

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

June 25, 2009

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, June 25, 2009, commencing at 9:00 a.m. All meetings will be held 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 and Standing Committees regarding any matter on these agendas. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under General Discussion and Public Comment.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>), in the BART Board Room, and upon request, in person or via mail, at the Office of the District Secretary, 23rd Floor, 300 Lakeside Drive, Oakland, California.

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of May 28, 2009.* Board requested to authorize.
- B. Agreement with Crown Worldwide Moving and Storage for On-Call Moving Services (Agreement No. 6M4087.)* Board requested to authorize.
- C. Award of Contract No. 15RW-150, Repaint Outdoor Substations and Gap Breakers.* Board requested to authorize.
- D. Award of Contract No. 60BD-205, Purchase of Eight Projectors and Placement of Six at Operations Control Center.* Board requested to authorize.

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

A. CONFERENCE WITH LABOR NEGOTIATORS:

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

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

Government Code Section: 54957.6

RECESS TO STANDING COMMITTEES

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

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Murray, Chairperson

- A-1. Fiscal Year 2008-09 Budget Update - Sales Tax and Ridership Performance.* For information.
- A-2. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Passenger Environment Survey: New Customer-Based Methodology.*
For information.

- B-2. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Immediately following the Engineering and Operations Committee Meeting

Director Sweet, Chairperson

- C-1. Station Retail Policy Development and Release of Request for
Qualifications for Master Station Retail Vendor(s).* Board requested to
authorize.

- C-2. General Discussion and Public Comment.

RECONVENE BOARD MEETING

4. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

5. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Fiscal Year 2008-09 Budget Update - Sales Tax and Ridership
Performance.* For information.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Passenger Environment Survey: New Customer-Based Methodology.*
For information.

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

- C-1. Station Retail Policy Development and Release of Request for
Qualifications for Master Station Retail Vendor(s).* Board requested to
authorize.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

- A. (CONTINUED from June 11, 2009, Board Meeting)
Ad Hoc Committee on Disadvantaged Business Enterprise Participation in
Procurement Contracts.* Board requested to ratify. (President Blalock's
request.)
- B. Report of the BART Police Department Review Committee. For
information.
- C. 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: Johnson et al. vs. BART
Government Code Section: Subdivision (a) of Government Code Section 54956.9



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: c <i>6/18/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Patricia Schuchardt Dept: Real Estate Department	General Counsel <i>[Signature]</i> 6/17/09	Controller/Treasurer <i>[Signature]</i> 6/17/09	District Secretary []	BARC <i>[Signature]</i> 6-17-09 []
Signature/Date: [] [] [] [] []				

TITLE:

AGREEMENT FOR ON-CALL MOVING SERVICES AT VARIOUS DISTRICT OFFICES/FACILITIES

NARRATIVE:

PURPOSE:

To authorize the General Manager to enter into Agreement No. 6M4087 with Crown Worldwide Moving and Storage for On-Call Moving Services for a period of three (3) years with two (2) options for one (1) year extensions for a total compensation not to exceed \$270,570.00.

DISCUSSION:

Agreement No. 6M4087 (the "Agreement") will be for the period July 1, 2009 through June 30, 2012, in an amount not to exceed \$159,570.00. In the event that an option to extend the Agreement is exercised, each respective one (1) year extension will be in an amount not to exceed \$55,500.00. The total five (5) year cost will result in an amount not to exceed \$270,570.00. The District currently does not have in-house expertise available to provide these services. The Real Estate Department has determined that these services are necessary in order to continue to provide moving services to the District and has determined that these services are not duplicative of any duties performed by District employees.

Advance Notice to Proposers was mailed to 42 prospective proposers on March 30, 2009. Request for Proposal No. 6M4087 was advertised on April 3, 2009. A pre-proposal meeting was held on April 20, 2009 with eighteen (18) attendees. On May 5, 2009 eleven (11) proposals were received.

