

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

**BOARD MEETING AGENDA**

August 12, 2010

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, August 12, 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 Minutes of the Meeting of July 22, 2010.\* Board requested to authorize.
- B. Resolution of Local Support Accepting a Grant from the Metropolitan Transportation Commission's Transportation for Livable Communities (TLC) Capital Program for the 24<sup>th</sup> Street/Mission BART Station Plaza and Pedestrian Improvements Project.\* Board requested to adopt.
- C. Resolution of Local Support for MacArthur BART Station Entry Plaza Renovation and West Dublin/Pleasanton BART Station/Golden Gate Drive Streetscape Enhancements.\* Board requested to adopt.
- D. Fixed Property Tax Rates Fiscal Year 2010 – 2011 General Obligation Bonds.\* Board requested to authorize.
- E. Authority to Execute Agreements with Public and Private Entities to Support the SFTS Barrier Project.\* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. (CONTINUED from July 22, 2010, Board Meeting)  
Fiscal Year 2011 Budget Follow Up:
  - a. Resolution for Temporary Fare Reduction. \* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B. Interim Agreement between BART and the Alameda-Contra Costa County Transit District for Fiscal Year 2011 Payment for Transit Coordination.\* Board requested to authorize.
- C. Agreement No. 6M2025, with Macias Gini & O'Connell LLP, for Independent Audit Services.\* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Agreement No. 6M6039 with F.E. Jordan Associates, Inc./ABA Global Inc., a joint venture for Construction Management Services for BART's Earthquake Safety Program, C-Line, Concord BART Station Structure.\* Board requested to authorize.
- B. Sole Source Procurement with Dailey Wells Communications for Underground Interoperable Radio System.\* (TWO-THIRDS VOTE REQUIRED) Board requested to authorize.
- C. Quarterly Performance Report, Second Quarter Fiscal Year 2010 - Service Performance Review.\* For information.

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

Director Ward Allen, Chairperson

- A. Proposed Support for State Legislation.\* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

NO REPORT.

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 REAL PROPERTY NEGOTIATOR.

Property:	300 Lakeside Drive, Oakland, CA
District Negotiators:	Teresa E. Murphy, Assistant General Manager – Administration; Jeff Ordway, Department Manager, Property Development; and Laura Giraud, Department Manager, Real Estate
Negotiating Parties:	The Swig Co., and San Francisco Bay Area Rapid Transit District
Under Negotiation:	Price and Terms
Government Code Section:	54956.8

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR.**

Property: 1110 Jackson Street, Oakland, CA  
District Negotiators: Teresa E. Murphy, Assistant General  
Manager – Administration; Jeff Ordway,  
Development Manager, Property  
Development; and Laura Giraud, Department  
Manager, Real Estate  
Negotiating Parties: Lakeshore Partners, LLC, and San Francisco  
Bay Area Rapid Transit District  
Under Negotiation: Price and Terms  
Government Code Section: 54956.8

**C. 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



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DelBenedetto</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/4/10		BOARD INITIATED ITEM: NO		
Originator/Prepared by: Todd Morgan Dept: <i>Todd Morgan</i>	General Counsel <i>Andrew Pavesi 7/29/10</i>	Controller/Treasurer <i>[Signature] 7/29/10</i>	District Secretary [ ]	BARC <i>Carl Mann 8-2-10</i> [ ]
Signature/Date: <i>Todd Morgan 7.29.2010</i>				
Status: Routed		Date Created: 07/16/2010		

TITLE:

**Resolution of Local Support accepting a grant from the Metropolitan Transportation Commission's (MTC) Transportation for Livable Communities (TLC) Capital Program in the amount of \$2,109,000 for the 24th Street/Mission BART Plaza and Pedestrian Improvements Project**

NARRATIVE:

**Purpose:**

To request Board adoption of the attached Resolution accepting a TLC Capital Program grant of \$2,109,000 (Federal STP) funds for partial funding of the design and construction of the 24th Street/Mission BART Plaza and Pedestrian Improvements Project (the "Project").

**Discussion:**

As a condition of receiving TLC revenues, MTC requires that the BART Board of Directors adopt a resolution formally accepting the grant with associated terms & conditions. BART staff has worked with community groups to develop a plan to address concerns about the role BART plazas play in their community and to improve accessibility to transit. The San Francisco County Transportation Authority (SFCTA) and MTC have partnered with BART by providing significant grant support for planning and construction of plaza improvements.

The key points of the attached resolution are as follows: TLC Program funding for the project is fixed at \$2,109,000 and any cost increases must be secured by BART from other revenues; MTC expects that the Project will be completed by September 30, 2017; SFCTA has acknowledged its commitment to provide 2003 Proposition K revenues as the local match for the Project; and BART commits to complete the Project. Total cost of the Project is estimated to be \$2,636,250. The 20% local match from 2003 Proposition K funds is \$527,250.

This Project provides for construction at the 24th & Mission Streets Station including improved seating, landscaping, and circulation elements to make it easier to access the BART entrance and enhance the plaza's usability as public space. Design is scheduled to be completed in late 2011; award is scheduled for spring of 2012; and construction is anticipated to take 18 months.

**Fiscal Impact:**

As contemplated, this action has no fiscal impact on District Reserves. Total Project funding of

\$2,636,250 will be obtained through grants from outside agencies. Of the \$2,636,250.00, \$527,250 of San Francisco's 2003 Proposition K funds and \$2,109,000 of federal STP funds will be committed. If project costs exceed \$2,636,250.00, unused 2003 Proposition K funds in the amount of \$353,283 are available from the recently completed 16th NE Plaza Redesign Project

**Alternatives:** Do not adopt the attached Resolution. If the Resolution is not adopted, BART would risk loss of TLC grant revenues of \$2,109,000 and San Francisco Proposition K revenues of \$527,250.

**Recommendation:** Adoption of the following Motion.

**Motion:** The BART Board of Directors adopts the attached Resolution Regarding the Metropolitan Transportation Commission's Transportation for Livable Communities Program and the 24th Street/Mission BART Plaza and Pedestrian Improvements Project, Committing the Necessary Local Match for the Project and Stating the Assurance of the San Francisco Bay Area Rapid Transit District to Complete the Project.

100 Van Ness Avenue 26TH Floor  
San Francisco, California 94102-5244  
415-522-4800 FAX 415-522-4829  
info@sfcta.org www.sfcta.org

July 27, 2010

Dorothy Dugger, General Manager  
Bay Area Rapid Transit District  
P.O. Box 12688  
Oakland, CA 94604-2688

Subject: Support for the 24<sup>th</sup> Street/Mission BART Plaza and Pedestrian Improvements Project

Dear Ms. *Dorothy* Dugger:

I am writing this letter to assure you of the San Francisco County Transportation Authority's (Authority) support for the 24<sup>th</sup> Street/Mission BART Plaza and Pedestrian Improvements Project and to express our desire to work closely with BART to bring about the timely delivery of this project. It is exciting to see this project, which the Authority supported with Prop K funds for the planning phase, proceed into implementation.

As you know, the Authority coordinated with BART, and San Francisco's Department of Public Works and Planning Department on a regional Transportation for Livable Communities (TLC) capital grant application for this project. The application proposed a \$3.34 million total project cost to be funded with \$2.67 million in Regional Transportation for Livable Communities (TLC) funds and \$670,000 in Prop K funds. On July 28, 2010, the Metropolitan Transportation Commission (MTC) approved \$2.1 million in regional TLC capital funds for the project, \$578,000 less than the requested amount.

The Prop K Expenditure Plan identifies a specific category, Transportation and Land Use Coordination, which can be used to provide the local match portion of TLC capital grants. The current Five-Year Prioritization Program (5YPP) for that category, which was adopted by the Authority Board on September 22, 2009 (Resolution 10-16), includes sufficient funding to cover the necessary local match for this project as well as the one other San Francisco project that received regional TLC funds this cycle that did not have its own dedicated local match source. With respect to the \$578,000 funding shortfall, we are already working with BART staff to close the gap through a combination of de-obligating unneeded funds from prior BART Prop K grants and amending relevant 5YPPs to allow allocation of additional funds to the project.

