []
Status: Routed		Date Created: 04/22/2011		

TITLE:

EMPLOYEE RECRUITMENT AND RELOCATION FOR THE POSITION OF GENERAL MANAGER

NARRATIVE:

PURPOSE:

To request that the Board authorize engagement of a firm to conduct a national recruitment for the position of General Manager and to authorize a relocation agreement, as appropriate, for the position. It is proposed that an executive search firm with experience in recruiting executive managers, including those in the transportation industry, be retained to accomplish this purpose.

DISCUSSION:

On March 11, 1993, the Board adopted Resolution 4487, requiring Board approval prior to certain recruiting activities to employ a person who is not a current District employee for any annual salary of \$50,000 or more. The resolution also states that the District should confine its recruiting to the State of California, consistent with provisions of the law, and that no relocation or moving expenses are to be offered to new employees without prior Board Approval.

The importance of the position of General Manager to the District's accomplishment of its mission need not be elaborated. The intensive work of developing an excellent pool of candidates for this key position in an efficient manner is best suited to the specialized capabilities of an executive recruiting firm.

The Board President, with the concurrence of an ad hoc committee consisting of President Franklin, Vice President McPartland and Directors Blalock and Keller, requested that District staff conduct an informal request for proposals from national search firms. Four proposals were solicited and are expected to be submitted on or before April 25, 2011. The ad hoc committee will review proposers' credentials, experience, proposed timelines and strategies for the recruitment and will seek authority from the Board to enter into an agreement with one of the proposers.

Proposals have been solicited from executive search firms that have:

Expertise in transit and/or public sector recruitment for executive level management positions;
 Ability to provide timely customized searches on a national scale, and to otherwise meet the District's criteria, including a focus on presenting a diverse candidate pool;

Acceptable business references;

The ability to meet the terms of agreement;

Acceptable price and fee structure.

The selected consultant will not confine its recruitment efforts to California.

The Board is also asked to authorize the execution of a relocation agreement with the selected employee within the parameters of current District practice as provided in Management Procedure 70. This procedure allows a maximum reimbursement amount of \$18,000 for relocation, and does not include financial participation by the District in the purchase or sale of real estate.

FISCAL IMPACT:

The cost for the search firm fee is estimated at \$110,000, inclusive of associated expenses, for this position. Any subsequent relocation agreement would be capped at \$18,000. Funding for the recruitment and relocation expenses will come from the FY11 and/or FY12 operating budget.

ALTERNATIVE:

Identify candidates for the position using the District's in-house recruitment resources.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

That the Interim General Manager or his designee is authorized to obtain executive search services to assist the Board in identification of qualified candidates both inside and outside of California for the position of General Manager, and to pay relocation assistance in accordance with established procedures.