

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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

BOARD MEETING AGENDA

August 26, 2010

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, August 26, 2010, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of August 12, 2010.* Board requested to authorize.
- B. Resolution of Local Support for a State Transportation Improvement Plan Amendment for the Oakland Airport Connector Project.* Board requested to adopt.
- C. Award of Contract No. 01ZK-150, Oakland Airport Connector Project Demolition of the Teamsters Building.* Board requested to authorize.
- D. Award of Contract No. 15NY-110, El Cerrito del Norte Station Sidewalk and Wayfinding Improvements.* Board requested to authorize.
- E. Award of Contract No. 15NZ-110, Lafayette Station Wayfinding Path and Signage Improvement.* Board requested to authorize.
- F. Reject All Bids for Contract No. 04SF-110, Construction of East Contra Costa County (eBART) Transfer Platform and Guideway Improvements.* Board requested to reject.
- G. Reject All Bids for Contract No. 15EL-130, Installation of Fiber Optic Cable for R-Line Emergency Trip System Project.* Board requested to reject.

3. BOARD MATTERS

- A. Report of the Small/Minority/Women-Owned Business & Bonding Committee. For information.

4. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Employee Recruitment and Relocation for the Positions of Independent Police Auditor and Two Police Commanders.* Board requested to authorize.

- B. Postponement of Consumer Price Index-Based 2012 Fare Increase.*
Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- C. Fiscal Year 2010 Year-End Budget Revision.* Board requested to
authorize.

5. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Memorandum of Understanding with City of Union City for the Design
Review of Phase 2 Intermodal Station Improvements at Union City
Station.* Board requested to authorize.

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

Director Ward Allen, Chairperson

NO REPORT.

7. GENERAL MANAGER'S REPORT

NO REPORT.

8. BOARD MATTERS

- A. Roll Call for Introductions.

9. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property:	Property Located at the South Hayward BART Station
District Negotiators:	Carter Mau, Executive Manager, Planning & Budget; and Jeffrey P. Ordway, Manager, Property Development
Negotiating Parties:	Wittek Development, the Montana Property Group, Eden Housing, Inc., City of Hayward, Hayward Redevelopment Agency and San Francisco Bay Area Rapid Transit District
Under Negotiation :	Price and Terms
Gov't Code Section:	54956.8

11. OPEN SESSION

- A. Extension of Exclusive Negotiating Agreement (ENA) with Wittek
Development/The Montana Property Group and Eden Housing, Inc., to
Pursue a Transit-Oriented Development Project at the South Hayward
BART Station Area. Board requested to authorize.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Admin Committee		
DATE: 8/20/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Alan Lee Dept. Capital Development <i>M. Tanner</i> Signature/Date: 8/13/10 - 6433	General Counsel <i>[Signature]</i> 8/19/10 []	Controller/Treasurer <i>[Signature]</i> 8/19/10 []	District Secretary []	BARC <i>[Signature]</i> 8-19-10 []
Status: Routed		Date Created: 08/12/2010		

Approval of a Resolution of Local Support for the Oakland Airport Connector (OAC) Project

NARRATIVE:

PURPOSE:

To request that the Board of Directors adopt the attached Resolution of Local Support so that the Resolution and the attached related materials may be forwarded to the Metropolitan Transportation Commission ("MTC") and the California Transportation Commission ("CTC") for the Oakland Airport Connector (OAC) Project.

DISCUSSION:

MTC Resolution No. 3928, "2010 Regional Transportation Improvement Program Policies, Procedures, and Project Selection Criteria," requires that a project sponsor approve a Resolution of Local Support when the project sponsor requests an allocation of STIP funds. Staff has prepared a Resolution of Local Support for adoption by the BART Board of Directors to meet the MTC's requirement for allocation of a total of \$20,000,000 of STIP funding for the OAC Project. Staff has also prepared the Project Programming Request ("PPR") Summary and RTIP Project Application Part 2: Certification of Assurances ("Certification of Assurances") attachments to the Resolution of Local Support.

FISCAL IMPACT:

Approval of the Resolution of Local Support, PPR Summary, and Certification of Assurances is a requirement for the District to receive an allocation of RTIP funds from the State of California. This action will have no fiscal impact on un-programmed District Reserves.

