

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

**BOARD MEETING AGENDA**

June 10, 2010

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, June 10, 2010, in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> 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](mailto:BoardofDirectors@bart.gov); in person or U.S. mail at 300 Lakeside Drive, 23<sup>rd</sup> Floor, Oakland, CA 94612; fax 510-464-6011; or telephone 510-464-6083.

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Joint Powers Agreement for the Creation of the Alameda County Transportation Commission and Approval of Amendment to the Joint Powers Agreement for the Alameda County Congestion Management Agency.\* Board requested to authorize.
- B. Resolution of Local Support for Inclusion of the MacArthur Transit Village Pedestrian Plaza Improvement Project in the 2010 Regional Transportation Improvement Plan.\* Board requested to adopt.
- C. Award of Contract No. 6M3060, Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of the Commercial Fiber Optic and Wireless Networks.\* Board requested to authorize.
- D. Award of Contract No. 15IC-110, 48 Volt Direct Current (VDC) Station Uninterruptable Power Supply (UPS) Replacement.\* Board requested to authorize.
- E. Award of Contract No. 15RW-160, Repaint Steel Bridges – Phase IV.\* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Fiscal Year 2011 Budget.\* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Award of Contract No. 15PL-110, BART Earthquake Safety Program Yard, Shops and Miscellaneous Structures.\* Board requested to authorize.
- B. Agreement with Sperry Rail Service for Ultrasonic Rail Flaw Detection Testing Services (Agreement No. 6M3139).\* Board requested to authorize.

- C. TransLink®/Clipper Regional Fare Collection System Update.\* For information.

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

NO ITEMS.

6. GENERAL MANAGER'S REPORT

- A. Review of the Draft Agenda for the Capitol Corridor Joint Powers Board Meeting of June 16, 2010.\* For information.

7. BOARD MATTERS

- A. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION.

Name of Case: BART v. G.E. Transportation Systems, Case  
No. C06-03749 JSW  
Government Code Section: 54956.9

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR.

Property: Property Located at the Pittsburg/Bay Point  
BART Station Bounded by West Leland Road to  
the South, Oak Hills Shopping Center to the East,  
Highway 4 to the North, and Private Property to  
the West

District Negotiators: Carter Mau, Executive Manager, Planning &  
Budget; and Jeffrey P. Ordway, Department  
Manager, Property Development

Negotiating Parties: San Francisco Bay Area Rapid Transit District  
and Redevelopment Agency of the City of  
Pittsburg

Under Negotiation: Price and Terms

Government Code Section: 54956.8

10. OPEN SESSION

- A. Joint Powers Authority Agreement with the Redevelopment Agency of the City of Pittsburg for the Pittsburg/Bay Point BART Station Development and Joint Powers Authority Issuance of a Developer Solicitation. Board requested to authorize.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DelBue</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Admin Committee		
DATE: <i>6/3/10</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Alan Lee Dept. Office of Planning and Budget <i>Alan E Lee</i> <i>6/4/10</i>	General Counsel <i>[Signature]</i> <i>6/3/10</i>	Controller/Treasurer <i>[Signature]</i> <i>6/3/10</i>	District Secretary <i>[Signature]</i>	BARC <i>[Signature]</i> <i>6-5-10</i>
Status: Routed		Date Created: 05/16/2010		

TITLE:

### PROPOSED NEW ALAMEDA COUNTY TRANSPORTATION COMMISSION (ACTC) JOINT POWERS AGREEMENT

NARRATIVE:

#### PURPOSE:

(1) Adopt a Resolution approving the Joint Powers Agreement (JPA) merging the Alameda County Congestion Management Agency (CMA) and the Alameda County Transportation Improvement Authority (ACTIA), creating the Alameda County Transportation Commission (ACTC); (2) approve an amendment for the necessary parallel changes to the existing CMA JPA; and (3) authorize the General Manager to execute the necessary agreements.

#### BACKGROUND:

The CMA and ACTIA have embarked on a new initiative to plan and deliver transportation programs in Alameda County. The initiative proposes a merger of the two agencies into a new entity entitled the Alameda County Transportation Commission (ACTC). The CMA and ACTIA Boards believe that the proposed new JPA will provide a more efficient and cost-effective platform to plan and deliver transportation programs and capital projects.

In January 2009, the CMA and ACTIA initiated a study to identify service sharing and/or consolidation opportunities between the two agencies. The study examined whether mission critical responsibilities could be delivered in a more streamlined and cost-effective manner if the two agencies operated on a more integrated basis. A final report delivered to both agencies in July 2009 concluded that there were, in fact, attractive opportunities for a range of service sharing and integration efforts.

At a joint meeting in January 2010, the CMA and ACTIA Boards expressed support for a proposed merger of the two agencies and directed staff to take the necessary actions to form a new JPA which would combine the powers of a congestion management agency and a transportation improvement authority. In February 2010, the CMA and ACTIA Boards approved a draft JPA and directed staff to present it to the Board of Supervisors, the City Councils for all fourteen (14) cities in the County, and to the Boards of Directors of AC Transit and BART. The CMA and ACTIA staff are now seeking approval of the new JPA establishing the ACTC and an amendment to the existing CMA JPA. Approval of the new JPA and the amendment to the CMA JPA will become effective upon approval by the Board of Supervisors and a majority of

the cities representing a majority of the population of the cities within Alameda County. The goal is to achieve all necessary approvals by July 2010, with the new commission launching in September 2010.

The CMA and ACTIA Boards further agreed on a new structure for a combined Board of Directors. The proposed new twenty-two (22) member ACTC Board would be composed as follows:

- Each member of the Alameda County Board of Supervisors, each of whom will have one vote, except for the longest serving Board member in attendance at the meeting who will have two votes;
- Two members representing the City of Oakland, with one member (the longest serving Councilmember on ACTC or previously CMA or ACTIA) having three votes and the other member having one vote;
- One member representing the City of Fremont and one member representing the City of Hayward, each of whom will have two votes;
- One member from each of the other eleven (11) cities, each of whom will have one vote; and
- One representative of BART and one representative of AC Transit, each of whom will have one vote.

**FISCAL IMPACT:**

Only members of the bodies who have paid or allocated fees set by the ACTC Board shall be entitled to be members of the ACTC Board. BART's fees for being a member of the ACTC Board would be an ongoing item in the BART annual operating budget under the Executive Office Administration cost center 402. BART's fee for FY 10/11 would be \$73,000, (the average of Proposition 111 fuel tax subvention fees of the current member agencies of the CMA). Fees in future years, would vary slightly from year to year depending on the average of Proposition 111 fuel tax subvention of the member agencies of the new ACTC. BART staff believes that BART would benefit significantly from being a full voting member of the new ACTC and that paying an assessed fee based on the average Proposition 111 fuel tax subvention fees of the current member agencies of the CMA is reasonable.

**ALTERNATIVES:**

Do not approve the Resolution approving the JPA creating the ACTC and amendment to the existing CMA JPA. Failure to approve these measures to participate as a voting member of the new ACTC could adversely affect BART's efforts to secure certain funding sources.

**RECOMMENDATION:**

(1) Approve the attached Resolution approving the JPA creating the ACTC; (2) approve an amendment for the necessary parallel changes to the existing CMA JPA; and (3) authorize the General Manager to execute the necessary agreements.

**MOTION:**

(1) Adoption the attached Resolution approving the Joint Powers Agreement creating the Alameda County Transportation Commission; (2) approve an amendment to the existing Alameda County Congestion Management Agency Joint Powers Agreement; and (3) authorize the General Manager to execute the necessary agreements.

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

In the Matter of Adopting a Resolution approving the Joint Powers Agreement creating the Alameda County Transportation Commission (ACTC) and an amendment for the necessary parallel changes to the existing Alameda County Congestion Management Agency (CMA) Joint Powers Agreement

Resolution No. \_\_\_\_\_

**WHEREAS**, the Alameda County Congestion Management Agency (“CMA”) was created pursuant to California Government Code Section 65089;

**WHEREAS**, a joint powers agreement, dated February 20, 1991, defining the roles, purposes, objectives, responsibilities, powers and duties of the CMA (“CMA Agreement”) was approved and executed by the Alameda County Board of Supervisors and a majority of the cities representing a majority of the population in the incorporated area of Alameda County;

**WHEREAS**, the CMA Agreement was subsequently amended in 1991 and 1992 to modify the voting composition of the CMA Board and make certain other related changes, by actions taken by the Alameda County Board of Supervisors and a majority of the cities representing a majority of the population in the incorporated area of Alameda County;

**WHEREAS**, the CMA Board and the Board of the Alameda County Transportation Improvement Authority (“ACTIA”) have each approved the form of a Joint Powers Agreement dated for reference purposes only as of March 25, 2010 (“ACTC Agreement”) which will create, pursuant to the California Joint Exercise of Powers Act, a joint powers agency known as the Alameda County Transportation Commission (“ACTC”);

**WHEREAS**, ACTC is intended to have and to exercise all of the authority, powers and rights of the CMA and ACTIA and certain additional powers as described in the ACTC Agreement;

**WHEREAS**, CMA and ACTIA are required to continue in existence for the time being, notwithstanding the fact that such agencies shall delegate their powers to ACTC, in part to allow time for state statutes to be amended to reference ACTC rather than CMA and/or ACTIA;