A Source Selection Committee (the Committee) chaired by the Procurement Department with representatives from Real Estate, Project Controls and the Office of Civil Rights evaluated the proposals. The Committee utilized the Lowest-Price-Technically-Acceptable-Proposal method to evaluate the proposals. Upon review of the technical proposals, the Committee determined that six (6) of the proposals did not meet the minimum technical requirements set forth in the RFP and therefore, those proposals did not receive further consideration. Five (5) of the proposals were deemed to be responsive and technically acceptable to the requirements set forth in the RFP. Price proposals from these proposers were opened and ranked as follows. The Total Price Proposal includes the price for the three (3) base years period and the two (2) additional one-year options:

AGREEMENT FOR ON-CALL MOVING SERVICES AT VARIOUS DISTRICT OFFICES/FACILITIES

<u>Proposer</u>	<u>Total Price Proposal (Base plus option years)</u>
Metropolitan Van Storage Inc., Benicia, CA	\$330,250.00
Service West Inc., Oakland, CA	\$328,540.00
Norcal, San Leandro, CA	\$308,155.00
Chipman Corporation, Fairfield, CA	\$283,440.00
Crown Worldwide Moving & Storage, San Leandro, CA	\$270,570.00

The Committee determined that the proposal submitted by Crown Worldwide Moving & Storage was the lowest-priced technically-acceptable proposal.

The price proposed by Crown Worldwide Moving and Storage is considered to be fair and reasonable based on adequate price competition. Crown Worldwide Moving and Storage is a financially responsible moving service company.

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

FISCAL IMPACT:

The cost for this Agreement is not to exceed \$270,570.00 for a period of up to five (5) years. The estimated cost for services is as follows: FY2010 cost is \$53,190.00, FY2011 cost is \$53,190.00, FY 2012 cost is \$53,190.00, FY2013 cost is \$55,500.00, and FY2014 cost is \$55,500.00. The Agreement will be subject to the availability of fiscal year funding. All funding will come from The Real Estate Department's Operating Budget.

ALTERNATIVES:

- (1) To initiate another Request for Proposal (RFP) which is unlikely to produce a lower price per hour for services.
- (2) Not to enter into a multiple year agreement for moving services and not provide the service to the District.

RECOMMENDATION:

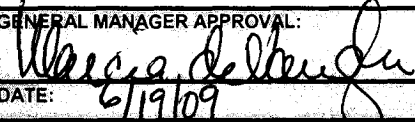
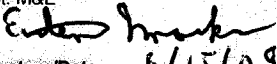
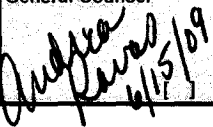
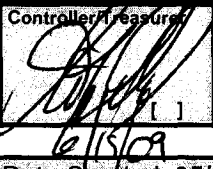
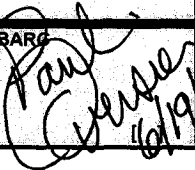
Adoption of the following motion:

MOTION:

The General Manager is authorized to execute Agreement No. 6M4087 for On-Call Moving Services with Crown Worldwide Moving and Storage for a period of three (3) years, with options to extend for up to two (2) additional one (1) year periods under the same terms and conditions, for a total not to exceed amount for the base period and option years of \$270,570.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 6/19/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ersten Y Imaoka Dept: M&E  Signature/Date: 6/15/09	General Counsel  6/15/09	Controller/Treasurer  6/15/09	District Secretary []	SARG  6/19/09
Status: Routed		Date Created: 05/06/2009		

TITLE:

Award Contract No. 15RW-150, Repaint Outdoor Substations and Gap Breakers - Phase V

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15RW-150, Repaint Outdoor Substations and Gap Breakers - Phase V, to F. D. Thomas, Inc.

DISCUSSION: The Work of this Contract includes furnishing all labor, equipment, materials and services required to repaint seven substations and four gap breaker structures.

Advance Notice to Bidders was mailed on April 8, 2009 to 41 prospective Bidders. Contract Books were mailed to 21 plan rooms and minority assistance organizations. The Contract was advertised on April 9, 2009. A Pre-Bid meeting and site tour were conducted on April 21, 2009, with nine prospective Bidders attending the meeting, and six prospective Bidders attending the site tour. The following five Bids were received on May 5, 2009:

BIDDER	LOCATION	TOTAL BID
F. D. Thomas, Inc.	Central Point, OR	\$253,450
Jeffco Painting & Coating, Inc.	Pittsburg, CA	\$264,820
Arco Painting, Co.	San Francisco, CA	\$339,000
Redwood Painting Co., Inc.	Pittsburg, CA	\$367,830
Certified Coatings Company	Concord, CA	\$522,518
ENGINEER'S ESTIMATE		\$328,400

After review by District staff, the Bid submitted by the apparent low Bidder, F. D. Thomas, Inc., was found to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has also determined that its Bid of \$253,450, which is approximately 23% below 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, California Code of Regulations Section 15301 Existing Facilities, because it consists of the repair and minor alterations of existing facilities involving no expansion of use.