We look forward to working with BART to obtain approval for the necessary Prop K allocations through our Authority Board process to fully fund the 24<sup>th</sup> Street/Mission BART Plaza and Pedestrian Improvements Project and to keep the project on schedule to be delivered within MTC's regional project delivery deadlines.

If your staff has any questions about this amendment, please have them contact Ben Stupka, Senior Transportation Planner, at 415-522-4820 or via email at Ben.Stupka@sfcta.org.



*Moving the City*

COMMISSIONERS

Ross Mirkarimi  
CHAIR

David Campos  
VICE CHAIR

Michela Alloto-Pier

John Avalos

David Chiu

Carmen Chu

Chris Daly

Bevan Dufty


Sean Elsbernd

Eric Mar

Sophie Maxwell

José Luis Moscovich  
EXECUTIVE DIRECTOR

Sincerely,



José Luis Moscovich  
Executive Director

cc: T. Morgan, R. Warren - BART  
AL, BS, MEL, TC – Chron, File: TLC



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

Regarding the Metropolitan Transportation Commission's  
Transportation for Livable Communities Program and the  
24<sup>th</sup> Street/Mission BART Plaza and Pedestrian Improvements  
Project, Committing the Necessary Local Match for the Project  
and Stating the Assurance of the San Francisco Bay Area Rapid  
Transit District to Complete the Project

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

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$2,109,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the 24th Street/Mission BART Plaza and Pedestrian Improvements Project (herein referred to as PROJECT) in connection with MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

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

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

**WHEREAS**, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

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

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

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

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

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and

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- 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM.; and
  - 6) that the project (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

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

**RESOLVED** that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide \$527,250 in non-federal matching funds; and
2. APPLICANT understands that the STP/CMAQ funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and
6. APPLICANT and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

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

**RESOLVED** that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it further

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

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

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution; and be it further

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

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

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## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Sarah Syed Dept: Sarah Syed Signature/Date: Sarah Syed 8/4/10	General Counsel Signature/Date: Andrew Pava 8/4/10	Controller/Treasurer Signature/Date: [ ] [ ]	District Secretary Signature/Date: [ ] [ ]	BARC Signature/Date: [ ] [ ]

TITLE:

### Resolution of Local Support accepting grants from the Metropolitan Transportation Commission's Transportation for Livable Communities Capital Program for Projects at MacArthur and West Dublin/Pleasanton Stations

NARRATIVE:

#### Purpose:

To request Board adoption of the attached Resolution accepting Transportation for Livable Communities (TLC) Capital Program grants of \$625,000 and \$860,000, respectively, for partial funding of the design and construction of the MacArthur BART Entry Plaza Renovation Project and the West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements Project.

#### Discussion:

As a condition of receiving TLC revenues, the Metropolitan Transportation Commission (MTC) requires that the BART Board of Directors adopt a resolution formally accepting the grants with associated terms and conditions. The MacArthur BART Entry Plaza Renovation Project has been awarded \$625,000. The West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements Project has been awarded \$1,507,000. Of this \$1,507,000, BART will receive \$860,000 and the City of Dublin will receive \$647,000.

#### **MacArthur BART Entry Plaza Renovation**

The MacArthur BART Entry Plaza Renovation Project will improve customer access to the BART Station and will facilitate intermodal transfers. The Project will create a secure bike station allowing for daily storage of up to 200 bikes; improve lighting; attenuate freeway noise; and provide public amenities at the station entrance which is located under a freeway underpass. A final component will improve the transfer area for the five shuttles that serve the station. Design is scheduled to be completed in fall 2010; award is scheduled for spring of 2011; and construction is anticipated to take up to 24 months.

The key points of the attached resolution regarding the MacArthur BART Entry Plaza Renovation Project are as follows: TLC Program funding for the Project is fixed at \$625,000 and any cost increases must be secured by BART from other revenues; MTC expects that the Project will be completed by September 30, 2017; BART has secured non-federal matching funds totaling \$1,775,000 for the Project, exceeding the 20% local match requirement; and BART commits to complete the Project. Total cost of the Project is estimated to be \$2,759,000.

### **West Dublin/Pleasanton BART Station Access Enhancements**

The West Dublin/Pleasanton Station Access Enhancements will improve customer access to the BART station through construction of a pedestrian plaza area, landscaping and irrigation, informational and wayfinding signage, a bus canopy over all 8 bus bays, benches, and bicycle facility improvements, including 20 electronic bicycle lockers. Design is scheduled to be completed in June 2011; award is scheduled for December 2011; and construction is anticipated to take up to 8 months. The City of Dublin is implementing the second element of the TLC Project to widen Golden Gate Drive to provide new bicycle lanes, widened sidewalks, accent paving, traffic calming features, decorative lighting and landscaping.

The key points of the attached Resolution regarding the West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements Project are as follows: TLC Program funding for the BART portion of the Project is fixed at \$860,000 and any cost increases must be secured by BART from other revenues; MTC expects that the Project will be completed by September 30, 2017; BART will provide non-federal matching funds totaling \$300,000 for the Project, exceeding the 20% local match requirement; and BART commits to complete the Project. Total cost of the BART portion of the Project is estimated to be \$1,160,000.

#### **Fiscal Impact:**

As contemplated, this action has no fiscal impact on available unprogrammed District Reserves.

### **MacArthur BART Entry Plaza Renovation**

Total Project funding of \$2,759,000 has been obtained from a combination of federal, state, and private funds. Total Project funding by phase and source includes \$100,000 of funding from the private developer for Preliminary Planning and Engineering; \$100,000 in State Proposition 1C funding and \$159,000 in Alameda County Congestion Management Agency Transportation Improvement Program funds for Final Design, Plans, Specifications, and Estimates; and \$954,000 of State Transportation Improvement Program Transportation Enhancement funds, \$462,000 of State Proposition 1C funds, \$359,000 in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users earmark funding, and \$625,000 of MTC TLC Program funding for Construction.

### **West Dublin/Pleasanton BART Station Access Enhancements**

Total Project Funding of \$1,160,000 has been obtained from a combination of BART and TLC Program funding. The TLC Program has awarded \$860,000. BART will provide a local match of \$300,000 as follows:

<u>F/G 40E</u>	<u>06 Sales Tax Revenue Bond Fund</u>	<u>\$300,000</u>
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As of August 2, 2010 \$7,486,284 is available for commitment from this fund source for this project and BART has committed \$207,803 to date. There is \$5,420,090 in pending commitments in BART's financial management system. This action will commit \$300,000 leaving an uncommitted balance of \$1,558,391 in this fund.

#### **Alternatives:**

Do not adopt the attached Resolutions. If the Resolutions are not adopted, BART would risk loss

Resolution of Local Support accepting grants from the Metropolitan Transportation Commission's Transportation for Livable Communities Program of TLC grant revenues of \$625,000 and \$860,000, respectively, for the MacArthur BART Entry Plaza Renovation and the West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements Projects.

**Recommendation:**

Adoption of the following Motion.

**Motion:**

The BART Board of Directors adopts the attached Resolutions Regarding the Metropolitan Transportation Commission's Transportation for Livable Communities Program Grants for the MacArthur BART Entry Plaza Renovation Project and the West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements Project, Committing the Necessary Local Match For the Projects and Stating the Assurance of the San Francisco Bay Area Rapid Transit District to Complete the Projects.