**WHEREAS**, the members of ACTC will be Alameda County, each of the 14 Cities within the county, CMA, ACTIA, the Bay Area Rapid Transit District (“BART”) and the Alameda-Contra Costa Transit District (“AC Transit”), and ACTC shall be a public entity separate from such agencies and transit operators;

**WHEREAS**, the ACTC Agreement provides for the following voting members on the ACTC board, subject to the requirement that only members of bodies who have paid or allocated the fees set by the ACTC Board shall be entitled to be members of the ACTC Board:

- (i) Each member of the Alameda County Board of Supervisors, each of whom will have one vote, except that at each ACTC Board meeting, the Supervisor actually present at the meeting with the longest service on the Board of Supervisors shall have two votes;
- (ii) Two members representing the City of Oakland, with the member with the longest service on ACTC (or previously on CMA or ACTIA) having three votes and the other member having one vote;
- (iii) One member representing the City of Fremont and one member representing the City of Hayward, each of whom will have two votes;
- (iv) Eleven members each representing one of the other 11 Cities in Alameda County, each of whom will have one vote; and
- (v) One representative of BART and one representative of AC Transit, each of whom will have one vote;

**WHEREAS**, the Board of CMA and the Board of the Alameda County Transportation Improvement Authority (“ACTIA”) have recommended that Section 10.a. (“Board Organization”) of the CMA Agreement be amended to provide that representation on the CMA Board shall match the representation on the ACTC Board as described as (i)-(v) above, and have further recommended that the CMA Agreement be amended to provide that the CMA Board shall have the power to dissolve the CMA and designate ACTC as its successor when the CMA Board determines in its discretion that such dissolution is appropriate;

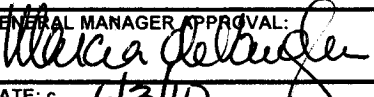
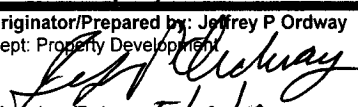
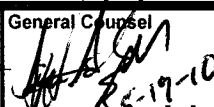
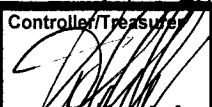
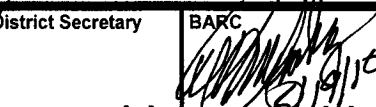
**NOW, THEREFORE BE IT RESOLVED**, that BART approves the ACTC Agreement, authorizes its General Manager, or her designee to execute the same, and agrees to become a member of ACTC; and

**BE IT FURTHER RESOLVED**, that BART approves the amendment to the CMA Agreement accomplishing the revisions described above, and acknowledges that such amendment shall become effective upon the approval thereof by the Alameda County Board of Supervisors and a majority of the cities representing a majority of the population in the incorporated area of Alameda County.

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## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to PPAAL Committee		
DATE: c 6/3/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jeffrey P Ordway Dept: Property Development 	General Counsel  5-19-10 [ ]	Controller/Treasurer  [ ]	District Secretary [ ]	BARC  5/19/10 [ ]
Signature/Date: 5/19/10				

TITLE:

### Adoption of a Resolution of Local Support for Inclusion of the MacArthur Pedestrian Plaza Improvements Project in the 2010 Regional Transportation Improvement Plan

#### NARRATIVE:

**PURPOSE:** To obtain BART Board adoption of a Resolution of Local Support to include the MacArthur Pedestrian Plaza Improvement Project in the Metropolitan Transportation Commission's ("MTC") 2010 Regional Transportation Improvement Plan ("RTIP").

**DISCUSSION:** MTC Resolution No. 3928 requires that a project sponsor approve a Resolution of Local Support when the project sponsor requests inclusion in the 2010 RTIP. Staff has prepared the attached Resolution of Local Support for adoption by the BART Board of Directors. BART will request an allocation of \$953,000 of State Transportation Improvement Plan Transportation Enhancement ("STIP TE") funding for the MacArthur Pedestrian Plaza Project.

In June 2008, the BART Board of Directors authorized execution of an Option Agreement with MacArthur Community Transit Partners, LLC ("MCTP") for the disposition of BART property at the MacArthur BART Station. As part of the transaction, MCTP will design and construct the improvements on the pedestrian plaza at the MacArthur Station. Approximately \$2.1 million has been secured to date for the MacArthur Pedestrian Plaza Project, including the above-noted \$953,000, and an application for an additional grant of \$625,000 has been submitted to the Alameda County Congestion Management Agency for Transportation for Livable Community funds. The MacArthur Pedestrian Plaza Project has received all necessary environmental clearances.

**FISCAL IMPACT:** Adoption of the Resolution of Local Support is a requirement for inclusion of the project in the 2010 RTIP. This action will have no fiscal impact on un-programmed District Reserves.

**ALTERNATIVES:** Do not adopt the Resolution of Local Support. The likely result of not adopting the Resolution of Local Support would be withdrawal of the MTC STIP TE funding, which would affect the financial feasibility of the MacArthur Pedestrian Plaza Project.

**RECOMMENDATION:** Adoption of the following motion:

**MOTION:** The Board adopts the attached Resolution of Local Support for inclusion of the MacArthur Pedestrian Plaza Project in the Metropolitan Transportation Commission 2010 Regional Transportation Improvement Plan.

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

In the Matter of Adopting a Resolution of Local Support  
for Inclusion of the MacArthur Pedestrian Plaza Improvements  
Projects in the 2010 Regional Transportation Plan

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 \$953,000 in funding from the 2010 Regional Transportation Improvement Program (RTIP) for the MacArthur Transit Village pedestrian plaza project (herein referred to as “PROJECT”) for the MTC 2010 RTIP, as authorized by MTC by Resolution No. 3928 (herein referred to as “PROGRAM”); and

**WHEREAS**, SB 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

**WHEREAS**, as part of that process, MTC is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the RTIP, and submission to the California Transportation Commission, for inclusion in the State Transportation Improvement Program; and

**WHEREAS**, MTC will review and include, if approved, 2010 RTIP projects in the federal Transportation Improvement Program (TIP); and

**WHEREAS**, MTC has requested eligible transportation project sponsors to submit applications nominating projects to be programmed for Regional Improvement Program funds in the RTIP; and

**WHEREAS**, applications to MTC must be submitted consistent with procedures, conditions, and forms it provides transportation project sponsors; and

**WHEREAS**, APPLICANT is a sponsor of transportation projects eligible for Regional Improvement Program funds; and

**WHEREAS**, the RTIP request, attached hereto in the Project Programming Request Summary and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan, for which APPLICANT is requesting that MTC program Regional Improvement Program funds for inclusion in the RTIP; and

**WHEREAS**, the project application, includes the certification by APPLICANT of assurances required by SB 45 in order to qualify the project listed in the RTIP project nomination sheet of the project application for programming by MTC; and

**WHEREAS**, as part of the application for 2010 RTIP funding, MTC requires any resolution adopted by the responsible implementing agency to state that the project will comply with the procedures specified in the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, Pages 14-15, and as may be further amended).

**NOW, THEREFORE, BE IT RESOLVED**, that APPLICANT approves the assurances set forth in Part 2 of the PROJECT application; and be it further

**RESOLVED**, that APPLICANT will comply with the provisions and requirements of the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, Pages 14-15, and as may be further amended), that 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 that APPLICANT and PROJECT will comply with the requirements as set forth in the 2010 RTIP Policies and Procedures (MTC Resolution No. 3928); and therefore be it further

**RESOLVED**, that BART approves the Project Programming Request Summary; and be it further

**RESOLVED**, that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule set forth in the RTIP Project Programming Request (PPR) form of the PROJECT application; and be it further

**RESOLVED**, that APPLICANT is an eligible sponsor of projects in the State Transportation Improvement Program; and be it further

**RESOLVED**, that APPLICANT is authorized to submit an application for State Transportation Improvement Program funds for PROJECT; and be it further

**RESOLVED**, that there is no legal impediment to APPLICANT making applications for Regional Improvement Program funds; and be it further

**RESOLVED**, that there is no pending or threatened litigation which 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 to program Regional Improvement Program funds into the RTIP, for the projects, purposes and amounts included in the project application attached to this resolution; and be it further

**RESOLVED**, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the APPLICANT application referenced herein.

# # #

## MacArthur Pedestrian Plaza Improvement Project

### Project Programming Request Summary

This project involves a remodel of the existing BART entry plaza which is located under a freeway underpass. Project elements include new lighting, seating, noise attenuation, bicycle parking, and a covered waiting area for shuttle transfers. The project is intended to improve customer access to the MacArthur BART Station and will support the TOD project in progress at the station.