FISCAL IMPACT: Funding for this \$253,450 Contract award is included in the total project budget for Project 15RW, Reroof/Repaint Structures. The Office of the

Controller/Treasurer certifies that funds are currently available to meet this obligation.

CA-05-0216 FY07 Capital Improvement 47Z \$253,450

As of the period ending May 24, 2009, \$400,000 is available for commitment from this fund source for this project and \$0 has been committed by BART to date. There are no pending commitments in BART's financial management system. This action will commit \$253,450 leaving an uncommitted balance of \$146,550 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 deferral of painting necessary to protect these facilities from corrosion. Prolonged rusting of the exterior surfaces could allow rainwater into these structures, resulting in costly damage to equipment and possible interruption of revenue service.

RECOMMENDATION: Adoption of the following motion:

MOTION: The General Manager is authorized to award Contract No. 15RW-150, Repaint Outdoor Substations and Gap Breakers - Phase V, to F. D. Thomas, Inc., for the Bid price of \$253,450, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Margie DelBene</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: c 6/19/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Carlyle Potts Dept: MTE-CSC <i>Carlyle S Potts</i> Signature/Date: 6/15/09	General Counsel <i>Andrew Potts</i> 6/15/09 []	Controller/Treasurer <i>[Signature]</i> 6/15/09 []	District Secretary - BARC <i>[Signature]</i> 6/19/09 []

TITLE:

Purchase of Eight (8) Projectors and Placement of Six (6) at Operations Control Center.

NARRATIVE:

Award Contract No. 60BD-205, Purchase of Eight (8) Projectors and Placement of Six (6) at Operations Control Center.

PURPOSE:

To authorize the General Manager to award Contract No. 60BD-205, for the Procurement of Eight (8) Projectors and Placement of Six (6) at Operations Control Center.

DISCUSSION:

These projectors provide the "Big Board" image within the Operations Control Center (OCC). The existing projectors have exceeded their useful life and will be replaced by these new projectors. The OCC relies on this projection system to help provide overall operational awareness of the system 24 hours a day, seven days a week. These units are specially designed for 24/7 operation. Two (2) spare units will provide maintenance backup, should any of the six (6) in operation malfunction.

Advance Notices were mailed out to 12 firms on April 29, 2009. The Contract was advertised on April 30, 2009 and Contract Books were sent to 17 plan rooms. A total of four companies purchased copies of the Bid Documents. A pre-Bid Meeting was held on May 8, 2009 with five (5) potential bidders attending. Bids were opened publicly on May 19, 2009 and three (3) bids were received.

<u>Bidder</u>	<u>Bid Price</u>
Spinistar – La Mirada, CA	\$141,758.47
Compview – Beaverton, OR	\$149,516.63
Stanislaus Audio Video – Modesto, CA	\$173,216.96
Engineer's Estimate	\$171,820.00

District staff has determined that the bid submitted by Spinistar is responsive to the solicitation requirements. Examination of Spinistar's business experience and financial capabilities shows a satisfactory condition. In addition, staff has determined that the price submitted by Spinistar is fair and reasonable.

Purchase of Eight (8) Projectors and Placement of Six (6) at Operations Control Center.

FISCAL IMPACT:

Funding of \$142,258 (141,758 bid plus \$500 estimated freight charges) for Contract 60BD-205 is included in the total project budget for the 60BD-OCHR OCC Critical Hardware Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

50Z - FY06-10 Capital Maintenance

\$142,258

As of period ending 05/24/09, \$280,303 is available for commitment from this fund source for this project, and BART has committed \$82,496 to date. There are no pending commitments in BART's financial management system. This action will commit \$142,258, leaving an uncommitted balance of \$55,549 in this fund.