ALTERNATIVES:

Do not approve the Resolution of Local Support, PPR Summary, and Certification of Assurances. The likely result of not adopting the Resolution of Local Support, PPR Summary, and Certification of Assurances would be that the OAC Project would not be eligible for RTIP and funding, which would affect the funding of the OAC Project.

RECOMMENDATION:

Approve the attached Resolution of Local Support, PPR Summary, and Certification of Assurances Project Compliance in connection with the application for RTIP Funds for the

Oakland Airport Connector Project.

MOTION:

That the Board adopt the attached Resolution of Local Support, Project Programming Request Summary, and Certification of Assurances in order to receive \$20,000,000 in Regional Transportation Improvement Program funds for the Oakland Airport Connector Project.

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

In the Matter of Approving
the Resolution of Local Support For
the Oakland Airport Connector Project/

Resolution No. _____

WHEREAS, the San Francisco Bay Area Rapid Transit District (herein referred to as “BART”) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$20,000,000 in funding from the 2010 Regional Transportation Improvement Program (RTIP) for the BART Oakland Airport Connector Project (herein referred to as “PROJECT”) for the MTC 2010 RTIP, as authorized by MTC by Resolution No. 3928 (herein referred to as “PROGRAM”); and

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

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

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

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

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

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

WHEREAS, the RTIP Project Programming Request (PPR), a PPR Summary of which is attached hereto and incorporated herein as though set forth at length, describes the project, purpose, schedule and budget for which BART is requesting that MTC program Regional Transportation Improvement Program funds for inclusion in the RTIP; and

WHEREAS, Part 2 of the project application, attached hereto and incorporated herein as though set forth at length, includes the certification by BART of assurances required by SB 45 in order to qualify the project listed in the RTIP project nomination sheet of the project application for programming by MTC; and

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

NOW, THEREFORE, BE IT RESOLVED, that BART approves the assurances set forth in Part 2 of the project application, attached to this resolution; and be it further

RESOLVED, that BART will comply with the provisions and requirements of the "Timely Use of Funds Provisions and Deadlines" (MTC Resolution No. 3928, Attachment 1, Pages 14-15, and as may be further amended), that PROJECT will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP, and that BART and PROJECT will comply with the requirements as set forth in the 2010 RTIP Policies and Procedures (MTC Resolution No. 3928); and therefore be it further

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

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

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

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

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

RESOLVED, that BART authorizes its General Manager, or designee to execute and file the PPR with MTC to program Regional Transportation Improvement Program funds into the RTIP, for the projects, purposes and amounts as described in the PPR Summary attached to this Resolution; and be it further

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

Oakland Airport Connector Project

Project Programming Request Summary

Scope of Work

Procurement Approach

BART has procured the Oakland Airport Connector (OAC) through a competitive process among private bidders for the design, construction, operations and maintenance of the OAC project. BART intends to transfer construction, completion, schedule and system integration risk to the private sector through the Design-Build Contract, followed by a 20-year Operations and Maintenance Contract during which the private operator will be paid to meet very high operations and maintenance performance requirements and to carry out capital renewal and replacements to ensure a state of good repair and ultimately meet hand-back criteria specified in the Operations and Maintenance Contract.

The procurement has been completed and the BART Board has selected a DB contractor. BART will enter into a Design-Build Contract on a lump-sum fixed-price, date certain basis. The DB contractor will be responsible for the design and construction of the civil work facilities as well as the engineering, procurement and integration of the AGT, in accordance with the technical requirements of the DB Contract, including the provision of warranty endorsements. The DB contractor will absorb cost overruns and will be subject to liquidated damages in case of delays in achieving substantial completion for the entire design and construction work. The DB Contractor will provide a security package to BART including a 100% performance bond and a 100% payment bond. The project construction budget information below is an estimate at completion based upon actual DB contractor award amounts.

Construction Scope of Work:

The adopted project includes an alignment for the AGT which is largely in the Hegenberger Road corridor, running on an aerial guideway between the Coliseum BART station and Doolittle Drive. The guideway passes under Doolittle Drive then runs at grade adjacent to Airport Drive. In the airport terminal area the guideway again becomes aerial, over the airport parking area, terminating in front of the existing Terminals 1 and 2. The alignment is designed to accommodate a potential future intermediate station at Doolittle Drive.