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

Regarding the Metropolitan Transportation Commission's  
Transportation for Livable Communities Program and the  
MacArthur BART Entry Plaza Renovation Project,  
Committing the Necessary Local Match for the Project and  
Stating the Assurance of the San Francisco Bay Area Rapid  
Transit District to Complete the Project

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

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$625,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the MacArthur BART Entry Plaza Renovation (herein referred to as PROJECT) in connection with MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

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

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

**WHEREAS**, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

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

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

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

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

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) the assurance of the sponsor to complete the project as described in the application, and if approved, as

- 
- included in MTC's TIP; and
- 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM.; and
  - 6) that the project (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

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

**RESOLVED** that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide \$1,775,000 in non-federal matching funds; and
2. APPLICANT understands that the STP/CMAQ funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and
6. APPLICANT and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

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

**RESOLVED** that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it further

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

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

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution; and be it further

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

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

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

Regarding the Metropolitan Transportation Commission's  
Transportation for Livable Communities Program and the  
West Dublin/Pleasanton BART/Golden Gate Drive  
Streetscape Enhancements Project, Committing the  
Necessary Local Match for the Project and Stating the  
Assurance of the San Francisco Bay Area Rapid Transit  
District to Complete the Project

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

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$860,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the West Dublin/Pleasanton BART/Golden Gate Drive Streetscape Enhancements (herein referred to as PROJECT) in connection with MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

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

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

**WHEREAS**, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

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

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

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

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

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy



- 
- (MTC Resolution No. 3606, revised); and
  - 4) the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
  - 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM.; and
  - 6) that the project (transit only) will comply with MTC Resolution No. 3866, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region.

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

**RESOLVED** that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide \$300,000 in non-federal matching funds; and
2. APPLICANT understands that the STP/CMAQ funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. APPLICANT (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and
6. APPLICANT and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

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

**RESOLVED** that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it further

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

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

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution; and be it further

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

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

###



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wanda DeBaugen</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>8/2/10</i>		BOARD INITIATED ITEM: <i>No</i>		
Originator/Prepared by: Michaela Morales Dept: CONTROLLER-TREASURER'S DEPARTMENT	General Counsel <i>Andrew...</i> <i>8/2/10</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>[Signature]</i> <i>8-2-10</i>
Signature/Date:	[ ]	[ ]	[ ]	[ ]

### FIXED PROPERTY TAX RATES FY 2010-11 - GENERAL OBLIGATION BONDS

NARRATIVE:

#### PURPOSE:

Fixing the rate of property taxes for BART in San Francisco, Alameda and Contra Costa Counties for Fiscal Year 2011 as required by Public Utilities Code Section 29126 to pay for the debt service on the District's General Obligation Bonds.

#### DISCUSSION:

The net debt service required on the District's General Obligation Bonds for Fiscal Year 2011 is \$13,435,357.50 as determined by a Financial Consultant.

The debt service tax rate required by the District for Fiscal Year 2011 is .0031 which equates to \$3.10 per one hundred thousand dollars of assessed valuation for the three counties within the District as determined by their Auditor-Controller's Offices.

#### FISCAL IMPACT:

Revenues collected on the basis of the above tax rate will be sufficient for the debt service requirements for the General Obligation Bonds for Fiscal Year 2011.

#### ALTERNATIVES:

None.

#### RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2011 be approved.

#### MOTION:

Adopt attached Resolution.

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

In The Matter of Fixing The Rate of Taxes  
For San Francisco Bay Area Rapid Transit  
District for Fiscal Year 2010/11

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

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2010, to June 30, 2011, and make valid assessments of property and valid levies of taxes in accordance with Public Utilities Code Section 29126; and

WHEREAS, Section 93(c) of the Revenue and Taxation Code authorizes the District to levy an ad valorem property tax in order to produce revenues in an amount equal to the amount needed to make annual payments of principal and interest on the General Obligation Bonds which were approved by over two-thirds vote of the District's voters on November 2, 2004; and

WHEREAS, this Board has determined the tax rate for the District taxes for the counties in the District for the fiscal year 2010/11 from the budget of the District for the fiscal year 2010/11 and from the values of property transmitted to this Board by County Auditors;

NOW, THEREFORE, BE IT RESOLVED that the rate of taxes of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2010 to June 30, 2011, is hereby fixed at .0031, which equates to \$3.10 per one hundred thousand dollars of assessed value of property, AND BE IT FURTHER RESOLVED that the Secretary shall immediately after the effective date of this resolution transmit to the County Auditor of the Counties in which the District is situated a statement of such tax rate. The effective date of this resolution is August \_\_\_\_, 2010.

Adopted \_\_\_\_\_



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>George DeBucche</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 8/5/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Morton Dept: TSD <i>Thomas Morton</i> Signature/Date: 8/4/10	General Counsel <i>Andrew Kuroki</i> 8/3/10	Controller/Treasurer <i>[Signature]</i> 8/5/10	District Secretary [ ]	BART <i>Paul Cheney</i> 8/5/10
Status: Approved		Date Created: 07/29/2010		

TITLE:

### AUTHORITY TO EXECUTE AGREEMENTS WITH PUBLIC AND PRIVATE ENTITIES TO SUPPORT THE SFTS BARRIER PROJECT

NARRATIVE:

#### PURPOSE:

To obtain the Board of Directors' authorization for the execution of instruments and agreements, as described below, with various public or private entities and utilities, including the Port of San Francisco and others, in order to advance the SFTS Barrier Project. The instruments and agreements will provide for the coordination of BART's joint use of the platform protecting the SFTS, known as the San Francisco Ferry Plaza, with the Port of San Francisco and other interested parties. Such coordination includes clarification of roles and responsibilities, review of BART engineering designs, field inspection of third party facilities affected by the Project and other actions necessary to implement the Project.

#### DISCUSSION:

The Ferry Plaza Security Project will involve work on and under the San Francisco Ferry Plaza, including installation of security barriers, relocation of utilities, and temporary alteration of pedestrian traffic patterns. Agreements such as cooperative agreements, consent agreements, and permits coordinating Project activities with third parties are necessary to expedite this process. Review by the affected entities of BART-supplied engineering drawings and data will permit the entities to comment on possible impacts to their facilities that could be caused by the Project. Field oversight of these Project activities will ensure that BART returns the entities' facilities to the condition required by the terms of the agreements. These entities typically use outside professional services to perform this work which exceeds their routine, budgeted work. BART is required to reimburse the entities for such services.

Separate agreements will be developed for each entity. The Office of General Counsel will approve all such agreements as to form.

#### FISCAL IMPACT:

District obligations will be subject to the terms of agreements entered into pursuant to this Board

resolution or to Work Authorizations ("WAs"). Each agreement or WA will have a defined scope of services and budget. Any agreement or WA funded under a State or Federal grant will include all necessary requirements. Capital Development and Control will certify the eligibility of identified funding sources and the Controller/Treasurer will certify the eligibility and availability of identified funding sources prior to executing the agreement or WA and incurring Project costs. The aggregate amount of all agreements and WAs pursuant to this authority will not exceed \$500,000 (five hundred thousand dollars).

**ALTERNATIVE:**

If the Board does not grant the requested authorization, staff will be required to obtain individual Board authorization for each instrument or agreement. Separate Board actions could adversely affect the Project schedule.

**RECOMMENDATION:**

It is recommended that the Board authorize the General Manager or her designee to proceed with implementation actions necessary to advance the SFTS Barrier Project, including execution of instruments and agreements with various public or private entities and utilities in a cumulative amount not to exceed \$500,000.

**MOTION:**

The General Manager or her designee is authorized to proceed with implementation actions necessary to advance the SFTS Barrier Project, including execution of instruments and agreements with various public or private entities and utilities such as cooperative agreements, consent agreements and permits in a cumulative amount not to exceed \$500,000.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Walter DelBande</i>		GENERAL MANAGER ACTION REQ'D: Place on the July 22, 2010 Board of Directors Agenda		
DATE: c 7/16/10		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 7/16/10</i>	<i>[Signature] 7-16-10</i>	<i>[Signature] 7-16-10</i>	[ ]	<i>[Signature] 7-16-10</i>
TITLE:				

### Fiscal Year 2011 Operating Budget: Customer Appreciation Follow-Up Items

NARRATIVE:

#### PURPOSE

To approve the implementation of a package of customer appreciation initiatives to be part of the Fiscal Year 2011 (FY11) operating budget.