There is no fiscal impact on available unprogrammed District Reserve

ALTERNATIVES:

Do not replace the projectors. The current projectors are no longer supported by the original manufacturer. BART maintenance has exhausted their spare units and can no longer acquire reasonable replacement parts. Thus there is an ever-increasing probability the big board image will not be displayed.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to award Contract No. 60BD-205, Purchase of Eight (8) Projectors and Placement of Six (6) at Operations Control Center, to Spinitar, for the bid price of \$141,758.47, plus applicable taxes and freight charges, pursuant to notification to be issued by the General Manager and subject to the District protest procedures.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

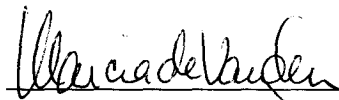
TO: Board of Directors

DATE: June 19, 2009

FROM: General Manager

SUBJECT: FY09 Budget Update – Sales Tax and Ridership

Attached is a memo providing an update on BART's recent sales tax receipts and ridership growth trends. We will provide additional information on our FY09 financial outlook in a presentation to you at the next Board meeting on June 25, 2009.



Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: June 17, 2009

FROM: General Manager

SUBJECT: Recent Financial Information

I would like to update you with recent information that will have a substantial impact on BART's financial picture, both for the current fiscal year and for future years.

On Monday, June 15, the State Board of Equalization released preliminary results for BART's 4th quarter sales tax receipts (January through March taxable sales), indicating BART sales tax revenues fell 20% - a \$9.4 million drop - compared to the same quarter of FY08 (see table below). The magnitude of the drop far exceeded the projections of BART staff, other local jurisdictions, and economic forecasters and illustrates the severity of this economic downturn. You may recall our March budget revision projected a 10% decline for the 4th quarter.

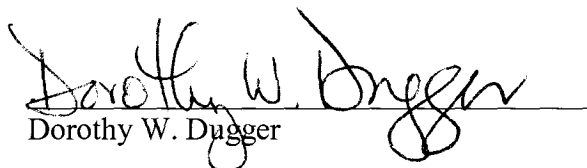
This is by far the worst quarter ever experienced by the District. Overall, FY09 sales tax receipts are \$6.9M below the revised budget and 9.1%, or \$18M, below FY08.

In addition, although our budget revision projected declining ridership in the 2nd half of FY09, the rate of decline has very quickly accelerated over the past few months (as seen in the table). As illustrated, in June, we are experiencing a 10% drop in ridership from the same period in the previous year. We are currently estimating passenger trips and fare revenue could run under budget in FY09 by \$3 to \$4 million.

We are working to determine the impact on FY10 and out years of the recent sales tax data and ridership trends, but it is clear now that we will need to revise our FY10 revenue projections downward. We will continue to keep you apprised of any significant new developments in our financial outlook.

FY09	Compared to 4Q FY08		Compared to budget	
4Q Sales Tax	-\$9.4M	-20%	-\$4.6M	-11%
Avg Wkdy Core Trips				
April	(20,523)	-6%	(10,597)	-3%
May	(19,669)	-6%	(6,626)	-2%
June (through 6/15)	(33,324)	-10%	(16,755)	-5%

If you have any questions, please call Carter Mau at 510 464-6194.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



Passenger Environment Survey (PES) Changes Effective July 1

E & O Committee
BART Board of Directors
June 25, 2009

What is PES?



- System to monitor quality of the passenger environment
- Data on cleanliness, announcements, etc.
- Collected 12 months a year
- Results by Line, Yard, and Zone – correspond with organizational units
- Systemwide data summarized for Quarterly Performance Reports (QPR's)
- Data collected by staff who observe and record

New PES System



- Ratings provided by customers
- Administered in manner similar to biennial Customer Satisfaction Survey
- On-board surveys
- Questionnaires collected and tabulated
- Data still summarized by Line, Yard, Zone, and systemwide
- Projected to collect 10k surveys per quarter



PES Change Objectives

- Better align accountability with customer ratings
- Collect more data more efficiently
- Improve systemwide statistics to reflect the number of riders who experience a particular environment
- Convey to customers that BART cares what they think (by asking them for their ratings)

PES Measures



Items reported in new PES system

- Overall satisfaction with BART services
- BART parking lot cleanliness
- Adequate presence of BART Police in parking lots
- Appearance of BART landscaping
- Cleanliness of walkways & entry plaza just outside station
- Availability of Station Agents
- Availability of BART brochures
- Cleanliness of platform
- Cleanliness of other areas inside station
- Station kept free of graffiti
- Restroom cleanliness
- Elevator cleanliness
- Adequate presence of BART Police in stations

- Appearance of train exterior
- Train interior cleanliness
- Train interior kept free of graffiti
- Train window etching*
- Comfortable temperature onboard train
- Adequate presence of BART Police on train
- Onboard public address announcements
 - Indicating next station stop
 - Providing transfer instructions
 - Giving final destination of train