The AGT system will include dedicated guideway, passenger stations, combined maintenance and central control facility, vehicles, guidance equipment and running surfaces, propulsion, automatic train controls, communications, station and central control equipment, automated fare collection, and specialized maintenance equipment.

Project Delivery Milestones

Project Milestone			Proposed
Project Study Report Approved			
Begin Environmental (PA&ED) Phase			07/01/98
Circulate Draft Environmental Document	Document Type	EIR/EIS	
Draft Project Report			
End Environmental Phase (PA&ED Milestone) (FTA ROD)			07/16/02
Begin Design (PS&E) Phase			06/01/03
End Design Phase (Ready to List for Advertisement Milestone)			04/30/09
Begin Right of Way Phase			06/01/03
Right of Way Certification			04/15/09
Begin Construction Phase (Contract Award Milestone)			09/30/10
End Construction Phase (Construction Contract Acceptance Milestone)			03/30/14
Begin Closeout Phase			03/30/14
End Closeout Phase (Closeout Report)			03/30/15

Total Project Budget Information

Phase	Total Amount Escalated - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	\$3,800
Design - Plans, Specifications and Estimates (PS&E)	\$13,230
Right-of-Way Activities /Acquisition (R/W)	\$13,000
Construction / Rolling Stock Acquisition (CON)	\$454,081
Total Project Budget (in thousands)	\$484,111

RTIP Project Application
Part 2: Certification of Assurances

The implementing agency certifies that the project for which Regional Improvement Program funding is requested meets the following project screening Criteria. **Please initial each.**

1. The project is eligible for consideration in the RTIP. Pursuant to Streets and Highways Code Section 164 (e), eligible projects include improving state highways, local roads, public transit, intercity rail, pedestrian, and bicycle facilities, and grade separation, transportation system management, transportation demand management, soundwall projects, intermodal facilities, and safety. AL
2. For the funds requested, no costs have/will be incurred prior to adoption into the STIP by the CTC. AL
3. A Project Study Report (PSR) or PSR equivalent has been prepared for the project. JO
4. The project budget included in Part 2 of the project application reflects current costs updated as of the date of application and escalated to the appropriate year. JO
5. The project is included in a local congestion management program (CMP). (Note: For those counties that have opted out of preparing a CMP in accordance with Government Code Section 65088.3, the project must be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation planning agency.) AL
6. The year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project. JO
7. The project is fully funded. The Project is fully funded as reflected in the attached Funding Plan
8. For projects with STIP federal funds, the implementing agency agrees to contact Caltrans and schedule and complete a field review within six months of the project being adopted or amended into the TIP. N/A
9. For STIP construction funds, the implementing agency agrees to send a copy of the Caltrans LPP 01-06 "Award Information for STIP Projects – Attachment A" to MTC and the CMA, upon award. JO
10. The implementing agency agrees to be available for an audit of STIP funds, if requested. AL

The implementing agency also agrees to abide by all statutes, rules and regulations applying to the State Transportation Improvement Program (STIP), and to follow all requirements associated with the funds programmed to the project in the STIP. AL

These include, but are not limited to:

1. Environmental requirements: NEPA standards and procedures for all projects with Federal funds; CEQA standards and procedures for all projects programmed with State funds.
2. California Transportation Commission (CTC) requirements for transit projects, formerly associated with the Transit Capital Improvement (TCI) program. These include rules governing right-of-way acquisition, hazardous materials testing, and timely use of funds.
3. Federal Transit Administration (FTA) requirements for transit projects as outlined in FTA regulations and circulars.
4. Federal Highway Administration (FHWA) and Caltrans requirements for highway and other roadway projects as outlined in the Caltrans Local Programs Manual.
5. Federal air quality conformity requirements, and local project review requirements, as outlined in the adopted Bay Area Conformity Revision of the State Implementation Plan (SIP).