#### DISCUSSION

On June 10, 2010 the Board of Directors adopted the FY11 operating budget, including a number of customer appreciation initiatives. The Board requested that all of these initiatives be approved in a separate vote prior to implementation, as some of the items required further details to be finalized.

The budget included a proposal to use \$4.5M of available funding for the following customer appreciation programs: \$0.2M to defer the planned ADA Paratransit fare increase for four months, \$0.1M for a frontline personnel customer service improvement program, \$0.075M for real-time monitors, \$0.062M to convert four part-time utility workers to full-time, \$0.75M for seat cushion replacement and interior maintenance for 50 cars, \$1.0M to increase operating reserves, \$0.15M to be allocated to capital to fund the Emergency Operations Center, and \$2.3M to be put into reserves for a potential temporary passenger fare reduction until Title VI public outreach and analysis was complete.

The ADA Paratransit fare increase deferral will be voted on in a separate Board action, and requires a two-thirds majority vote. The proposed temporary fare reduction requires a two-thirds majority vote and the adoption of the attached resolution. The remaining items require a simple majority and a separate motion is included.

Additional information is provided below regarding proposed programs for frontline personnel customer service improvement program, real-time monitors and funding for the Emergency Operations Center. Descriptions of these programs are as follows:

#### Front Line Personnel Customer Service Improvement Program

This program is intended to tap the insights of train operators and station agents, employees whose jobs involve frequent customer interfaces, on how to improve their work and the customer experience. It is anticipated that this program, budgeted for \$100,000 in one-time funds, will run for a period of several months, beginning with the solicitation of ideas, and concluding with an

awards ceremony for the winning participants. While details of the program remain fluid, the outline is to be as follows: ideas and suggestions would be solicited, and acknowledged; selection of the several ideas that best fit specific program criteria would be made by a committee including Board members, managers and union officials and members; the winning ideas would be adopted for implementation using the funds identified in the FY11 budget for this purpose, and the employees who submitted them would receive an award, as well as other recognition.

#### Real-Time Information Displays Program

A plan and criteria will be developed to expand the existing real-time information displays program beyond the current establishments, which are now located close to the 12th Street/City Center and Rockridge stations. The goal of the program is to provide an additional 20 to 30 locations around the District with equipment to display real-time train departure information. Criteria will be developed to identify which establishments are best suited to meet BART's mission to provide useful real-time information about train departures to current and potential BART customers. The program will use this one-time funding source to assist the establishments in setting up the real-time display equipment and provide the establishments with instructions on how to obtain the necessary data to continuously display the real-time information. Finally, the District will explore the possibility of leveraging this one-time funding source to create an on-going revenue stream so that the program may be self-sustaining or expand to additional locations. The program is budgeted for \$75,000 in one-time funds for FY11.

#### Emergency Management and Police Facilities

A new Emergency Operations Center (EOC) is presently under construction. The proposed funding in the amount of \$150,000 would allow for an expansion in the size of the under-construction EOC. The funding would also be utilized to provide alternative office space for the BART Police personnel who would be displaced by the EOC expansion; namely members of the Internal Affairs Unit and the Special Enforcement Team. Any remaining funds would be used to address other identified BART Police facility needs as well as to acquire (or begin the acquisition process) for a joint BART Police/Operations Mobile Command Post.

#### Temporary 3% Passenger Fare Reduction

This proposal would reduce rail fares across the board by 3% for four months, reducing fare revenue by an estimated \$2.3M. The temporary fare reduction would become effective on October 1, 2010 in order to allow time to program BART's automated fare equipment and the Clipper system, and last through January 31, 2011. The District conducted Title VI outreach to gather community input regarding this proposal, which consisted of 18 community meetings held throughout the District's service region, where comments were solicited and participants completed a survey. The District also posted the survey on the BART website, and there were a large number of unsolicited emails sent directly to the Board. The report summarizing the survey results and public comment is attached.

#### **FISCAL IMPACT**

The adopted FY11 Annual Budget is balanced, and includes the customer initiatives discussed above. The deferral of the proposed ADA Paratransit fare increase for four months will be voted

on by the Board in a separate action. The \$2.3M estimated cost of the temporary fare reduction was put into reserves; if the Board approves the fare reduction, the budget will be revised at a later date, bringing the funds to cover the fare reduction out of reserves and lowering the passenger revenue budget.

### **ALTERNATIVES**

The Board of Directors may approve a different package of customer appreciation options than those outlined in this document; if that is the case then the budget will be revised accordingly at a later date.

### **RECOMMENDATION**

In order to proceed with the customer appreciation initiatives identified by the Board on June 10, 2010, except for the Paratransit fare increase deferral, the Board would adopt the following motions; the first to adopt the resolution providing for a temporary fare reduction (two-thirds vote required) and the second to approve the customer initiative items as described (simple majority vote required).

### **MOTION**

First motion:

Adopt the attached resolution, "In the Matter of Adopting a Temporary Fare Reduction of 3% for Four Months." Two-thirds vote required.

Second motion:

Approve implementation of customer appreciation items included in the FY11 Budget Adopted by the Board on June 10, 2010, for: a frontline personnel customer improvement program, real-time monitors, conversion of four part-time utility workers to full-time, seat cushion replacement and interior maintenance for 50 cars, allocation to capital to fund the Emergency Operations Center, and an increase to operating reserves of \$1.0 million.



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

In the Matter of Adopting a  
Temporary Fare Decrease of 3% for  
Four Months

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

WHEREAS, pursuant to Public Utilities Code Section 29038, it is the duty and responsibility of the Board of Directors of the San Francisco Bay Area Rapid Transit District (“District”) to fix the rates and charges for rapid transit service to be furnished by the District; and

WHEREAS, Fiscal Year 2011 (FY11) projections indicate that approximately \$4.5 million in funding is available due to the District’s unexpected receipt of State Transit Assistance funding for FY11; and

WHEREAS, the Board of Directors has expressed a desire to show appreciation for District customers by implementing a temporary reduction in all rail passenger fares and charges for Fiscal Year 2011 consisting of three percent (3%) for four months; and

WHEREAS, the District staff has studied the Board proposal concerning a temporary reduction in fares and estimates the cost of the temporary fare reduction at \$2.3 million; and

WHEREAS, the District staff has analyzed the proposed temporary decrease in fares, and has determined that there are no adverse impacts to low-income or minority populations; and

WHEREAS, the District staff has conducted a variety of public participation processes including a series of 18 community meetings to solicit feedback from the public regarding temporary fare reduction options; and

WHEREAS, the fare decrease is to be implemented on October 1, 2010; and

NOW, THEREFORE, the Board hereby makes the following findings:

- (1) The temporary reduction to the rates and charges for service set forth in Exhibits A and B does not constitute a “project” under the California Environmental Quality Act (CEQA) and is therefore exempt from CEQA pursuant to the “common sense” exemption for actions that do not have the potential for causing a significant effect on the environment (CEQA Guidelines section 15061(b)(3)). Notices of Exemption shall be filed in the four affected counties.
- (2) After careful study of staff recommendations, public comment, and due deliberations, the Board determines, as required by Public Utilities Code Section 29038, that the rates and charges for service, as modified by this Resolution, are reasonable; and that insofar as practicable, these rates and charges are calculated to result in revenue which will:
  - (a) Pay for the operating expenses of the District;

- (b) Provide repairs, maintenance and depreciation of works owned and operated by the District;
  - (c) Provide for purchases, lease, or acquisition of rolling stock, including provisions for the interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the District for the acquisition of rolling stock; and
  - (d) After making any current allocation of funds for the foregoing purposes and by the terms of any indebtedness incurred under Public Utilities Code Articles 6 (commencing with Section 29240) and 7, (commencing with Section 29250) of Chapter 8, provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of Part 2 of Division 10 of the Public Utilities Code.
- (3) The modification to the rates and charges set forth in Exhibits A and B are for the purposes of demonstrating appreciation to District customers by temporarily reducing all fares and charges by 3% for four months beginning October 1, 2010 through January 31, 2011.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District that:

- (1) The temporary modifications to the rates and charges for BART service set forth in Exhibit A are hereby adopted.