### Project Delivery Milestones

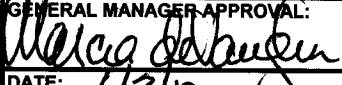
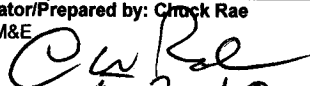
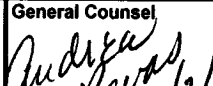


Phase-Milestone	Planned	
	Start Date	Completion Date
Environmental Document	May 2007	May 2009
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	May 2007	June 2008
Final Design - Plans, Specs. & Estimates (PS&E)	February 2010	September 2010
Right-of-Way Activities /Acquisition (R/W)	NA	NA
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	March 2011	March 2012

### Total Project Budget Information

Phase	Total Amount - De-escalated -
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	\$100,000
Design - Plans, Specifications and Estimates (PS&E)	\$259,000
Right-of-Way Activities /Acquisition (R/W)	\$0
Construction / Rolling Stock Acquisition (CON)	\$1,775,000
Total Project Budget (in thousands)	\$2,134,000



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and forward to the Board		
<b>DATE:</b> 6/3/10		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Chuck Rae Dept: M&E  <b>Signature/Date:</b> 5-2-10	<b>General Counsel:</b>  6/2/10	<b>Controller/Treasurer:</b>  6/2/10	<b>District Secretary:</b> [ ]	<b>BAGC:</b>  6/3/10
<b>Status:</b> Routed		<b>Date Created:</b> 05/06/2010		
<b>TITLE:</b>				

### EMERGENCY RESTORATION, PREVENTIVE MAINTENANCE, NON-EMERGENCY REPAIR AND SEISMIC RELOCATION WORK OF THE COMMERCIAL FIBER OPTIC AND WIRELESS NETWORKS CONTRACT NO. 6M3060

#### NARRATIVE:

**PURPOSE:** To authorize the General Manager to award Contract No. 6M3060 for the Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of The Commercial Fiber Optic and Wireless Networks to Phase 3 Communications, Inc., of San Jose, California.

**DISCUSSION:** Since 1994, the District has executed separate Emergency Restoration Service Agreements and maintenance contracts for the Commercial Telecommunication Revenue Program. The Emergency Restoration Service Agreements focused on Emergency repair of the fiber optic cables. The goal of the Maintenance Contracts was to bring the infrastructure supporting the fiber plant up to a sustainable level by repairing major problems. This goal has been met, and the on-going maintenance is predominately fiber cable orientated. The need for a separate maintenance contract for the infrastructure is no longer required. Therefore, staff has solicited bids for and recommend award of Contract No. 6M3060 with a scope that includes emergency restoration, preventative maintenance, emergency repairs and seismic relocation work.

Advance Notices to Bidders were mailed to 11 prospective Bidders. Contract Documents were sent to 23 plan rooms. The Contract was advertised on March 31, 2010 in various local publications. A total of 4 firms purchased copies of the Contract Documents. A pre-bid meeting was conducted on April 9, 2010 with 6 prospective Bidders attending. One Bid (Qualification Bid and Price Bid sealed in separate envelopes) was received on May 11, 2010. A Selection Committee evaluated the technical qualifications of the Bidder and determined that the Bidder met the minimum technical requirements. Their Price Bid was publicly opened on May 25, 2010. Tabulation of the Price Bid, including the Engineer's Estimate, is as follows:

BIDDERS	LOCATION	BASE BID (1-Year)	OPTION 1 (1-Year)	OPTION 2 (1-Year)	TOTAL BID PRICE (Base Bid + Option 1 + Option 2)
Phase 3 Communications, Inc.	San Jose, CA	\$560,956.00	\$553,580.00	\$551,916.00	\$1,666,452.00
Engineer's Estimate		\$550,000.00	\$550,000.00	\$550,000.00	\$1,650,000.00

The Project Sponsor has contacted Plan Holders who did not submit a Bid for the contract and determined that the decisions not to submit a Bid included a lack of qualified technical resources, equipment and experience, and that there were no restrictions in the specifications that contributed to the decision not to Bid.

The bid totals for the Base Bid year and each option year are based on estimated quantities. Staff is seeking Board authority to exceed the annual totals, subject to the availability of funding, so long as the Total Bid Price of \$1,650,000.00 is not exceeded.

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

**FISCAL IMPACT:** Funding for FY 2010 in the amount of \$560,956.00 is included in the Maintenance & Engineering Department's revised operating budget. The remainder due under Program Contract No. 6M3060 will be included in the proposed budgets of the Maintenance & Engineering Department for fiscal years 2011 through 2012.

**ALTERNATIVE:** To not award this Contract. This would prevent the District from maintaining the commercial fiber optic and wireless network as required in the user agreements that generate \$6.5M of revenue annually for the District.

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

**MOTION:** The General Manager is authorized to award Contract No. 6M3060, for the Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of The Commercial Fiber Optic and Wireless Networks for an initial one (1) year term and to exercise up to two (2) optional one year extensions to Phase-3 Communications, Inc. of San Jose, California, for a total Bid Price of \$1,666,452.00, 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>Walter DelBouche</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c <i>6/3/10</i>		BOARD INITIATED YES/NO		
Originator/Prepared by: Nitee Mun Dept: Systems Engineering <i>Nitee Mun</i>	General Counsel <i>Andrew Rana</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul [Signature]</i>
Signature/Date: <i>[Signature]</i> 6/3/10	<i>[Signature]</i> 6/3/10	<i>[Signature]</i> 6/3/10	<i>[Signature]</i> 6/3/10	<i>[Signature]</i> 6/3/10

TITLE:

**AWARD CONTRACT NO. 15IC-110 FOR 48VDC STATION UPS REPLACEMENT**

NARRATIVE:

### Purpose

To obtain Board authorization for the General Manager to award Contract No. 15IC-110, 48 Volt Direct Current (VDC) Station UPS Replacement.

### Discussion

In each train control room throughout the District, there is a 48VDC Uninterruptable Power Supply (UPS) that is used for powering the communication equipment necessary to support train operations and station operations. A UPS is used so that the communications equipment remains in service even if local facility power is lost. The existing 48VDC UPS equipment deployed in the original core 30 passenger stations and 3 train yards do not have sufficient capacity and lack certain capabilities required to power the new generation communication equipment and CCTV surveillance cameras presently undergoing installation.

The proposed contract work scope would replace the existing 48VDC UPS System and the near end-of-life battery plant at the 30 stations and 3 yards with new, increased capacity equipment suitable for the communications equipment. The addition of battery management and monitoring capabilities improve the battery life and provide real-time system information to improve maintenance cycle.

Advance Notice to Bidders was mailed on March 2, 2010 to 572 prospective Bidders and Contract Books were sent to 24 plan rooms. The Contract was advertised on March 8, 2010 and a pre-Bid meeting and site inspection tour were held on March 18, 2010. Addendum No. 1 extended the Bid Opening date and offered a second pre-Bid meeting and tour on April 22, 2010. Additional funding, made available after Contract advertisement, provided an opportunity to add furnishing batteries and a battery monitoring system to the original scope. These features were added by Addendum No. 2. Nine (9) Bids were received and opened on May 11, 2010 as follows:

AWARD CONTRACT NO. 15IC-110 FOR 48VDC STATION UPS REPLACEMENT

No.	BIDDER	Total Bid Price
1	American Power Systems, Inc., Stockton, CA	\$1,468,562.05
2	Cumisky Construction Corporation, San Francisco, CA	\$1,536,500.00
3	Taber Construction Inc., Concord, CA	\$1,584,000.00
4	GEMS Environmental Managment Services, Inc., Baypoint, CA	\$1,586,825.20
5	Edward W. Scott Electric Co., Inc., San Francisco, CA	\$1,606,000.00
6	Triple S. Electric Co., Alameda, CA	\$1,663,000.00
7	Blocka Construction, Inc., Fremont, CA	\$1,792,000.00
8	Steiny and Company, Inc., Vallejo, CA	\$1,845,710.00
9	Mike Brown Electric, Co., Cotati, CA	\$2,025,124.00
	Engineer's Estimate	\$1,735,219.00

The lowest Bid was 15.3% below the Engineer's estimate and the highest Bid was 16.7% above the Engineer's Estimate. The average Bid of all the Bidders was within 3.2% of the Engineer's estimate.

The apparent lowest Bid was submitted by American Power Systems, Inc.. Due to irregularities in their Bid Bond, the American Power Systems, Inc. Bid was deemed non-responsive. The apparent second lowest Bid submitted by Cumisky Construction Corporation was also deemed non-responsive for failure to submit a signed Statement of Qualifications and Business References under penalty of perjury.

The apparent third lowest Bid, submitted by Taber Construction, Inc., is 8.7% below the Engineer's Estimate. This Bid has been deemed to be responsive to the solicitation and the Bid Price of \$1,584,000.00 to be fair and reasonable. Furthermore, examination of Taber Construction's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

This contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this contract and determined that there were subcontracting opportunities; therefore, a DBE participation goal of 5% was set for this contract. Taber Construction Inc. committed to subcontracting 6% to DBEs.

**Fiscal Impact:**

Funding of \$1,584,000 for the award of Contract 15IC-110 is included in the total project budget for the FMS #15IC- 48VDC Station UPS Replacement Project. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$1,584,000 will be funded by Federal and State sources.

As of the month ending May 2, 2010, the following funding is available for commitment from

these sources:

Fund Grant	Funds for this Project	Committed	Pending Commitments	Funds For This EDD	Funds Remaining
52U - CA-90-Y111 FY02 Capital Assistance Program	\$1,078,305	\$661,475	\$10,000	<b>\$107,217</b>	\$299,613
54K - CA-96-X001 – ARRA of 2009 (Federal Economic Stimulus)	\$1,022,051	\$0	\$0	<b>\$963,927</b>	\$58,124
55X - FY08-09 PTMISEA – Prop 1B State Bond Funds	\$1,050,000	\$518,380	\$0	<b>\$512,856</b>	\$18,764
Total				<b>\$1,584,000</b>	

There is no fiscal impact on available unprogrammed District Reserves.