BART Oakland Airport Connector Project Funding Plan as Presented to BART Board of Directors on 7/22/10

OAC Funding Plan (\$ millions)

Local

Alameda County Transportation Improvement Agency (ACTIA) Measure B	89.1	Committed
Port of Oakland [1]	29.3	Pending
Regional Measure 1 (1988 Bridge Toll)	31.0	Committed
Regional Measure 2 (2004 Bridge Toll)	115.2	Committed
SFO Reserves Account	10.0	Pending
Total Local	274.5	

State

State Transportation Improvement Program (STIP)	20.7	Committed
CMIA/RTIP Funding Exchange	10.0	Programmed
SHOPP/RTIP Funding Exchange	10.0	Programmed
MTC/State-Local Partnership Program (SLPP) Prop 1B	20.0	Committed
PTMISEA (Prop 1B)	12.8	Committed
High-Speed Passenger Train Bond	5.4	Pending
Total State	78.9	

Federal

Federal Transit Administration - Small Starts	25.0	Allocated -
Total Federal	25.0	Application Pending

Sub-total agency/public grant funding 378.4

Debt draws [2] 105.7 Requested

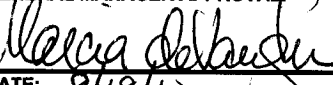
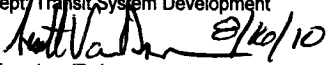
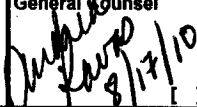
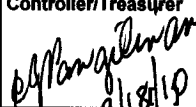
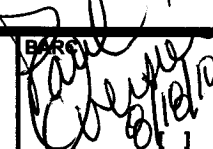
Total sources of funds 484.1

[1] An additional \$16.1M of Port funding will be received during operations.

[2] TIFIA interest expense is capitalized during construction and added to TIFIA loan balance



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors for Action		
DATE: 8/18/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Scott Van Dussen Dept/Transit System Development  Signature/Date: 8/16/10	General Counsel  8/17/10	Controller/Treasurer  8/18/10	District Secretary []	BART  8/16/10
Status: Approved		Date Created: 07/30/2010		

TITLE:

Award of Contract 01ZK-150, for Oakland Airport Connector Project, Demolition of the Teamsters Building

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 01ZK-150, for Oakland Airport Connector Project, Demolition of the Teamsters Building, to Evans Brothers, Inc..

DISCUSSION:

Contract No. 01ZK-150 was issued for the demolition of a building located at 70 Hegenberger Road. The property is 3.6 acres, includes a 22,000 sqft building ("the Property") which BART acquired on March 30, 2006 in preparation for the Oakland Airport Connector (OAC) Project. The Property provides access for the aerial guideway to traverse the median of Hegenberger Roadway towards the Oakland Airport. The Property will also be used for the Maintenance and Central Control Facilities as well as a potential future station location. The OAC Design-Build Contract No. 01ZK-110 was approved (subject to certain funding conditions) for award by the Board on July 22, 2010. A Notice to Proceed (NTP) is expected before the end of September 2010. Contract No. 01ZK-110 calls for the District to provide this property, with the Teamsters Building entirely removed, within 180 calendar days of the NTP date.

The Teamsters vacated the building on March 2009 and although the facility has been fenced off and locked, the property has fallen into severe disrepair due to ongoing vandalism, theft and dumping activities. The property has become a hazard and a liability to the District and the building needs to be demolished.

The District provided an advance notice to 182 prospective Bidders on June 1, 2010 and Contract Documents were sent to 22 plan rooms. The Contract was advertised on June 3, 2010. A total of 13 firms purchased copies of the Contract Documents. A pre-Bid meeting and site tour was conducted on June 11th, 2010 with 20 potential Bidders in attendance. Two addenda were issued. Nine (9) bids were received and publicly opened on July 13, 2010.