# # # #

**EXHIBIT A—MODIFIED FARE RATES AND CHARGES: Temporarily decrease all Customer Fares by 3% for four months from October 1, 2010 through January 31, 2011**

For the period October 1, 2010 through January 31, 2011, the new fare rates and charges for BART rail service shall be as follows:

**3% FARE REDUCTION**

- Effective October 1, 2010 through January 31, 2011, a decrease of all fares and charges by 3%. Actual percentage decreases to fare rates and charges may vary slightly due to rounding to the nearest nickel.
- Effective February 1, 2011, fares will return to the prior level.

The basic fare schedules for current fares and for the temporary fare decrease are attached.







## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marica Sabido</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Admin Committee		
DATE: c <i>8/5/10</i>		BOARD INITIATED ITEM: <i>ND</i>		
Originator/Prepared by: Sarah Syed Dept: Capital Development <i>Sarah Syed</i> 8/4/10	General Counsel <i>Andrew...</i> 8/4/10	Controller/Treasurer <i>[Signature]</i> 8/4/10	District Secretary [ ]	BARC <i>Andrew...</i> 8-4-10 [ ]

TITLE:

### Interim Agreement between BART and the Alameda-Contra Costa County Transit District

NARRATIVE:

#### PURPOSE:

To obtain Board authorization for the General Manager to execute an Interim Agreement between BART and the Alameda-Contra Costa County Transit District (AC Transit) to establish the amount of Fiscal Year 2011 (FY11) BART State Transit Assistance (STA) funds to be allocated to AC Transit to support AC Transit transfer services in FY11.

#### DISCUSSION:

Each year as part of its budgeting process, the State Legislature apportions STA funds to transit operators throughout the State. The State allocates the STA funds through the Metropolitan Transportation Commission (MTC), which disperses the STA funds. Since 1992, MTC has allocated a portion of the STA funds apportioned to BART (BART STA Funds) to AC Transit and other transit operators in the Bay Area for the purpose of supporting transfer or feeder transit service to BART stations. Since 2004, MTC's allocation of BART STA Funds to AC Transit has been based on calculations indexed to annual Alameda, San Francisco, and Contra Costa sales tax receipts from the half-cent sales tax imposed for BART in 1970 and made permanent under 1977 legislation (Assembly Bill 1107). Under this calculation, MTC previously budgeted \$4,920,168 in BART STA Funds for potential payment to AC Transit in FY11.

Although MTC will continue to disburse BART STA Funds, AC Transit and BART have agreed to investigate the manner in which the amount of BART STA Funds to be allocated to AC Transit is calculated. AC Transit and BART wish to establish a rational and fair methodology for calculating the annual allocation, and are in the process of developing the basis for a multi-year agreement that is satisfactory to both parties. MTC has agreed to allocate the amount(s) agreed upon by BART and AC Transit.

Because such an agreement was not reached prior to the beginning of FY11, the proposed Interim Agreement is desirable to establish the FY11 BART STA Funds to be allocated to AC Transit in FY11. Under the terms of the proposed Interim Agreement, MTC will make an allocation in the amount of Two Million Four Hundred and Sixty Thousand Dollars (\$2,460,000) of FY11 BART STA Funds to AC Transit as a first payment for AC Transit transfer services in FY11. BART will also place One Million One Hundred and Forty Thousand Dollars (\$1,140,000) of FY11 BART STA Funds in reserve through MTC.

Thereafter, if a multi-year agreement is executed by the parties within six months following execution of the Interim Agreement, the formula set forth in the multi-year agreement will be

used to calculate any additional allocation of FY11 BART STA Funds to AC Transit for FY11. In no event, however, will the total allocation of FY11 BART STA Funds to AC Transit exceed the sum of Three Million Six Hundred Thousand Dollars (\$3,600,000) for FY11. If no multi-year agreement is reached, AC Transit will not receive any additional allocation of BART STA Funds for FY11.

In the EDD for the Annual Budget Resolution for FY11, the Board was advised that AC Transit and BART were negotiating the aforementioned terms for the allocation of funds under an Interim Agreement.

The Office of General Counsel has approved the Interim Agreement as to form. AC Transit signed the Interim Agreement on July 7, 2010. MTC adopted a revised FY11 Fund Estimate reflecting the payment amounts in the proposed Interim Agreement on July 28, 2010.

**FISCAL IMPACT:**

The adopted FY11 Budget includes an estimated \$3,600,000 payment to AC Transit to support feeder transit service to BART stations. There is no other fiscal impact from the proposed Interim Agreement to the District's FY11 Operating Budget.

The total FY11 and future year allocations depend on a multi-year agreement to be developed within six months of execution of the Interim Agreement. Under the Interim Agreement, AC Transit has agreed that if a multi-year agreement is not developed within six months of execution of the Interim Agreement, it will not be entitled to any additional allocation of FY11 BART STA Funds for FY11. In this circumstance, the cost savings realized to BART would total \$1,140,000 over the adopted FY11 Budget.

**ALTERNATIVES:**

Not execute the FY11 Interim Agreement. In such case, MTC will continue to calculate and disburse payment to AC Transit by indexing the payment to annual sales tax receipts from BART's half-cent sales tax. Using this method, MTC had previously estimated \$4,920,168 for the FY11 payment.

**RECOMMENDATION:**


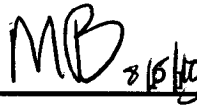
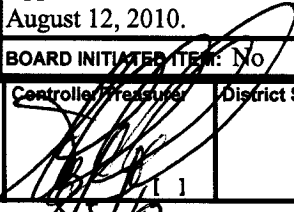
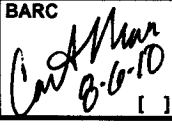
Adoption of the following motion.

**MOTION:**

The General Manager is authorized to execute the Interim Agreement between the Alameda-Contra Costa County Transit District and the San Francisco Bay Area Rapid Transit District for Fiscal Year 2011 payment for transit coordination.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to Administration Committee on August 12, 2010.		
DATE: 8/6/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ed Pangilinan Dept: Finance X6929	General Counsel  8/5/10	Controller/Treasurer  8/5/10	District Secretary [ ]	BARC  8-6-10 [ ]
Signature/Date:				
Status: <b>Approved</b>		Date Created: 07/19/2010		

TITLE:

### AWARD OF AGREEMENT NO. 6M2025 FOR INDEPENDENT AUDIT SERVICES

NARRATIVE:

**Purpose:** To obtain Board authorization to award Agreement No. 6M2025 for Independent Audit Services to Macias Gini & O'Connell LLP for a five-year period from fiscal year 2010 to fiscal year 2014.

**Discussion:** The San Francisco Bay Area Rapid Transit District Act (California Public Utilities Code Section 28769) requires that an annual audit be made of all books and accounts of the District by an independent certified public accountant .

On May 11, 2010, the District issued Request for Proposal (RFP) No. 6M2025. The RFP requires an audit of the District's basic financial statements which consist of its Enterprise Fund and Fiduciary Fund. The Enterprise Fund includes all financial transactions related to the District's transit operations. The Fiduciary Fund shows all financial transactions related to the Retiree Health Benefit Trust ("RHBT"), a Trust created by the District to administer and account for assets which are restricted for the payment of retiree health premiums. The RFP also requires the preparation of separate annual audited financial statements for RHBT. The solicitation effort included direct mailing of RFPs to over fifty accounting firms, posting of the RFP on webbart and advertising in several Bay Area publications. A pre-submittal meeting was held on May 18, 2010 attended by six firms.