**Alternatives:**

Reject all Bids and not award the Contract. If the Contract is not awarded, the District will lose \$1.02 million in ARRA (Stimulus) funds allocated to this project. In addition, the vital communication equipment that needs UPS power will not be able to connect to appropriate power source, causing equipment out of service condition when local power is lost.

**Recommendation:**

Adoption of the following motion.

**Motion:**

The General Manager is authorized to award Contract No. 15IC-110, 48VDC Station UPS Replacement Project, to Taber Construction Inc. for the Bid amount of \$1,584,000.00 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and the FTA's requirements related to protest procedures.

## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter de la Cruz</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board	
DATE: 6/2/10		BOARD INITIATED ITEM: No	
Originator/Prepared by: Ersten Y Imacka Dept: M & E <i>Ersten Imacka</i>	General Counsel <i>Andrew Rosen</i> 6/2/10	Controller/Treasurer <i>[Signature]</i> 6/2/10	District Secretary <i>[Signature]</i> 6/2/10
Signature/Date: 6/1/10			BARC <i>[Signature]</i> 6/2/10

TITLE:

## Award Contract No. 15RW-160, Repaint Steel Bridges – Phase IV

## NARRATIVE:

**PURPOSE:** To authorize the General Manager to award Contract No. 15RW-160, Repaint Steel Bridges – Phase IV, to Jeffco Painting & Coating, Inc.

**DISCUSSION:** The Work of this Contract includes furnishing all labor, equipment, materials and services required to repaint four steel bridges located in Alameda and Contra Costa counties.

Advance Notice to Bidders was mailed on April 9, 2010, to 44 prospective Bidders. Contract Books were mailed to 22 plan rooms and minority assistance organizations. The Contract was advertised on April 14, 2010. A Pre-Bid meeting and site tour were conducted on April 23, 2010, with nine prospective Bidders attending the meeting, and four prospective Bidders attending the site tour. The following five Bids were received on May 11, 2010:

BIDDER	LOCATION	TOTAL BID
Jeffco Painting & Coating, Inc.	Vallejo, CA.	\$424,000.00
Jerry Thompson & Sons Painting, Inc.	San Rafael, CA	\$496,000.00
Mino's Painting	Millbrae, CA	\$497,000.00
Long Painting Co.	Kent, WA	\$536,685.00
Certified Coatings Co.	Fairfield, CA	\$712,145.00
ENGINEER'S ESTIMATE		\$503,400.00

After review by District staff, the Bid submitted by the apparent low Bidder, Jeffco Painting & Coating, was found to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has determined that its Bid of \$424,000.00, which is approximately 16% under the Engineer's Estimate, is fair and reasonable.

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

The project will receive federal funding from the Federal Transit Administration (FTA) and is therefore subject to the National Environmental Policy Act (NEPA). FTA concurred that implementation of the project will not have a significant impact on the environment and qualifies for a categorical exclusion as defined under 23 CFR 771.117 (c)(18) for track and railbed maintenance /improvements when carried out within the existing right-of-way.

The Office of Civil Rights reviewed the scope of work for this Contract and determined that the DBE participation goal for this Contract be set at 10% of the total Bid, excluding Allowances. Jeffco Painting & Coating's DBE participation for this Contract is 11% of the total Bid, excluding Allowances.

**FISCAL IMPACT:** Funding for \$424,000.00 for award of Contract No. 15RW-160 is included in the total project budget for the FMS #15RW, Reroof and Repaint Structures. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

**F/G 53G – FTA CA-05-0224**

**\$424,000.00**

As of the month ending 05/02/10, \$690,000.00 is available for commitment from this fund source for this project, and BART has committed \$130,275.00 to date. There are no pending commitments in BART's financial management system. This action will commit \$424,000.00, leaving an uncommitted balance of \$135,725.00 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:** The alternative is to reject all Bids, which will result in the deferral of repainting of these four steel bridges which have not been repainted since their original construction. Such deferral could lead to further rusting and possible structural damage to these bridges, repairs of which could result in disruption to revenue service.

**RECOMMENDATION:** Adoption of the following motion:

**MOTION:** The General Manager is authorized to award Contract No. 15RW-160, Repaint Steel Bridges – Phase IV, to Jeffco Painting & Coating, Inc., for the Bid price of \$424,000.00, 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: <i>Wanda DelBue</i>		GENERAL MANAGER ACTION REQ'D: Place on the June 10, 2010 Board of Directors Agenda		
DATE: c <i>6/4/10</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept: Operating Budgets & Analysis	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>R. Umbreit 6/4/10</i>	<i>MB 6/4/10</i>	<i>[Signature] 6/4/10</i>	[ ]	<i>[Signature] 6-4-10</i>

TITLE:

### ANNUAL BUDGET RESOLUTION FOR FISCAL YEAR 2011

NARRATIVE:

#### PURPOSE

Adopt the Annual Budget Resolution for Fiscal Year 2011 (FY11).

#### DISCUSSION

Approval by the Board of Directors is requested for the FY11 operating and capital budgets. The proposed FY11 operating budget is balanced, with \$582.1 million (M) in operating sources, \$588.7M in operating uses, less an Other Post Employment Benefits (OPEB) unfunded liability adjustment of \$6.6M. The FY11 proposed capital budget totals \$777.4M.

Based on Board member comments at the May 27 Board presentation, the proposed operating budget includes a package using the \$4.5M of available funding for the following customer appreciation programs: \$0.2M to defer the East Bay Paratransit fare increase for 4 months, \$0.1M for a front line personnel customer service improvement program, \$0.1M to convert 4 part time car cleaners to full time, \$1.5M for seat cushion replacement and interior maintenance for 100 cars and \$2.6M to be put into reserves until Title VI public outreach on potential fare changes is complete. After the outreach is completed the Board can review feedback from the public, and then determine if it wishes to use some of the amount put in reserves to pursue customer appreciation actions including a temporary fare roll-back, free morning commutes or other promotional fare options. The outreach is currently estimated to be completed in July. Alternatively, the Board could direct this \$4.5M to other uses.

Other changes from the FY11 Preliminary Budget include \$3.6M as a placeholder for the feeder bus transfer payment to AC Transit, \$0.8M for expenses related to Title VI action plan implementation and fare roll-back outreach, and approximately \$0.4M for other expense adjustments. Negotiations with AC Transit are not yet completed, but a potential solution totaling \$3.6M is currently being discussed, with \$2.46M to be allocated to AC Transit directly from BART State Transit Assistance (STA) funds, and \$1.14M to be held in reserve, all or part of which will be allocated to AC Transit in a second FY11 transfer payment. Title VI implementation expenses include two positions funded for FY11 that will assist with the extensive outreach needed next year, to be filled by individuals whose budgeted positions were eliminated in the FY10 or FY11 position reductions. This will provide assistance to staff for the outreach meetings, while also giving more time for the affected individuals to find permanent positions. Other expenses added to the budget include \$0.2M for redistricting expenses and \$0.2M for several small changes and corrections to the budget.

### Background

The FY11 Preliminary Budget was developed as the economy began to recover from the worst recession in many decades. The economy continues to be a major concern, with major impacts over the past two years to the District's revenue sources. The two main sources, passenger revenue and sales tax, have both declined significantly over the past two years. The rate of decline has slowed in recent months, compared to record drops earlier this year, but currently both are still declining. The forecast for FY11 is for the rate of decline to continue to slow, reflecting slow but gradual improvement in the economy, and both sales tax and passenger revenue are projected to be flat for the year.

When revenues and expenses were put together for the Preliminary Budget, BART initially faced a deficit of \$10.6M. Over the past two years, the District has countered declining revenues with a combination of a series of budget reductions, fare increases and long-term labor contracts that produced savings in benefit costs and efficiencies in work rules resulting in fewer positions. Because of the extensive expense reductions (over 200 positions cut) in FY10, further expense reductions were limited, to avoid too great an impact on service to BART customers. The FY11 Preliminary Budget included recommendations for an expense reduction of \$5.3M, including eliminating 17 operating positions and converting 20.5 from operating to capital funding. The reduction is designed to strike a balance between the need to avoid impacts to the customer with the need to continue to reduce expenses to keep them in line with revenues. However, there was still a fairly significant deficit (about \$5.4M) remaining to be dealt with. The budget situation was difficult because, after the FY10 fare increases and parking policy change, further revenue enhancements in the form of fare or parking increases were not a prudent option and we were determined to not cut service.

During the final stages of the Preliminary Budget preparation in March, the State unexpectedly restored STA funds for FY11, which had been eliminated in the State budget for FY10. This added \$23.7M to the net result, after making payments to support the four feeder bus operators, not including the AC Transit payment which was to be negotiated, as previously discussed in this document. The net STA revenue to BART was \$21.2M, and BART also did not have to make the \$2.5M contribution to the feeder bus program required when STA funds are insufficient. While this funding changed the picture significantly for FY11, receipt of STA funds in future years is uncertain, particularly given the poor budgetary condition of the State. The new funding is subject to annual appropriations and has less protection than did the prior program, which was eliminated in FY10.