Tabulation of the Bids, including the Engineer's Estimate, is as follows:

<u>BIDDER</u>	<u>LOCATION</u>	<u>TOTAL AMOUNT</u>
Thomas D. Eychner Co. Inc.	San Pablo, CA	\$ 104,515.00
Evans Brothers, Inc.	Livermore, CA	\$ 127,904.00
Jos. J Albanese, Inc.	Santa Clara, CA	\$ 176,700.00
Cleveland Wrecking Company	Oakland, CA	\$ 178,000.00
DeKay Demolition & Clearing, Inc.	Oakland, CA	\$ 191,000.00
William P. Young Construction, Inc.	San Leandro, CA	\$ 248,680.00
PARC Services, Inc.	Livermore, CA	\$ 257,660.00
Kin Wo Construction, Inc.	San Francisco, CA	\$ 273,000.00
ETIC Engineering	Pleasant Hill, CA	\$ 279,253.00
<u>Engineer's Estimate</u>		\$ 331,800.00

Evaluation of the Bids revealed that the apparent low Bid submitted by Thomas D. Eychner Co. Inc. was non-responsive due to failure to submit a signed Statement of Qualifications and Business References under penalty of perjury. The next apparent low bid submitted by Evans Brothers, Inc., has been deemed to be responsive to the solicitation and the Bid Price of \$127,904.00 determined to be fair and reasonable. Furthermore, examination of the low Bidder's business experience and financial capabilities has resulted in a determination that this Bidder is responsible. The bid price by Evans Brothers, Inc. is 61% under the Engineers Estimate.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for MBE's and 12% for WBE's. Evans Brothers, Inc. will not be subcontracting any work and will do all work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

FISCAL IMPACT:

Funding of \$127,904 for the award of Contract No. 01ZK-150 is included in the total project budget for the FMS #01ZK – Oakland Airport Connector. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this contract will come from the following source:

F/G 55S - FY07-08 PTMISEA – Prop 1B State Bond Funds **\$127,904**

As of month ending 6/30/2010, \$3,735,000 is available for commitment from this fund source for this project and BART has committed \$6,000 to date. There are pending commitments of \$3,304,012 in BART's financial management system. This action will commit \$127,904 leaving an uncommitted balance of \$297,084 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to provide the property to Contract No. 01ZK-110 per the terms of the Contract and the BART staff may need to issue a change to Contract No. 01ZK-110 to demolish the Teamsters Building. Otherwise, staff will have to revise Contract No. 01ZK-150, issue a new a new Invitation to Bid and restart the bidding process. Either alternative could be substantially more expensive in direct cost as well as other costs that may arise due to a claim of delay caused by the District if the site is not provided per the terms of the Contract.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 01ZK-150, for Oakland Airport Connector Project, Demolition of the Teamsters Building, to Evans Brothers, Inc., for the Bid price of \$127,904.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DelBue</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 8/18/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jeffrey Garcia Dept: M & E <i>Jeffrey Garcia</i>	General Counsel <i>Andrew K...</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>Paul ...</i>
Signature/Date: 8/11/10	8/11/10	8/11/10		8/16/10

TITLE:

Award Contract No. 15NY-110, El Cerrito Del Norte Station Sidewalk and Wayfinding Improvements

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15NY-110, El Cerrito Del Norte Station Sidewalk and Wayfinding Improvements, to Golden Bay Construction, Inc.

DISCUSSION: The work of this Contract includes furnishing all labor, equipment, materials and services required for sidewalk and wayfinding improvements at El Cerrito Del Norte Station. These improvements include new ramps; directional signage; improved lighting; and tactile wayfinding installed in the walking surface directing pedestrians from the bus-intermodal facility to the BART station concourse. Work also includes replacing sidewalk which has been damaged by overgrown trees uplifting the sidewalk. Approximately 37 overgrown trees will be replaced as they have been determined by an arborist to be hazardous or unlikely to survive once repairs are made to the sidewalk. Of those, approximately six existing trees may not need to be replaced if it is determined during construction that they would likely survive the sidewalk replacement.

Advance Notice to Bidders was mailed on April 29, 2010 to 90 prospective Bidders and Plan Rooms. The Office of Civil Rights conducted outreach to approximately 500 DBE/MBE/WBE firms. The Contract was advertised on May 3, 2010. A Pre-Bid meeting was held on May 17, 2010, with 4 prospective Bidders attending the meeting. 14 Planholders purchased the Contract Book. 4 Bids were received on June 22, 2010.