On June 15, 2010, proposals were received from Macias Gini & O'Connell LLP of Walnut Creek and Vavrinek, Trine, Day & Company, LLP of Palo Alto. A Selection Committee consisting of staff from the Office of Civil Rights, Finance Department and Contract Administration reviewed the submittals. The Selection Committee evaluated the proposals using the best value methodology Under this approach, the District retains the right to award to other than the lowest cost proposal based on a determination that certain technical advantages available from a proposal will equate to added value for the District. The submittals were first reviewed for responsiveness to the requirements of the RFP. The submittals were then reviewed for minimum technical qualifications of the firm and key personnel as required in the RFP. Both proposers were approved as to minimum technical qualifications. The Selection Committee evaluated and scored the proposers' statements of qualifications with respect to the qualifications and



experience of the firm and key personnel. The firms were then scheduled for oral interviews for further questions on their audit methodology and relevant experience. The committee then reviewed the price proposals. The scores for technical qualifications and oral interviews were combined. Based on the best value analysis, the Selection Committee unanimously determined that Macias Gini & O'Connell offered the best overall value to the District.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 16% for MBEs and 20% for WBEs. The bidder committed to 100% MBE and 0% WBE. The bidder did not meet the WBE percentage, and 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:** The maximum compensation for this agreement by fiscal year is as follows:

	BART	RHBT	Total
	-----	-----	-----
FY 2010	\$165,865	\$16,605	\$182,470
FY 2011	170,840	17,105	187,945
FY 2012	175,955	17,625	193,580
FY 2013	181,235	18,150	199,385
FY 2014	186,670	18,695	205,365
	-----	-----	-----
Total	\$880,565	\$88,180	\$968,745
	=====	=====	=====

Funding for the District's audits for FY 2010 and FY 2011 are included in the adopted operating budgets of the Controller-Treasurer's Office. Future years funding will be included in the future operating budgets of the Controller-Treasurer's Office. The fees for the RHBT audits will be paid by RHBT.

**Alternative:** The annual audit of the District is a legal requirement. The annual audit of the RHBT is required under the Agreement and Declaration of Trust approved by the Board in 2004. The District could reject both proposals and re-solicit new proposals, which most likely will generate the same response from the same accounting firms.

**Recommendation:** That the Board adopt the following motion:

**Motion:** That the Controller-Treasurer be authorized to award Agreement No. 6M2025 to Macias Gini & O'Connell LLP to provide independent audit services to the District and RHBT for a five-year period commencing fiscal year 2010 through fiscal year 2014, for a total maximum compensation of \$968,745, subject to compliance with the District's protest procedures.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeLuca</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: <i>8/4/10</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD	General Counsel <i>Paul Verma</i> <i>8/3/10</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BART <i>Paul Verma</i> <i>8/4/10</i>
Signature/Date: <i>Shirley Ng 8/3/10</i>				
Status: Approved		Date Created: 07/20/2010		

TITLE:

**Authority to Award Professional Services Agreement No. 6M6039 for Construction Management Services for BART Earthquake Safety Program Station Structure, C Line, Concord Station**

NARRATIVE:

**PURPOSE:**

To authorize the General Manager to award Agreement No. 6M6039 for construction management services for the BART Earthquake Safety Program Station Structure, C Line, Concord Station to F.E. Jordan Associates, Inc./ABA Global Inc., a joint venture of Oakland, California.

**DISCUSSION:**

Retrofit for the Concord Station for the BART Earthquake Safety Program was awarded and Notice to Proceed was issued effective June 21, 2010. This Agreement will provide the District with construction management services to monitor the Contractor and coordinate activities for the retrofit. Assignments under this Agreement will be defined by Work Plans. This Agreement will have a term of two years.

On April 27, 2010, the District issued a Request for Statements of Qualifications ("RFSOQ") No. 6M6039. Advance notices were mailed on April 27, 2010 to 356 prospective proposers. RFSOQ No. 6M6039 was advertised locally and nationally in a total of 10 publications. A Pre-Submittal meeting held on May 12, 2010 was attended by 48 prospective proposers.

Submittals were received on June 1, 2010, from the following twelve firms:

Firm	Location
Acumen Building Enterprise, Inc.	Oakland, CA
Anil Verma Associates, Inc.	Oakland, CA
Cole Management & Engineering, Inc.	Concord, CA
F.E. Jordan/ABA Global Inc., a Joint Venture	Oakland, CA

Ghiradelli Associates, Inc.  
James Transportation Group  
Krishnan-Caltrop, a Joint Venture  
MSE  
PMA/NBA, a Joint Venture  
Summit Associates  
VSCE  
W. J. Robinson & Associates, Inc.

Oakland, CA  
Folsom, CA  
Oakland, CA  
Oakland, CA  
San Francisco, CA  
Concord, CA  
Oakland, CA  
San Francisco, CA

The submittals were evaluated by a Source Selection Committee chaired by BART Contract Administration consisting of representatives from BART's Transit System Development Department and the Office of Civil Rights. Submittals were first reviewed for responsiveness to the requirements of the RFSOQ. Subsequently, the submittals were evaluated and scored on the basis of the criteria contained in the RFSOQ with respect to the qualifications of the proposing firms and the project team. As a result of the technical evaluation, four proposers were short-listed to participate in the oral presentations: F.E. Jordan Associates, Inc./ABA Global Inc., Ghiradelli Associates, Inc., Krishnan-Caltrop, and PMA/NBA. Oral presentations were conducted on July 6, 2010.

The Source Selection Committee recommends the award of Professional Services Agreement No. 6M6039 for Construction Management Services for the BART Earthquake Safety Program Station Structure, C Line, Concord Station to F.E. Jordan Associates, Inc./ABA Global Inc. based on its highest cumulative technical evaluation and oral presentation scores. Staff determined that the rate structure for a cost-plus-fixed-fee Agreement is fair and reasonable and that F.E. Jordan/ABA Global Inc. is a responsible organization. BART's internal audit department is working to complete the audit, the results of which will be incorporated into the executed Agreement, as appropriate.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 16% for MBEs and 20% for WBEs. F.E. Jordan Associates, Inc. is an MBE firm. The proposer, F.E. Jordan Associates, Inc./ABA Global Inc., a joint venture, committed to a 16.4% MBE and 19.4% WBE participation. The Office of Civil Rights has determined the proposer has satisfied the requirements of the Non-Discrimination in Subcontracting Program.

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

#### **FISCAL IMPACT:**

Funding in the not to exceed amount of \$1,500,000 for award of Agreement No. 6M6039 is included in the total project budget for the FMS #15PQ, ESP – Concord Station. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F – 2004 Earthquake Safety G.O. Bond:

\$1,500,000

As of month ending 5/30/10, \$4,310,000 is available for commitment from this fund source for this project and BART has committed \$168,365 to date. There are pending commitments of \$2,093,759 in BART's financial management system. This action will commit \$1,500,000 leaving an uncommitted balance of \$547,876 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The District could reject all submittals and re-solicit new submittals. If the Agreement is not awarded, however, BART would have to seek other means of furnishing the required services, adding cost and time to the BART Earthquake Safety Program.