In addition to the proposed expense reduction, the second major recommendation included in the Preliminary Budget was an allocation to restore reserves to the 5% of budget level recommended in the Financial Stability Policy. The reserve currently has a balance of \$14.7M, and the \$9.3M allocation would bring the total to \$24M, or 5% of FY11 operating expenses. However, the need for increased reserves has been a topic of the Board Finance, Budget, and Internal Audit Committee and has been discussed during budget presentations. In addition, as discussed during budget presentations, \$3.0M in debt service savings from the recent bond refinancing was not reflected in the Preliminary Budget. It is recommended that the \$3.0M from debt service savings be added to reserves, as current forecasts for FY10 project a \$3-5M deficit for the year. The \$3.0M would replace the reserves needed to be used to balance the FY10 deficit, and so if they are needed as projected, would not increase the reserve balance.

The \$9.3M allocation to increase reserves left the Preliminary Budget with a positive net result of \$9.1M, which, after setting aside an allowance for the AC Transit transfer payment, funding Title VI implementation expenses and the other adjustments discussed previously, leaves \$4.5M available. The Board of Directors consideration of options has focused on a series of customer appreciation initiatives discussed at the beginning of this document.

One possible additional expense in FY11 that is not budgeted at this time are costs associated with the introduction of Clipper (Translink), the multi-agency fare media that is being rolled out this year and next. Based upon current usage patterns and projections, it is estimated that the \$2.1M incentive fund provided by the Metropolitan Transportation Commission (MTC) will last through May 2011 and possibly as late as August 2011. However, depending on the timing of transitioning users of BART's current fare media to Clipper, it is possible that fees in the range of \$0.5M could be incurred in FY11. We will continue to update projections, and if needed the budget will be revised.

#### FY11 Capital Budget

The capital budget proposes FY11 expenditures of \$777.4M and funds 445 positions. The capital budget is primarily funded through capital grants; however, District-allocated funds are also needed for a portion of the required local match and for expenditures which do not qualify for grants, including facilities renovation and the replacement of police and maintenance vehicles and equipment. The largest program areas for capital expenditure next year will be earthquake safety and system expansion. System renovation comprises a program of essential reinvestment, primarily in the areas of station modernization, train control, traction power, rail replacement and trackway renovation and other critical projects. Work will also continue on security upgrades, system accessibility improvements and the eBART, Oakland Airport Connector, and Warm Springs extension programs, the West Dublin/Pleasanton Station project, and a right-of-way acquisition plan for the Livermore/I-580 corridor.

#### **FY11 BUDGET RESOLUTION**

Staff recommends approval of the attached Resolution to adopt the FY11 Annual Budget. As in previous years, the FY11 Resolution includes authorization to submit annual applications for Transportation Development Act (TDA), State Transit Assistance (STA) and bridge toll funds that are included in the FY11 capital budget, as appropriate. The Resolution also allows the General Manager or her designee to execute the agreement with the City and County of San Francisco to provide annual transfer payments for feeder services to the San Francisco Municipal Transportation Agency for FY11. The budget Resolution also incorporates provisions referring to the SFO extension service plan and certain District system-wide operating policies. The budget Resolution authorizes the General Manager, or her designee, to file grant applications and execute funding agreements on behalf of the District with the State of California for security grants.

Exhibit A (attached) of the Budget Resolution summarizes operating and capital budget totals. It assumes adoption of the staff recommendations for expense reductions and allocations to reserves, as well as the customer appreciation package outlined previously.

#### **FISCAL IMPACT**

The proposed FY11 Annual Budget is balanced.

**ALTERNATIVES**

Not adopt the budget or to adopt a different package of customer appreciation options than was outlined in this document. Rules of the Board of Directors require that the budget be adopted prior to June 30<sup>th</sup>; adoption of the Budget Resolution by June 30<sup>th</sup> is required to authorize expenditures in FY11.

**RECOMMENDATION**

Adoption of the following motion:

**MOTION**

Adoption of the attached Resolution in the matter of approving the Annual Budget for the San Francisco Bay Area Rapid Transit District and authorizing expenditures for the fiscal year July 1, 2010 to June 30<sup>th</sup>, 2011.

**Attachment 1**  
**Fiscal Year 2011 District Operating Budget**  
**Sources and Uses Detail**

	FY11		FY11
<b>SOURCES</b>	<b>PRELIMINARY</b>	<b>Changes</b>	<b>ADOPTED</b>
Rail Passenger Revenue	\$ 328,796,548	\$ -	\$ 328,796,548
ADA Passenger Revenue	670,000	-	670,000
Parking Revenue	13,390,005	-	13,390,005
Other Operating Revenue	19,346,300	-	19,346,300
<b>Sub-Total Operating Revenue</b>	<b>362,202,853</b>	<b>-</b>	<b>362,202,853</b>
Sales Tax Proceeds	162,500,000	-	162,500,000
Property Tax Proceeds	29,490,048	-	29,490,048
Measure B	1,410,655	-	1,410,655
State Transit Assistance	21,228,682	(2,460,000)	18,768,682
Federal 5307 Preventive Maintenance (SMP Grant)	228,880	-	228,880
Millbrae Use, Operating & Maint. Agreement	764,909	-	764,909
San Mateo Co. Financial Assistance - SFO Operations	3,593,610	-	3,593,610
Allocation from W. Dublin Project for Debt Service	3,130,964	-	3,130,964
Allocation from Access Fund	25,000	-	25,000
<b>Sub-Total Financial Assistance &amp; Allocations</b>	<b>222,372,748</b>	<b>(2,460,000)</b>	<b>219,912,748</b>
<b>TOTAL SOURCES</b>	<b>584,575,601</b>	<b>(2,460,000)</b>	<b>582,115,601</b>
<b>USES</b>			
Labor	340,370,500	628,623	340,999,123
OPEB Unfunded Liability	6,624,609	-	6,624,609
ADA Paratransit	12,382,706	-	12,382,706
Purchased Transportation	2,593,885	-	2,593,885
Power	34,928,000	-	34,928,000
Other Non-Labor	82,482,249	2,225,419	84,707,668
<b>Sub-Total Operating Expense</b>	<b>479,381,949</b>	<b>2,854,042</b>	<b>482,235,991</b>
Debt Service	62,300,741	(3,002,175)	59,298,566
MTC Loan Debt Service	8,870,000	-	8,870,000
Allocation - Capital Rehabilitation	21,685,529	-	21,685,529
Allocation - Other Capital	588,557	-	588,557
Allocation - Operating Reserves <sup>(1)</sup>	9,300,000	6,761,567	16,061,567
<b>Sub-Total Allocations</b>	<b>102,744,827</b>	<b>3,759,392</b>	<b>106,504,219</b>
<b>TOTAL USES</b>	<b>582,126,776</b>	<b>6,613,434</b>	<b>588,740,210</b>
<b>OPEB Unfunded Liability</b>	<b>(6,624,609)</b>	<b>-</b>	<b>(6,624,609)</b>
<b>NET RESULT</b>	<b>\$ 9,073,434</b>	<b>\$ (9,073,434)</b>	<b>\$ -</b>
Operating Ratio	75.6%		75.1%
Rail Farebox Recovery Ratio	70.8%		70.4%
Farebox Recovery Ratio	68.7%		68.3%

<sup>(1)</sup> Reserve allocation includes \$9,300,000 for operating reserves, \$2,619,392 reserved for balance of customer appreciation initiatives, \$3,002,175 debt service savings for possible FY10 loss, and \$1,140,000 related to AC Transit agreement.

## ATTACHMENT 2

### FY11 Capital Budget Headcount and Planned Expenditures

#### Program Summary

Program Category	Capital Headcount*	Planned Expenditures
<b>System Reinvestment</b>		
Rolling Stock	40	\$20,912,368
Mainline	81	\$55,156,857
Stations	24	\$22,660,084
Controls & Communications	74	\$56,117,394
Facilities	1	\$2,480,061
Work Equipment	1	\$8,568,269
<b>Subtotals</b>	<b>221</b>	<b>\$165,895,033</b>
 <b>Safety &amp; Security</b>	 <b>16</b>	 <b>\$50,785,384</b>
 <b>Earthquake Safety</b>	 <b>41</b>	 <b>\$244,586,026</b>
 <b>Service &amp; Capacity Enhancement</b>	 <b>28</b>	 <b>\$51,796,121</b>
 <b>System Expansion</b>	 <b>54</b>	 <b>\$259,342,019</b>
 <b>Capitol Corridor**</b>	 <b>23</b>	 <b>\$3,020,205</b>
 <b>Reimbursable***</b>	 <b>14</b>	 <b>\$2,000,000</b>
 <b>Cost Allocation Plan</b>	 <b>48</b>	 CAP costs are included in the line items above.
 <b>TOTALS</b>	 <b>445</b>	 <b>\$777,424,788</b>

\* Total authorized permanent positions ("high water").

\*\* All expenses for the Capitol Corridor service to be reimbursed as allocated to the Capitol Corridor Joint Powers Board in the Annual State Budget Act.

\*\*\* Positions fully reimbursed by Muni, Caltrans, and businesses for BART staff expenses incurred in performing services for those agencies and businesses.

