

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

July 10, 2008

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, July 10, 2008, 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.

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 June 26, 2008.* Board requested to authorize.

3. PUBLIC HEARING

- A. Authority to Enter into Energy Service Contract and Facility Ground Lease Pursuant to California Government Code Section 4217.12.

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 Franklin, Chairperson

- A-1. Agreement with Sun Edison Inc. for Solar Photovoltaic and Energy Conservation Projects.* Board requested to authorize.

- A-2. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Director Fang, Chairperson

NO REPORT.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Director Ward Allen, Chairperson

NO REPORT.

RECONVENE BOARD MEETING

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Agreement with Sun Edison Inc. for Solar Photovoltaic and Energy Conservation Projects.* Board requested to authorize.

B. ENGINEERING AND OPERATIONS COMMITTEE

NO REPORT.

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

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. Training Session: Training in General Ethics Principles and Ethics Laws Relevant to Public Service, in Accordance with California Government Code Section 53235.* For information.
- B. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa Adamez</i>		GENERAL MANAGER ACTION REQ'D: Approve and place on July 10, 2008 Administration Agenda		
DATE: 7/3/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Frank Schulz Dept: Operating Budgets and Analysis <i>Frank Schulz</i> Signature/Date: 7/3/08	General Counsel <i>MB</i> 7/3/08	Controller/Treasurer <i>Robert Culver</i> 7/3/08 []	District Secretary []	BARC <i>John Han</i> 7/3/08 []
Status: Routed		Date Created: 06/17/2008		

TITLE:

Approval of Solar Photovoltaic (PV) and Energy Conservation Projects

NARRATIVE:

PURPOSE

The purpose is to have the Board of Directors authorize the General Manager to enter into an agreement with Sun Edison LLC and its subsidiaries (Sun Edison) to purchase the power generated from three solar PV projects that would be installed on District property and to install related energy-saving improvements.

DISCUSSION

Solar photovoltaic technology generates electricity from sunlight, making it a clean and renewable energy source. It is proving to be a reliable technology and there are a growing number of PV generation facilities throughout the Bay Area. The District has been considering the feasibility of PV generation on District property to provide a portion of our renewable power supply.

As the first step in assessing the feasibility of solar PV installations, the District started with an in-house study of potential locations. Staff from several departments participated to help ensure that all important factors were considered, including train operation and maintenance considerations. Four potential sites were identified.

The District had a solar PV and energy efficiency consulting firm, Energy Solutions Inc., perform an in-depth technical evaluation of the potential sites. The consultant report found that all sites were good candidates for solar generation. The consultant's report further recommended that the District develop the projects through a third-party financing approach. This financing mechanism takes advantage of federal tax incentives that offset a substantial share of the cost of developing a solar PV generation facility. The District (as a governmental organization) can not directly take advantage of these incentives. Third-party financing firms match tax-paying entities with agencies, such as BART, that want to develop solar PV facilities.

The federal tax incentives are currently set to expire at the end of 2008. Qualifying projects must be operational and generating electricity by year-end. The District considered developing the solar PV facilities through a standard Request for Proposal (RFP) process. However, the time required for a formal RFP would have extended the procurement process well beyond the

expiration of the federal incentives. The District elected to follow a limited, informal competitive procurement to help ensure the projects were installed and operating by year-end. This procurement is being made under Section 4217.10 et seq. of the Government Code. This section provides public agencies an exception from statutory competitive bidding requirements for public works for energy service contracts related to renewable energy and energy conservation, such as proposed in this Board action item. Under these provisions of law, the District must provide a two-week public notice before authorizing the procurement. The required notice was given on June 26, 2008. Also, the public agency must find that the energy service contract will cost less than its normal source of power supply. As described more fully in the Fiscal Impact section, the solar services and energy conservation agreement will yield savings to the District.

The original four potential locations for PV facilities have since been reduced to three locations. They are roof top installations on the main maintenance buildings at the Hayward and Richmond yards and a solar PV shade structure (carport) at the Orinda parking lot. As part of the technical visits at the maintenance buildings, Energy Solutions identified significant energy conservation opportunities through replacing outdated lighting. Furthermore, by reducing the electricity consumption at the yards, a smaller solar PV facility can be constructed thereby yielding further savings. Therefore, the scope of this project was expanded to add the lighting improvements at the maintenance yards, with the Concord yard being included as well.

Energy Solutions assisted in the procurement process by identifying experienced PV installation firms and developed criteria for selecting the most qualified proposal. Two complete and two partial proposals were submitted. Sun Edison submitted the lowest-cost and most qualified proposal and is the recommended provider for the District's solar PV projects and lighting upgrades. With the Board's approval, District staff would work with Sun Edison to negotiate the contractual agreements. The power supply agreement would last for 20 years which is the expected life of PV facilities. The agreement may be renewed annually thereafter, up to a maximum of five additional years. The District also may purchase the PV facilities under a process outlined in the agreement that establishes a fair market price.

The agreement will be approved as to form by the Office of the General Counsel.

Staff has determined that there will be no significant effect on the environment with installation of solar PV facilities at the BART Orinda Station parking lot and Richmond and Hayward shops and that the work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301, Existing Facilities, of the State CEQA Guidelines.