**RECOMMENDATION:**

Staff recommends that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Agreement No. 6M6039, for Construction Management Services for BART's Earthquake Safety Program Station Structure, C Line, Concord Station, to F.E. Jordan Associates, Inc./ABA Global Inc., a joint venture, for a term not to exceed two years in an amount not to exceed \$1,500,000 subject 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 8/2/10	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	*Contract award of CM for Concord Station included in Forecast
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	\$10,606,641	
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>\$603,025,424</b>	
<b>PROGRAM COSTS</b>			
Program Costs ( Hazmat, ROW, Consult, Staff)	\$159,894,204	\$241,801,763	
Contingency	\$32,104,000	\$101,208,733	
<b>TOTAL PROGRAM COSTS</b>	<b>\$191,998,204</b>	<b>\$343,010,496</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 <i>Marisa Sabatelli</i>		GENERAL MANAGER ACTION REQ'D: Forward to the Board for Approval		
DATE: 8/4/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Thomas Herold Dept: Maintenance & Engineering <i>Thomas Herold</i> Signature/Date: 8/2/10	General Counsel <i>Andrew K... 8/2/10</i> [ ]	Controller/Treasurer <i>[Signature]</i> [ ]	District Secretary [ ]	BART <i>[Signature]</i> 8/2/10 [ ]
Status: Routed		Date Created: 05/03/2010		

TITLE:

### Sole Source Procurement of an Interoperable Radio System for the BART Underground (Two-Thirds Vote Required)

NARRATIVE:

#### PURPOSE:

To obtain Board authorization, in accordance with Public Contract Code Section 20227, to enter into negotiations and execute a contract with Dailey-Wells Communications, to provide engineering, parts, software, equipment placement, and startup services necessary for a P25 System with modifications to the existing and in-service trunked radio network pursuant to the requirements of Project 79HU, P25 Interoperable Radio System, for a total price not to exceed \$1,975,500.

#### DISCUSSION:

BART has been awarded a Department of Homeland Security funding grant to deploy throughout the underground regions of the BART System a high call-capacity P25 trunked radio system for interoperable and mutual aid purposes. (P25 is a shorthand designation for a suite of radio protocols available to all radio manufacturers, allowing different brands of user radios to be used on a common radio network.) Once in service, regional emergency responders would be able to communicate and coordinate their activities within the BART underground on the proposed P25 trunked Interoperable Radio System. BART Police already have available handheld radios for direct access to the proposed Interoperable System. Other agencies in the region are building their own P25 radio systems, and will provide their own emergency responders with P25 handheld radios also able to communicate on the BART Interoperable Radio System.

The P25 Interoperable Radio System equipment must integrate with the existing BART radio infrastructure. By doing so, portions of BART's own trunked radio system can participate in direct communications with emergency responders using the Interoperable Radio system. The trunked radio system equipment in service at BART uses a proprietary protocol known as EDACS (Enhanced Digital Access Communications System), and is manufactured solely by Harris, Incorporated ("Harris"). Harris manufactures P25 radio network equipment, and has developed the necessary electronic modules and software to fully integrate the two systems of their manufacture. The needed equipment is available only from that one sole source.

Staff has been advised by Harris that the order for the needed equipment must be placed directly

with Dailey-Wells Communications. Staff proposes to contract with Dailey-Wells Communications to provide equipment and services for the P25 radio equipment and modifications to the existing EDACS equipment. Pursuant to Public Contract Code §20227, the Board may direct the purchase of any supply, equipment or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use.

Staff is now seeking to enter into direct negotiations with Dailey-Wells Communications in order to execute a sole source procurement contract with the vendor which will be funded by a Department of Homeland Security grant for procurement of an Interoperable Radio System for the BART Underground. CalEMA, the state agency overseeing use of the federal grant, has approved sole source application of the grant funds.

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

**FISCAL IMPACT:**

Funding for \$1,975,500 (\$1,800,000 total price plus \$175,500 estimated tax) for procurement of an Interoperable Radio System is included in the total project budget for the FMS #79HU, Interoperable Communication / Equipment. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$1,975,500 will be funded as follows:

<u>F/G 61Y – Pass Thru Grant (UASI)</u>	<u>\$1,500,000</u>
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As of month ending 5/30/10, \$1,500,000 is available for commitment from this fund source for this project and BART has committed \$0 to date. There are no pending commitments in BART's financial management system. This action will commit \$1,500,000 leaving an uncommitted balance of \$0 in this fund source.

<u>F/G 55T – FY07 Prop 1B CTSGP</u>	<u>\$475,500</u>
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As of month ending 5/30/10, \$900,000 is available for commitment from this fund source for this project and BART has committed \$0 to date. There are pending commitments of \$386,931 in BART's financial management system. This action will commit \$475,500 leaving an uncommitted balance of \$37,569 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

If the Interoperable Radio System is not procured, the District will have limited radio communication resources available for responding to large scale incidents and emergency situations in the BART underground trackway and stations. The grant funding would be returned to the Department of Homeland Security for other uses in the Region.

**RECOMMENDATIONS:**

On the basis of analysis by staff and certification by the Controller/Treasurer that the funds are

available for this purpose, it is recommended that the Board adopt the following motion.

**MOTION:**

The Board finds in accordance with Public Contract Code §20227, that Dailey-Wells Communications is the single source for procurement of an interoperable radio system for the BART underground and that the procurement is for the purpose of duplicating or replacing equipment or material in use at the District. The Board authorizes the General Manager to enter into direct negotiations with Dailey-Wells Communications and to execute a contract with Dailey-Wells Communications to provide an interoperable radio system for the BART underground for a total price not to exceed \$1,975,500.

(Two-thirds vote required.)





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malca Delaney</i>		GENERAL MANAGER ACTION REQ'D: no		
DATE: 8/4/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadell Dept: <i>Paul Fadell</i>	General Counsel: <i>Andrew Ross</i> 8/3/10	Controller/Treasurer: <i>[Signature]</i>	District Secretary: <i>[Signature]</i>	BART: <i>[Signature]</i> 8/1/10
Signature/Date:				
Status: Routed		Date Created: 06/04/2010		

TITLE:

### 2010 State Legislation and Initiative Review

NARRATIVE:

NARRATIVE:

### PURPOSE

To seek Board positions on state legislation and an initiative.

### DISCUSSION:

Last February, the BART Board approved state and federal advocacy goals for 2010. Following is a description of specific state bills and a state initiative that could have direct impacts on BART. For additional information on the measures, official legislative policy committee or floor analyses on each bill, the text of the initiative and a summary by the California Attorney General are attached.

#### A. State Legislation proposed for SUPPORT:

##### AB 1871 (Jones) Insurance: Car Share

AB 1871 would assist car sharing in the state by prohibiting the loss of personal auto insurance to those vehicle owners who share their cars. For insurance purposes, the bill would continue to prohibit a private motor vehicle that is shared from being classified as commercial, as long as the revenue generated by vehicle sharing does not exceed the annual expenses of operating that vehicle, including depreciation, interest, lease payments, auto loan payments, insurance, maintenance, parking, and fuel. In addition, the vehicle sharing organization would be required to provide the vehicle insurance for that period when someone other than the owner is using the car.

Several car sharing companies and environmental groups support this bill because they say it could help supplement or replace company owned fleets with private vehicles for temporary usage. Environmental and transit advocates support this bill because they believe it can encourage car sharing near transit -- becoming an integral part of a public transit system which can help divert greater vehicle driving on freeways. They believe car sharing can be a tool for

helping to achieve the state's goal of implementing AB 32 and SB 375. Having additional cars available at or near transit stations, like BART, could assist riders who need assistance, at the end of their transit route, to the "last mile" of their destination.

### **AB 2324 (Perez) Transit Rail Penalties**

Speaker of the Assembly John Perez introduced AB 2324 to apply similar security protections to public transit facilities that presently exist in airports. The bill would primarily make it a misdemeanor for anyone to possess a firearm at a public transit facility if a notice is posted. The bill would also prohibit possession of imitation firearms, metal or plastic replica hand grenades, tear gas weapons, taser or stun guns, or detectable knives.