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

**In the matter of approving  
The Annual Budget for the  
San Francisco Bay Area Rapid  
Transit District and authorizing  
Expenditures for the Fiscal Year  
July 1, 2010, to June 30, 2011**

Resolution No.

**WHEREAS**, the Board of Directors of the San Francisco Bay Area Rapid Transit District published notices in newspapers of general circulation in the County of San Francisco on May 15, 2010, the County of Alameda on May 17, 2010, and the County of Contra Costa on May 17, 2010, of its intention to adopt an Annual Budget for the Fiscal Year July 1, 2010, to June 30, 2011; **and**

**WHEREAS**, the Board of Directors of the San Francisco Bay Area Rapid Transit District desires to adopt an Annual Budget for the Fiscal Year July 1, 2010, to June 30, 2011; **and**

**WHEREAS**, the Board of Directors of the San Francisco Bay Area Rapid Transit District is required by Public Utilities Code Section 28767 to determine and create, by resolution, such number and character of positions as are necessary to properly carry out the functions of the District; **and**

**WHEREAS**, the Transportation Development Act (TDA), Public Utilities Code §99200, et seq., provides for the disbursement of funds from the Local Transportation Fund of the Counties of Alameda and Contra Costa for use by eligible claimants for the purpose of operating assistance; **and**

**WHEREAS**, the State Transit Assistance (STA) fund makes funds available pursuant to Public Utilities Code Section 99313.6 for allocation to eligible applicants to support approved transit projects; **and**

**WHEREAS**, as attested to by opinions of the Office of the General Counsel, the San Francisco Bay Area Rapid Transit District is an eligible applicant for Net Toll Revenues and MTC Rail Extension Reserve bridge toll revenues pursuant to Section 30892 of the Streets and Highways Code; and is an eligible claimant for TDA and STA funds pursuant to Public Utilities Code Section 99260; **and**

**WHEREAS**, the agreement between the San Francisco Bay Area Rapid Transit District and San Mateo County Transit District, dated April 27, 2007, states that the San Francisco Bay Area Rapid Transit District will provide service on the SFO extension in a manner consistent with BART's system-wide operating policies; **and**

**WHEREAS**, the system-wide operating plan for Fiscal Year 2011 was presented to the Board of Directors on May 13, 2010, in a presentation entitled FY11 Preliminary Operating Budget – Sources and Uses & Service Plan; and

**WHEREAS**, the California Emergency Management Agency (CalEMA) makes funds available from the FY 2010-2011 California Transit Security Grant Program – California Transit Assistance Fund (CTSGP-CTAF) to eligible applicants to support approved security transit projects;

**NOW, THEREFORE, BE IT RESOLVED** that the attached Annual budget (marked Exhibit A and incorporated herein as though set forth at length) is hereby adopted; **and**

**BE IT FURTHER RESOLVED** that, subject to the resolved clauses, said Annual Budget includes appropriations of monies expected to be available in the General Fund, Capital Funds including Construction Funds and existing and anticipated Federal, State and local grants, for expenditures in the amounts and for the purposes set forth in said budget; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to enter into services agreements (including professional, technical, maintenance and repair agreements) and lease or license agreements for District use of real property, facilities, equipment and software provided that:

- (1) The General Manager shall first determine that the work or services concerned, in the amounts authorized in a service agreement, cannot satisfactorily be performed by the officers or employees of the District;
- (2) Except agreements that are let by public bidding, service, lease, and license agreements, and amendments thereto, between \$25,000 and \$100,000, shall be reported bi-monthly to the Board of Directors;
- (3) Prior authorization by the Board of Directors is required when:
  - a. The agreement, and amendments thereto, total in the aggregate \$100,000 or more in the fiscal year; or
  - b. Amendments total in the aggregate \$100,000 or more in any subsequent fiscal year;
- (4) The General Counsel is authorized to enter into services agreements in amounts up to \$100,000 with special counsel not previously designated by the Board without prior notice to the Board where the General Counsel determines that such immediate action is necessary to protect the legal interests of the District. Any such agreement shall be reported by the General Counsel to the Board within the calendar month thereafter.
- (5) The General Manager's authority to take immediate remedial measures, as defined in Section 20224 of the California Public Contract Code, and as authorized in Resolution No. 4834 shall remain unchanged; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to exchange District goods and services for goods and services from others of approximately equal or greater value; **and**

**BE IT FURTHER RESOLVED** that all disbursements resulting from the exercise of authority granted the General Manager pursuant to this resolution shall be reported to the Board of Directors in the District's quarterly financial report; **and**

**BE IT FURTHER RESOLVED** that Resolution No. 5084, adopted June 11, 2009, amended by Resolution No. 5127, adopted January 28, 2010, is repealed effective August 31, 2010, except as it applies to unexpended capital appropriations, **and**

**BE IT FURTHER RESOLVED** that the General Manager or her designee is authorized to execute and file a Bridge Toll Application, a TDA Application and an STA Application along with necessary supporting documents, with the Metropolitan Transportation Commission for allocation of bridge toll revenues, TDA and STA funds in FY11; **and**

**BE IT FURTHER RESOLVED** that the General Manager or her designee is authorized to execute any actions necessary for the purpose of obtaining financial assistance provided by the California Transit Security Grant Program – FY 2010-2011 California Transit Assistance Fund (CTSGP-CTAF); **and**

**BE IT FURTHER RESOLVED** that the San Francisco Bay Area Rapid Transit District's system-wide operating policies shall be generally as set forth in the May 13, 2010, presentation entitled FY11 Preliminary Operating Budget – Sources and Uses Service Plan, subject to such adjustments that staff determines necessary to operate the service in the public's interest; **and**

**BE IT FURTHER RESOLVED** that the General Manager or her designee is authorized to execute an agreement with the City and County of San Francisco (CITY) to provide a transfer payment in FY11, such transfer payment being paid by the District to CITY in order to facilitate the coordination of transit service and furnish an incentive to CITY for providing enhanced transfer services between MUNI and BART stations; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to make expenditures and incur liabilities against said funds within the limits set forth in said budget and the provisions of this Resolution, and to act on behalf of the District in connection with contracts arising thereunder, by following the procedures provided by law, and by Board of Directors' Resolutions and Board Rules, except that no contractual obligation shall be assumed by the District in excess of its ability to pay, and provided further that all expenditures shall be in conformance with statutory and other restrictions placed on the use of said funds; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to exceed Board Appointed Department/Executive Office budgets by more than ten percent (10%) ten (10) days after written notice of this intended action has been mailed to the Board of Directors, provided that the Total Net Operating Expense line item set forth in "Exhibit A" is not exceeded

and such action is consistent with Board Rule 5-1.4 and provided further that the General Manager will prepare and send to the Board, a summary of Department budgets within approximately 30 days after the adoption of this budget; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to exceed the foregoing ten percent limitation for emergency expenditures which are made in accordance with Resolution No. 4834 and Public Contract Code Section 20224; **and**

**BE IT FURTHER RESOLVED** that the General Manager is authorized to act on behalf of the District, and to make expenditures and incur liabilities against all funds of the District as provided for in contracts which have been authorized by the Board of Directors of the District and that the Board's authorizations of such contracts also include the necessary appropriations for such contracts and change orders authorized by Rules approved by the Board, subject, however, to compliance with such specific appropriation resolutions as may be adopted by the Board from time to time; **and**

**BE IT FURTHER RESOLVED** that effective July 1, 2010:

- (1) The total number of permanent full and permanent part-time positions ("high water") as of June 30, 2011, budgeted for the District shall be 3,217.5 (a part-time position is counted as 0.5 positions). Additional permanent positions are authorized, as required, not to exceed 50 positions, of which not more than 25 positions may be charged to operating expense provided the budgeted Total Net Operating Expense is not thereby exceeded;
- (2) The character and salary ranges of such positions, including officers appointed by the Board pursuant to Public Utilities Code Section 28811 shall be as set forth in the agreements entered into with Service Employees' International Union, Local 1021, Amalgamated Transit Union, Local 1555, American Federation of State and County Municipal Employees, Local 3993, the BART Police Officers Association and the BART Police Managers Association as to the employees represented thereby, and with other Bargaining Units for employees that may later be represented thereby, and for all other employees as set forth in the attached "Exhibit B", incorporated herein as though set forth at length. The employment benefits for non-represented employees shall be administered by the General Manager in accordance with Board Rule 4-1.2.
- (3) The General Manager is authorized to make future adjustments to the Professional/Management Salary Ranges ("Exhibit B") in accordance with applicable provisions of the AFSCME Agreement and the Compensation Manual, which reflect the District policy and practice to evaluate such ranges on an annual basis and to establish the mid-points of the pay ranges for positions so that they approximate the 75<sup>th</sup> percentile of the average of salaries paid for similar jobs in the labor market and to promptly advise the Board of any and all such range adjustments. The General Manager is directed to initiate the annual review by October of each year.

- (4) The District Secretary shall insure that an amendment to Exhibit B be prepared to reflect any adjustment to the hourly wage rates or professional/management pay bands as provided above or any adjustment to the Board appointed officers' salaries as a result of merit adjustments or scheduled increases provided in such officers' employment agreements that take effect during the fiscal year. The District Secretary shall attach any such amendment to Exhibit B as an addendum to this resolution.
- (5) The General Manager is authorized to pay employees on the merit plan that portion of their merit increase which exceeds the top of the salary range, but with no increase to the employee's "base wage" above the top of the salary range.
- (6) Except for Paragraph 1, and to the extent it is modified by Resolution No. 4748, Resolution No. 4487 remains in full force and effect.