FISCAL IMPACT

Sun Edison would design, construct, own and maintain the solar PV facilities (it would not own or maintain the lighting fixture improvements). This arrangement is necessary for the solar PV projects to qualify for the federal tax incentives. The District would pay for the power generated from the facilities and the lighting improvements through a solar services and energy efficiency agreement with Sun Edison. The estimated cost under the agreement will be approximately \$163

,000 per year or \$3.3 million over the 20 year life of the agreement. The total project budget is \$3.8 million with an allowance for contingencies. The annual payments for the power supply will be funded from the power budget.

This combined approach of solar PV generation and energy efficiency will save the District money throughout the life of the agreement. The amount of the savings depends on the rate of future market power cost increases. Assuming a four percent annual rate of increase, in the first twelve years the combination of solar PV generation and reduced energy use from the lighting improvements will save approximately \$280,000 annually. Because the useful life of the lighting fixtures is twelve years of operation, energy savings are no longer calculated after that time. The PV generation will still yield limited savings in the remaining eight years of the agreement. The net savings to the District under the agreement is estimated at \$3.4 million.

These savings are largely due to the significant reduction in energy use from the lighting improvements at the maintenance facilities. The photovoltaic generation is more expensive than what the District is currently paying for power, particularly at the Orinda station where a carport structure must be erected. Staff has explored installing additional PV shade structures in the District's parking lots. However, if the District is not able to identify similar large offsetting energy efficiency opportunities, such as at the shops, the solar PV generation would cost significantly more (almost double) than the District's current price of electricity.

ALTERNATIVE

The Board could not approve the proposed project. Solar PV facilities would not be installed on District property. The energy conservation measures would be delayed until another source of funding was identified. During that period, the District would not realize the energy savings that would result from the project.

RECOMMENDATION

It is recommended that the Board adopt the following motion.

MOTION

That the Board finds pursuant to the provisions of Section 4217.12 of the Government Code that:

1. The anticipated cost to the District for electrical energy and conservation services provided under the proposed agreement will be less than the anticipated marginal cost to the District of electrical energy that would have been consumed by the District in the absence of those purchases.
2. The difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below-market energy purchases or other benefits provided under the agreement.

That the Board authorizes the General Manager to negotiate and enter into the solar services and energy conservation agreement with Sun Edison LLC and its subsidiaries for three locations at a cost not to exceed \$3,800,000.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: July 3, 2008

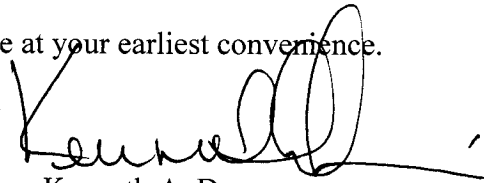
FROM: District Secretary

SUBJECT: State Mandated Ethics Training (AB1234)

Assembly Bill 1234 was passed by the State legislature and signed by the Governor in late 2005. The statute requires that all local agencies provide no less than two hours of training in general ethics principles and ethics laws to local agency officials by January 1, 2007 and every two years thereafter. We conducted our initial Ethics Training workshop in August 2006. Our second workshop will be held July 10, 2008.

As in 2006, the law firm of Liebert Cassidy Whitmore has been retained to provide the training. Liebert Cassidy Whitmore was involved in the development of the training program with the California Special Districts Association (CSDA), and in compliance with the requirements of the statute, has consulted the Fair Political Practices Commission and State Attorney General regarding the sufficiency of the course content. Liebert Cassidy Whitmore has conducted training for municipalities and local agencies and conducts courses for the CSDA and its members. The District has successfully utilized the legal services of Liebert Cassidy Whitmore in the past.

Should you have any questions, please contact me at your earliest convenience.



Kenneth A. Duron

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

Proposed Solar Photovoltaic (PV) and Energy Efficiency Projects

Administration Committee

July 10, 2008

Solar PV & Energy Efficiency

- Proposed projects
 - Hayward Yard PV
 - Richmond Yard PV
 - Orinda Station parking lot PV
 - Lighting updates at shops
- Project details and financing arrangements presented at Board's June 26th meeting

Solar PV & Energy Efficiency

- Procurement under Section 4217.10 et seq. of the Government Code
- Exception from statutory competitive bidding requirements for public works for contracts related to renewable energy and energy conservation
- Notice of required public hearing published on June 26th

Solar PV & Energy Efficiency

- The Board must find that:
 - The cost for electrical energy and conservation services provided under the proposed agreement will be less than the District's existing cost of power.
 - If there is any difference between the fair rental value for the real property leased and the agreed rent, it will be offset by below-market energy purchases or other benefits provided under the agreement.

Solar PV & Energy Efficiency

- Funded through third-party financing to participate in federal tax credits
- Credits expire at year-end
- Payment for PV generation & lighting through power purchase & site license agreements
- Savings from energy efficiency & avoided market purchases

Solar PV & Energy Efficiency

Savings/Costs	2009	Term of Agreement
Savings		
Energy Efficiency	\$ 323,000	\$ 4,735,000
Avoided Market Purchases	\$ 71,000	\$ 1,995,000
Costs		
Power & Conservation Agreement	\$ 163,000	\$ 3,298,000
Net Benefit	\$ 231,000	\$ 3,432,000

Solar PV & Energy Efficiency

- Question on larger PV projects
- Most of the savings are due to reduced energy use from lighting updates
- PV costs more, particularly PV carports
- Excess sales to PG&E at loss
- Expansion of PV would cost more

Solar PV & Energy Efficiency

- Board can make finding that benefits are more than costs
- Sun Edison selected provider
 - Largest in nation, Port of Oakland project
- Request Board approve motion in EDD
- Will inform Board of results of negotiations