Items not reported in new PES system

- Elevator Amenities
- Advertising signs in stations & on trains
- Agent in uniform & wearing name badge

* to be tracked via observational surveys - subject to staff availability



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to PPAAL Committee		
DATE: c 6/19/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jeffrey P Ordway Dept: Property Development Department Signature/Date: 6/17/09	General Counsel 6/19/09	Controller/Treasurer 6/19/09	District Secretary []	BARC 6-18-09 []
TITLE:				

Options to Secure Master Station/Retail Vendor(s)

NARRATIVE:

PURPOSE: To obtain direction from the Board on an approach to secure a Master Station Retail Vendor or Vendors.

DISCUSSION: A number of companies have recently expressed interest in developing high quality station retail that would enhance the BART patron experience and create a new source of revenue for the District in multiple BART stations. There are numerous BART station retail and related policies dating back to 1963 that may need to be modified before the District pursues additional retail. Growth in transit usage will also require careful planning to address transit needs at the stations, including a) existing and future capacity improvements, and b) passenger flow improvements. Finally, there are numerous additional BART concerns which would need to be accounted for in pursuing additional station retail, including station utilities, access improvements, signage, facility needs (e.g., closed circuit cameras and ticket machines), advertising, existing retail, and special entrance agreements.

Staff believes that securing a relationship with the private sector will be a more cost-effective approach to both examine BART's needed station improvements as well as introduce station retail in a more comprehensive manner. Accounting for BART needs and recognizing that retail policies may require modification, there are at least two options available to pursue additional station retail:

1. **Determine Private Sector Interest:** Issue a Request for Qualifications (RFQ) for one or more Master Station Retail Vendors. Potential Vendors would be requested to indicate the amount of funds they would provide to conduct requisite station capacity/flow analyses. Master Vendors would be asked to comment on the retail and related BART policies. Staff would draft appropriate modifications to the existing policies and request Board approval for any such policy modifications or any new policies. Staff would then request Board authorization to begin negotiations with the selected Master Vendor(s).
2. **Conduct Policy Review:** Staff would review existing policies and request Board approval for any proposed modifications. Staff would then request Board authorization to issue an RFQ for one or more Master Station Retail Vendors. Based on the response, the Board would then be asked to authorize negotiations with the selected Master Vendor(s).

The advantages and disadvantages of each approach are as follows:

1. Determine Private Sector Interest Approach
 - + Interest would indicate that policy modification effort would result in immediate returns.
 - + Would be able to determine level of funds private sector would provide to conduct requisite station capacity/flow analyses.
 - + Would take advantage of expressed private sector interest.
 - + Would encourage private sector with vested interest to comment on existing policies.
 - Would potentially be confusing to private sector – would require Board enactment of revised policies before initiating negotiations.
2. Conduct Policy Review Approach
 - + Would enable BART to establish comprehensive policy parameters before engaging private sector.
 - Would delay response to private sector interest, potentially losing opportunities.
 - Would expend staff effort on process that, perhaps needed, may not be necessary at this time if no private sector interest exists.

Board direction on which approach to pursue is requested. Irrespective of the approach to be followed to identify one or more Master Station Retail Vendors, existing retail and related policies would need to be reviewed and potentially modified. The review and modification is expected to involve addressing three topics as depicted in Exhibit A.

FISCAL IMPACT: The fiscal impact associated with the Determine Private Sector Approach would be staff time involved in conducting the solicitation and then modifying retail policies. The fiscal impact associated with the Conduct Policy Review Approach would be staff time involved in modifying retail policies.

ALTERNATIVES: Do not pursue Master Vendor(s) or policy modifications at this time and continue to introduce separate station retail opportunities under BART's existing Station Retail Program.

RECOMMENDATION: Board direction on an approach to secure additional station retail.

MOTION 1: The Board hereby authorizes release of a Request for Qualifications for a Master Station Retail Vendor(s) with the District for the development of retail activities at BART stations and directs staff to return to the Board for policy modification considerations prior to requesting exclusive negotiations with any Master Vendor(s).

or

MOTION 2: The Board hereby directs staff to prepare policy modification considerations for future Board consideration.