# # #



**EXHIBIT A**  
**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
**ANNUAL BUDGET - FISCAL YEAR 2011**

<u><b>FUND SOURCES</b></u>	<b>TOTAL</b>
FUND SOURCES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS	
Operating Revenue	362,202,853
Property Tax	29,490,048
1/2 ¢ Sales Tax	162,500,000
Measure B Paratransit Assistance	1,410,655
San Mateo Co. Financial Assistance - SFO Operations	3,593,610
Caltrain - Millbrae Station Joint Use	764,909
5307 Preventive Maintenance Grant - Strategic Maintenance Plan	228,880
State Transit Assistance	18,768,682
Allocation from West Dublin Project	3,130,964
Allocations from Access Fund	25,000
<b>Total Operating Sources</b>	<b>\$ 582,115,601</b>
FUND SOURCE FOR CAPITAL BUDGET	
Capital Funds - Cash Flow FY11	<b>\$ 777,424,788</b>
<b>TOTAL ESTIMATED FUND SOURCES</b>	<b>\$ 1,359,540,389</b>

<u><b>FUND USES</b></u>	
FUND USES FOR NET OPERATING EXPENSE BUDGET, DEBT SERVICE AND CAPITAL ALLOCATIONS	
Net Labor Expense <sup>(1)</sup>	\$ 347,623,732
Non-Labor Expense	134,612,259
<b>Total Net Operating Expense</b>	<b>\$ 482,235,991</b>
Revenue Bond Debt Service	59,249,810
MTC Loan Debt Service	8,870,000
Other Debt Service	48,756
Allocations to Capital - Rehabilitation	21,685,529
Allocations to Capital - Other	588,557
Allocations to Reserves	16,061,567
<b>Total Operating Uses</b>	<b>\$ 588,740,210</b>
Other Post Employment Benefits Unfunded Liability	<b>\$ (6,624,609)</b>
FUND USES FOR CAPITAL BUDGET	
Capital Funds - Cash Flow FY11	<b>\$ 777,424,788</b>
<b>TOTAL ESTIMATED FUND USES</b>	<b>\$ 1,359,540,389</b>
<b>NET FINANCIAL RESULT (DEFICIT)</b>	<b>\$ -</b>

<sup>(1)</sup> Total Authorized Permanent Positions ("high water") as of 6/30/11 = 3,217.5

**EXHIBIT B**  
**CHARACTER, BASE SALARIES, PAY BANDS AND**  
**HOURLY WAGE RATES OF MANAGEMENT AND**  
**NON-REPRESENTED CLASSIFICATIONS**

CHARACTER OF POSITION/PAYROLL CLASSIFICATION TITLE		HOURLY WAGE RANGE				
CLERICAL	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
ADMINISTRATIVE TECHNICIAN	\$24.9602	\$26.0637	\$27.0866	\$28.1359	\$29.2126	\$29.6259
ADMINISTRATIVE SECRETARY	24.0274	25.0885	26.0712	27.0803	28.1157	28.5096
SENIOR SECRETARY	22.3711	23.1996	24.0536	25.0885	26.0976	26.4912
SENIOR CLERK	23.8128	24.8636	25.8374	26.8371	27.8623	28.2561
INTERMEDIATE CLERK	21.3010	22.1719	22.9923	23.8398	24.8636	25.2573
P/T SURVEY TAKER (SINGLE RATE)	28.6701					

NOTE: The clerical rates were effective June 30, 2009.

**PROFESSIONAL/MANAGEMENT PAY BANDS**

PAY BAND	MINIMUM	MIDPOINT	MAXIMUM
14	\$139,292	\$177,599	\$215,905
13	120,328	153,419	186,510
12	109,142	139,157	169,171
11	103,944	132,529	161,115
10	98,993	126,217	153,441
9	94,279	120,207	146,135
8	89,790	114,483	139,176
7	81,442	103,839	126,236
6	77,564	98,895	120,226
5	70,353	89,701	109,049
4	67,003	85,430	103,856
3	63,812	81,361	98,910
2	60,773	77,487	94,200
1	55,122	70,282	85,441

NOTE: The professional/ management pay bands were effective 01/01/10.

**BOARD APPOINTED OFFICERS' ANNUAL SALARIES**

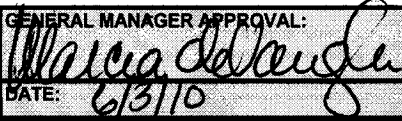
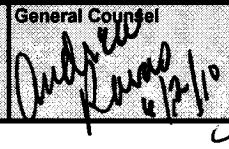
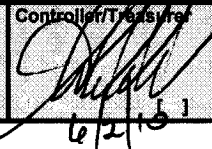
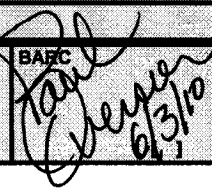
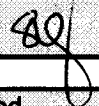
DISTRICT SECRETARY	\$139,139.64
CONTROLLER-TREASURER	\$184,755.85
GENERAL COUNSEL	\$216,300.00
GENERAL MANAGER	\$298,700.00

Note:

The base salaries provided for the District Secretary, Controller-Treasurer and General Counsel were effective January 1, 2009.  
The General Manager's base salary was effective July 1, 2008.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 6/3/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD	General Counsel  6/2/10	Controller/Treasurer  6/2/10	District Secretary [ ]	BART  6/3/10
Signature/Date:  6/3/10				
Status: Routed		Date Created: 03/02/2010		

**Award of Contract 15PL-110, Earthquake Safety Program, Yard Shops and Miscellaneous Structures**

**NARRATIVE:**

**PURPOSE:**

To obtain Board authorization for the General Manager to award Contract No. 15PL-110, for BART Earthquake Safety Program, Yard Shops and Miscellaneous Structures to West Bay Builders, Inc.

**DISCUSSION:**

Contract No. 15PL-110 will provide for the seismic strengthening of BART's yard shops and miscellaneous structures as part of BART's Earthquake Safety Program. The work consists of the structural retrofit of steel, concrete and wood structures, construction of new foundations, buttress walls, a replacement Concord Yard car cleaner's building and the associated architectural and mechanical/electrical components impacted by the retrofits.

An Advance Notice to Bidders was mailed on February 18, 2010 to 361 firms. The Contract was advertised on February 18, 2010 and Contract Books were sent to 23 plan rooms. A total of 39 firms purchased copies of the Bid Documents. A Pre-Bid Meeting was held on February 26, 2010 with a total of 12 potential Bidders in attendance. A site tour was held following the Pre-Bid meeting on February 26, 2010. Five bids were received. Bids were opened publicly on March 30, 2010.

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

<b><u>BIDDER</u></b>	<b><u>LOCATION</u></b>	<b><u>TOTAL AMOUNT</u></b>
1. West Bay Builders, Inc.	Novato, CA	\$16,864,777.00
2. Alten Construction, Inc.	Richmond, CA	\$19,599,853.47
3. Diablo Contractors, Inc.	San Ramon, CA	\$20,217,950.00
4. C. Overaa & Co.	Richmond, CA	\$20,708,000.00
5. Zovich & Sons, Inc.	Hayward, CA	\$22,342,860.00
<b><u>Engineer's Estimate</u></b>		<b>\$18,300,000.00</b>

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

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 23% for MBEs and 12% for WBEs. The bidder committed to 2.7% MBE and 0% WBE. The bidder did not meet the MBE and WBE percentages, therefore the bidder was requested to provide the District with information to determine if it had discriminated. Based on the review of the information submitted by the bidder, the Office of Civil Rights found no evidence of discrimination.