AB 2324 would also:

- Specify who could carry such items (described above);
- Authorize punishment for carrying such items with a fine not to exceed \$1,000 and or imprisonment in the county jail for up to 6 months;
- Create a trespass if any unauthorized person knowingly enters a public transit facility posted for restricted access. This would trigger a \$100 fine, or a \$1,000 fine and jail term for up to 6 months if the person refuses to leave the area.
- Clarify other punishable offenses and correlating fines and imprisonment for such acts.

Speaker Perez has said that the protections afforded to airports and seaports in state law following September 11, 2001 eventually were extended to certain public buildings and facilities, but not to transit. The Assembly Speaker said he wants to provide enforcement tools to strengthen security for buses, trains and other public transportation systems. As originally introduced this bill only dealt with bus and light rail facilities. At BART's request the author amended the bill to include definitions that would also make the bill applicable to rapid transit facilities such as BART.

### **SB 1205 (Corbett) Bay Area Disaster Planning**

SB 1205 would establish the "Bay Area Disaster Recovery Planning Council" to create a long-term regional recovery plan to be implemented before and after an earthquake or other disaster in the Bay Area. The Council would cooperate with various local stakeholders, including cities, counties, special districts, schools, emergency operators, hospitals, members of the public, private businesses, and nongovernmental organizations. SB 1205 would require the Council to seek ways to centralize disaster planning efforts around the Bay Area without duplicating local planning efforts by, in part, sponsoring and reviewing local actions as a disaster planning clearinghouse.

The Council would focus primarily on needed planning for transportation, water and housing efforts -- developing a recovery plan that would seek to better assure the Region's "*resiliency following a disaster by increasing the speed of rebuilding lifeline infrastructure including, but*

*not limited to water, and energy pipelines, [and] planning for temporary transportation and transit programs during the repair of the transportation system... ”*

Senator Corbett is Chair of the Senate Select Committee on Earthquake and Disaster Preparedness and believes a law is needed to enhance regional planning efforts to address an impending disaster, which many predict will be a significant earthquake in the next 30 years along the Hayward Fault. Senator Corbett’s legislation includes significant directives for transit to participate in disaster planning efforts. Sponsored by the Association of Bay Area Governments (ABAG), the bill would also allow ABAG to seek and provide grant funding for planning efforts and would require the establishment of a Technical Advisory Committee to assist in planning efforts.

### **SB 1371 (Lowenthal) Stimulus Funding**

SB 1371 would require the state Department of Transportation to work with local transportation agencies to develop a list of transportation projects that have the potential to be awarded quickly if a second round of federal stimulus funds is forthcoming. The bill would require the Department of Transportation to submit monthly status reports to the Legislature or identify on its website certain milestones for expenditure of these funds.

The author introduced SB 1371 to demonstrate that California encourages Congress to pass a second stimulus bill. The U.S. House of Representatives passed legislation last year which includes \$8.4 billion in additional stimulus funding for public transit among other programs. The U.S. Senate, however, has yet to pass similar stimulus legislation -- even though US Senate Majority Leader Reid has promised that several smaller bills would eventually address separate stimulus funding sectors. Senator Lowenthal, Chair of the State Senate Transportation & Housing Committee, has said support for SB 1371 will demonstrate transit’s readiness in the state to undertake additional stimulus transportation projects. There has been no opposition to this bill.

### **SB 1445 (DeSaulnier) SB 375 Planning Funds**

SB 375 (Steinberg) of 2008 required the Air Resources Board (ARB) to provide by September 2010 that each region with a Metropolitan Planning Organization (MPO) be provided a target for greenhouse gas emission reduction for automobile and light trucks. Each MPO, in turn, is required to include within its regional transportation plan (RTP) a sustainable communities strategy (SCS) designed to achieve the ARB targets for greenhouse gas emission reduction by a certain deadline. If the SCS does not achieve the reduction target, the MPO must also prepare an alternative planning strategy.

To assist in the important regional planning effort required by SB 375, SB 1445 would increase the annual vehicle registration fee statewide by one dollar to \$35 by July 1, 2011. The additional revenues to each MPO, council of government (COG), or county transportation planning agency would be based on the number of vehicles registered. This legislation would sunset in January

2016.

The MTC supports this bill which would make changes to the membership and responsibilities of the Planning Advisory and Assistance Council (PAAC), housed in the Governor's Office of Planning and Research (OPR), which has responsibilities to assist OPR in various land use and planning related activities in the state. SB 1445 would also require the Strategic Growth Council, a state committee that coordinates the activities of various state agencies, to consult with the PAAC to facilitate implementation of regional blueprint projects.

### **SCA 5 (Hancock) Majority Vote for State Budget**

The California Constitution requires the Governor to submit to the Legislature by January 10th of each year a budget for the ensuing fiscal year, accompanied by a Budget Bill itemizing recommended expenditures. The Constitution also requires that this Budget Bill, (which makes certain appropriations from the General Fund) be passed in each house of the Legislature by a two-thirds vote. This measure would exempt General Fund appropriations in the Budget Bill from the two-thirds vote requirement. A majority vote Budget Bill could make it easier for the Legislature to pass a state budget and raise revenues in ways that could better address state transit funding issues.

### **B. State Proposition: "Local Taxpayer, Public Safety and Transportation Protection Act of 2010"**

The state initiative "*Local Taxpayer, Public Safety and Transportation Protection Act of 2010,* " (Proposition 22) has qualified for the November 2010 General Election. Initiated by the California Transit Association (CTA), the League of California Cities, and the California Alliance for Jobs, this Initiative is an effort to change the state constitution to prevent further state raids of revenue streams to local governments and public transit entities.

If passed, Proposition 22 would protect local government revenue streams including city and county property taxes, redevelopment agency revenues, and locally levied taxes and fees. The Initiative also specifies that the revenue sources historically flowing into the Public Transportation Account (PTA) -- Transportation Development Act revenues, Proposition 42 revenues and gas tax revenues--could not be taken or borrowed by the state. The Initiative is also written to require that PTA revenue be continuously appropriated, and used only for the mass transportation and transportation purposes defined in the Act.

Shortly after the Initiative was drafted and approved for citizen signature gathering, a package of bills known as the "gas tax swap" was passed by the Legislature and signed by the Governor. These bills eliminated the sales tax on gasoline and replaced it with an excise tax, some of which

can now be used for General Fund purposes. The “gas tax swap” package also preserves the sales tax on diesel fuel and dedicates it to public transit programs. Proposition 22 would protect this diesel tax revenue stream and dedicate 50 percent of this revenue (approximately \$215 million annually) to ongoing State Transit Assistance (STA) funding. This Initiative would not *guarantee* that there will always be a diesel sales tax, but rather would dedicate 50 percent of such tax revenue to STA funding so long as the diesel sales tax exists.

Because the Initiative was drafted before the gas tax swap was passed, Proposition 22 is written to lock in revenue from the sales tax on gas for public transit purposes. Passage of the gas tax swap means that only diesel tax revenue will be dedicated to public transit. However, CTA’s legal representatives have stated that transit can only benefit by better protecting the remaining diesel tax revenue still flowing to transit projects, and that passage of the initiative could also create opportunities for legal challenges to the gas tax swap that could result in additional funding opportunities for public transit.

**FISCAL IMPACT:**

N/A (see attachment)

**ALTERNATIVE:**

The Board could choose not to support the legislation and the proposition listed for review.

**RECOMMENDATION:**

That the Board approves the following motions.

**MOTIONS:**

The Board approves a SUPPORT position for the following legislation:

- AB 1871 (Jones) Insurance: Car Sharing
- AB 2324 (Perez) Transit Rail Penalties
- SB 1205 (Corbett) Bay Area Disaster Planning
- SB 1371 (Lowenthal) Stimulus Funding
- SB 1445 (DeSaulnier) SB 375 Planning Funds
- SCA 5 (Hancock) Majority Vote for State Budget

The Board approves a SUPPORT position for state Proposition 22 : “Local Taxpayer, Public Safety and Transportation Protection Act of 2010.”