Formulation of Master Station Retail Vendor Policy

1. The first topic to be addressed in formulating policy would involve explicitly taking into account the District's transit service responsibilities with respect to its stations. When the original BART system was designed, very little attention was paid to a retail function within the stations. Growth in transit usage, both to date and expected over the next years, will require careful planning by BART. Before a Master Station Retail Vendor program can be implemented, staff recommends that BART address explicit transit needs at the stations, including:
 - Existing and Future Capacity Improvements – To and from the stations as well as within the stations. General ridership increases as well as impacts from the proposed Central Subway, linkages to the new TransBay Terminal and ridership increases from BART extensions such as Warm Springs and San José.
 - Passenger flow improvements – Both to and from the stations as well as within the stations, particularly between the concourse and platforms.

These transit needs analyses do not need to be performed in order to formulate policy, but staff recommends that the need for the analyses be explicitly accounted for within the policy. There are other analyses that would need to be conducted before specific retail locations and opportunities are identified. These analyses can be performed more cost-effectively once preliminary retail locations are identified. Once Master Vendors have been identified for negotiations and the primary analyses as noted above have been conducted staff recommends that the following additional analyses occur:

- Impacts on Station Utilities – BART stations are roughly 40 years old. Utilities serving the stations would require upgrades to accommodate additional uses such as retail.
- Access Improvements – Shifting away from automobile access increases reliance on other modes, such as walk or bicycle.
- Station Wayfinding – Clear, concise information to enable patron movement must be addressed in any station modifications.
- Station Facility Needs – Increased station passenger flow may result in the need for additional transit support equipment such as closed circuit cameras, ticket machines and Muni transfer machines. Requisite support equipment and their locations will need to be identified.
- Station Advertising - Retail locations could directly or indirectly impact existing advertisements. An assessment of advertising in relation to proposed retail locations will need to be conducted to ensure no adverse impact on BART's advertising revenues.
- Existing Station Retail – There are numerous retail concessions located within BART stations under existing station retail permits. The permit terms and operations of existing concessionaires should not be affected by the activities of the new Master Vendor(s).

As in the case of the primary transit needs analyses (capacity and passenger flow), these additional analyses do not need to be performed in order to formulate policy, but staff believe the need for the analyses should be explicitly accounted for within the policy.

2. The second topic would involve identifying new topics for explicit consideration in formulating policy, such that station retail will provide quality goods and services that meet customer needs, delivering good value for money, and in keeping with sustainable principles and practices as delineated in the District's Strategic Plan. In addition, staff recommends examination of the following ideas:
 - The employment of minimal or zero waste in construction, operation and goods sold.
 - Station retail that is of high architectural and design quality to complement and enhance BART stations, particularly station architecture, art and wayfinding.
 - Provision by the Master Vendor for both nationally owned and local owned businesses at each affected station to ensure financial sustainability and local development opportunity.
 - Station retail that complements the development of livable, walkable, compact and mixed-use communities around BART stations.
 - Station retail that encourages patrons to remain at concourse levels rather than wait for service on platforms.
3. The third topic would involve examining existing policies to determine any modifications that may be needed to accommodate an effective Master Vendor program.

Staff would draft new policies per the above and identify appropriate modifications to existing policies and request Board approval for any such policy modifications or any new policies.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: June 19, 2009

FROM: President

SUBJECT: 2009 Ad Hoc Committee on DBE Participation in Procurement Contracts

The June 11th Board of Directors Meeting agenda included an item to ratify the subject Ad Hoc Committee. Much interest in the committee was expressed and, in retrospect, I have come to believe that this issue is too important to be addressed by an Ad Hoc Committee. Therefore, I have decided to forego my request to establish the Ad Hoc Committee on Disadvantaged Business Enterprise Participation in Procurement Contracts and instead have asked staff to bring this issue back for consideration by the full Board through the Administration Committee.

I suggest that we utilize a workshop format to allow for adequate discussion and focus on this issue. Staff will identify a date this summer when the Board meeting agenda can support a workshop. The workshop will refocus the Board on issues that precluded the study of Procurement contracts in the Availability and Utilization Study and allow us to discuss possible approaches that staff is investigating to allow for the possible inclusion of Procurement contracts in the District's DBE Program. I also suggest that staff include an update on the recent lawsuit filed by Associated General Contractors' San Diego Chapter and the Pacific Legal Foundation seeking to prohibit Caltrans from implementing its recently adopted DBE program.

Please let me know if you have any questions regarding this approach.



Thomas M. Blalock, P.E.

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Manager, Office of Civil Rights