**FISCAL IMPACT:**

Funding for \$16,864, 777 for award of Contract No. 15PL-110 is included in the total project budget for the FMS #15PL, ESP – Yards and Shops. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

**F/G 01F – Earthquake Safety G.O. Bond:** **\$16,864,777**

As of month ending 2/28/10, \$31,000,000 is available for commitment from this fund source for this project and BART has committed \$1,659,512 to date. There are pending commitments of \$338,322 in BART's financial management system. This action will commit \$16,864,777 leaving an uncommitted balance of \$12,137,389 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic strengthening of the Yard and Shop buildings.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 15PL-110, Earthquake Safety Program, Yard Shops and Miscellaneous Structures to West Bay Builders, Inc. for the Bid


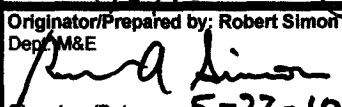
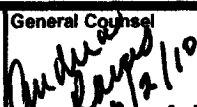

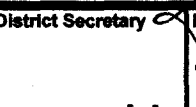
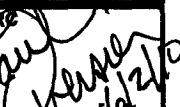
amount of \$16,864,777 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

## FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 5/25/10	REMARKS
<b>ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT</b>			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
<b>Subtotal GEC</b>	<b>\$186,478,000</b>	<b>\$226,200,000</b>	
CM	\$61,498,000	\$79,000,000	
Environmental	\$1,042,796	\$2,198,237	
<b>TOTAL E, E &amp; CM</b>	<b>\$249,018,796</b>	<b>\$307,398,237</b>	
<b>CONSTRUCTION</b>			
<b>Transbay Tube</b>			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
<b>San Francisco Ferry Plaza</b>			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$76,030,000	
Stitching	\$82,962,000	\$0	
<b>Aerial Guideways</b>			
West Oakland/North Oakland	\$112,923,000	\$90,000,000	
Fremont	\$178,224,000	\$117,800,000	
Concord	\$36,500,000	\$45,300,000	
Richmond	\$80,155,000	\$75,800,000	
San Francisco/Daly City	\$36,590,000	\$9,991,645	
<b>Stations (18)</b>	<b>\$126,961,000</b>	<b>\$118,896,318</b>	
<b>Other Structures</b>			
LMA	\$5,529,000	\$5,267,440	
Yds & Shops	\$12,436,000	\$17,757,437	
Parking Structures	\$14,437,000	\$13,500,000	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$40,000,000	
<b>Systems</b>	<b>\$7,066,000</b>	<b>\$9,868,000</b>	
<b>TOTAL CONSTRUCTION</b>	<b>\$909,469,000</b>	<b>\$637,718,783</b>	
<b>PROGRAM COSTS</b>			
Program Costs ( Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$66,515,374	
<b>TOTAL PROGRAM COSTS</b>	<b>\$191,998,204</b>	<b>\$308,317,137</b>	
<b>BASELINE FUNDING</b>	<b>\$1,350,486,000</b>		
<b>REVISED FUNDING</b>		<b>\$1,253,434,157</b>	
			<b>\$1,221,275,376</b> Adopted Funding
			<b>\$32,158,781</b> Outside Adopted Funding



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board Agreement No. 6M3139		
DATE: 6/2/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Simon Dept. M&E  Signature/Date: 5-27-10	General Counsel  6/2/10	Controller/Treasurer  6/1/10	District Secretary  [ ]	BAF  6/2/10
Status: Routed		Date Created: 04/30/2010		

TITLE:

### SYSTEMWIDE ULTRASONIC RAIL FLAW DETECTION TESTING SERVICE AGREEMENT 6M3139

NARRATIVE:

#### PURPOSE:

To authorize the General Manager to award Agreement No. 6M3139 to Sperry Rail Service for the biannual internal defect testing of the District's running rail.

#### DISCUSSION:

Current California Public Utility Commission (CPUC) requirements, District safety standards and industry practice require the running rail to be tested twice per year for hidden defects. Using the ultrasonic process, the present day industry standard, extremely small cracks and defects can be located inside the rail. These small defects are the precursors to broken rails and are undetectable through visual inspections. Periodic ultrasonic inspection of the rail locates these defects at an early growth stage and allows appropriate action to be taken to enhance safety and minimize delays to the revenue service.

Request For Proposals (RFP) No. 6M3139 was advertised on November 23, 2009 and requests for proposals were mailed to 6 prospective proposers. A pre-proposal meeting was held on December 1, 2009 and was attended by representatives from 2 companies. Two proposals were received, one from the incumbent service provider Herzog Service Inc. (Herzog) and a second proposal from Sperry Rail Service (Sperry). Technical proposals were distributed on December 17, 2009 to the Evaluation Committee followed by a formal evaluation meeting on January 7, 2010 to confirm the technical responsiveness of the submitted RFPs. It was determined that both proposers were technically responsive to the RFP requirements. Both proposers took exceptions to the District's Insurance and Indemnification language and Sperry took exception to other standard language.

Staff reviewed both proposer's exceptions, modified the indemnification language, and requested that both proposers submit a Best And Final Offer (BAFO). Requests for BAFOs were sent on March 19, 2010 and responses were received on April 6, 2010.

Herzog's BAFO reflected the same pricing and retained their original exceptions to the District's Insurance and Indemnification language. Sperry's BAFO took no exceptions and provided a new price proposal offering a lower price. The BAFO submitted by Sperry was deemed responsive and the price of \$692,479.80 was determined to be fair and reasonable.

Summary: Original Herzog Bid	\$ 769,621.80	BAFO Herzog Bid	\$ 769,621.80
Original Sperry Bid	\$ 845,439.80	BAFO Sperry Bid	\$ 692,479.80

Staff recommends award to Sperry Rail Service, Inc. it should be noted that, from 1982 to 1992, Sperry provided this service to the District with satisfactory results. Sperry Rail Service has 50 years experience in ultrasonic defect testing in both the freight and passenger rail industry.

Pursuant to the District's Nondiscrimination in Subcontracting Program, the availability percentages for this Agreement are 16% for Minority Business Enterprises (MBEs) and 20% for Womens Business Enterprises (WBEs). Sperry will not be subcontracting any work and will do all the work with their own forces. Therefore, the District's Nondiscrimination in Subcontracting Program does not apply.

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

**FISCAL IMPACT:**

This 5 year Agreement covers the District's current 230 track miles, and provides for extended miles in the last 2 years if the Warm Springs Extension is completed. The Agreement is structured such that the District will only pay for the miles tested which may be plus or minus 30% of the proposed mileage. The funding requirements below reflect the cost of track mileage testing that the District plans to be performed as covered by this Agreement.

The fiscal impact is estimated to be as follows:

FY11	\$ 133,400.00
FY12	\$ 134,734.00
FY13	\$ 136,081.80
FY14	\$ 143,414.40
<u>FY15</u>	<u>\$ 142,374.60</u>
TOTAL	\$ 692,479.80

Funding for FY11 is included in the adopted FY11 Track & Structures, Cost Center 645, operating budget. Future years funding will be included in the Track & Structures proposed budgets.

**ALTERNATIVE:**

None. Rail testing is required for the safe operation of the BART System. State safety regulations require such testing as part of the maintenance of rail in order to ensure safety for the BART System.

**RECOMMENDATIONS:**

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

**MOTION:**

**The General Manager is authorized to award Agreement No. 6M3139 to Sperry Rail Service, Inc. for Systemwide Rail Flaw Detection Testing Service, for an amount not to exceed \$692,479.80, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.**



# CAPITOL CORRIDOR JOINT POWERS AUTHORITY

## MEETING OF THE BOARD OF DIRECTORS

Wednesday June 16, 2010

10 a.m.

BART Boardroom

Kaiser Center 20<sup>th</sup> Street Mall

344-20<sup>th</sup> Street, 3<sup>rd</sup> Floor, Oakland, CA 94612

(see attached map)

### AGENDA

I. Call to Order

II. Roll Call and Pledge of Allegiance

III. Report of the Chair

IV. Minutes of February 17, 2010 Meeting

*Action*

V. Consent Calendar

*Action*

1. Local Taxpayer, Public Safety, and Transportation Protection Act Of 2010

2. Automated Ticketing Validation (ATV) Project: Revised Budget

3. Passenger Information Display System (PIDS) Upgrade Project: Revised Budget

VI. Action and Discussion Items (Executive Director)

1. Sacramento-Roseville 3<sup>rd</sup> Track Project: Design Plans and Environmental Documents

*Action*

2. Reinvestment of Cost Savings from Bahia Crossover and Emeryville Track Projects

*Action*

3. FY 10-11 General Advertising Contract

*Action*

4. Proposition 1B – FY 10 Transit Safety/Security Intercity Passenger/Commuter Rail Projects

*Action*

5. San Francisco Ferry Building Security Camera Project

*Action*

6. Security Lighting for Martinez Station Overflow City Parking Lots

*Action*

7. Security Fencing for the Oakland-Jack London Square Station

*Action*

8. Governor's Proposed FY 2010-11 Budget/Legislative Matters

*Action*

9. Train Service to Salinas [Transportation Agency of Monterey County Proposal]

*Discussion*

10. Managing Director's Report (Status of Service Performance)

*Info*

11. Work Completed

*Info*

a. Business Plan Update (FY 2010-11 – FY 2011-12)

b. Marketing Activities (March – May 2010)

12. Work in Progress

*Info*

a. Proposition 1A (California High Speed Train System) Connectivity Projects

b. FY2010 Federal Railroad Administration High Speed/Intercity Passenger Rail Applications

c. Status of ARRA Federal Railroad Administration High Speed/Intercity Passenger Rail Awards

d. Proposition 1B Transit Safety/Security Improvement Projects

e. Upcoming Marketing Activities

VII. Board Member Reports

VIII. Public Comment

IX. Adjournment. Next Meeting Date: 10:00 a.m., September 15, 2010 at City Council Chambers, Suisun City Hall, 701 Civic Center Blvd., City of Suisun City, CA

#### Notes:

Members of the public may address the Board regarding any item on this agenda. Please complete a "Request to Address the Board" form (available at the entrance of the Boardroom and at a teleconference location, if applicable) and hand it to the Secretary or designated staff member before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment. Speakers are limited to three (3) minutes for any item or matter. The CCJPA Board reserves the right to take action on any agenda item.

Consent calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for discussion or explanation is received from a CCJPA Board Director or from a member of the audience.

The CCJPA Board provides services/accommodations upon request to persons with disabilities who wish to address Board matters. A request must be made within one and five days in advance of a Board meeting, depending on the service requested. Call (510) 464-6085 for information.