BIDDER	LOCATION	TOTAL BID
Golden Bay Construction, Inc.	Hayward, CA	\$941,388.00
Angotti & Reilly	San Francisco, CA	\$948,591.00
Sposeto Engineering, Inc.	Union City, CA	\$980,595.00
Robert A. Bothman, Inc.	San Jose, CA	\$743,322.00 Bid withdrawn
ENGINEER'S ESTIMATE		\$846,459.00

The apparent low bidder, Robert A. Bothman, Inc., requested to withdraw its bid under Public Contract Code Section 5103 due to certain clerical errors, which made its bid materially different than intended. Bothman's request was received within five (5) working days of bid opening and was supported by objective documentation reflecting the clerical errors. Accordingly, Staff granted Bothman's request to be relieved of its bid.

After review by District staff, the Bid submitted by the next apparent low Bidder, Golden Bay Construction, Inc., was found to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has determined that its Bid of \$941,388.00, which is approximately 11% over the Engineer's Estimate, is fair and reasonable.

Staff has determined that there will be no significant effect on the environment from the sidewalk and wayfinding improvements and that the action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines section 15301(d) and (f), improvements at existing facilities and structures to meet current standards of public safety protection and section 15304, minor alterations to land. The project will receive federal funding and is therefore subject to the National Environmental Policy Act (NEPA). FTA approved the funding under grant 52X, concurring that the project qualifies for categorical exclusion (c)(15), as defined under 23 CFR 771.117 (c)(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

This contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this contract and determined that there were subcontracting opportunities; therefore, a DBE participation goal of 14% was set for this contract. The low bidder, Golden Bay Construction, Inc., committed to subcontracting 14.40% to DBEs.

FISCAL IMPACT:

The funding award of \$941,388 for contract 15NY-110 is included in the total project budget for Project # 15NY, Enhanced ADA Wayfinding. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 52X – FTA CA-90-Y339

\$941,388

As of the month ending 05/30/10, \$2,171,008 is available for commitment from this fund source for this project and BART has committed \$1,074,865 to date. There are no pending commitments in BART's financial management system. This action will commit \$941,388 leaving an uncommitted balance of \$154,755 in this fund.

There is no fiscal impact on available unprogrammed District Reserves.

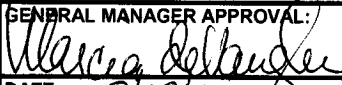

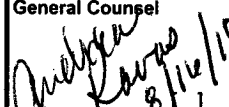
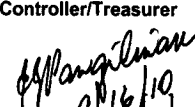
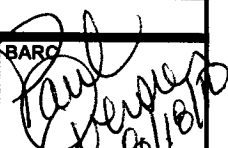
ALTERNATIVE: The alternative is to reject all Bids, which will result in the deferral of making sidewalk and wayfinding improvements at El Cerrito Del Norte Station. As this work includes repairs to sidewalks and paths with potential trip hazards should the sidewalks continue to deteriorate, such deferral could lead to future liability for the District.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to award Contract No. 15NY-110, El Cerrito Del Norte Station Sidewalk and Wayfinding Improvements, to Golden Bay Construction, Inc., for the Bid price of \$941,388.00, pursuant to notification to be issued by the General Manager and subject to the District's procedures and FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board	
DATE: 8/18/10		BOARD INITIATED ITEM: No	
Originator/Prepared by: Jeffrey Garcia Dept: M&E  Signature Date: 8/12/10	General Counsel  8/16/10	Controller/Treasurer  8/16/10	District Secretary [] BART  8/18/10

TITLE:

Award Contract No. 15NZ-110, Lafayette Station Wayfinding, Path and Signage Improvements

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15NZ-110, Lafayette Station Wayfinding, Path and Signage Improvements, to R. A. Bothman, Inc.

DISCUSSION: The work of this Contract includes furnishing all labor, equipment, materials and services required to construct wayfinding, path and signage improvements at Lafayette Station. These improvements include a new ramp, paving, signage, improved lighting, and bike racks and benches installed at the south entrance to the Lafayette BART station.

Advance Notice to Bidders was mailed on June 17, 2010 to 62 prospective Bidders and 24 Plan Rooms and Minority Assistance Organizations. The Office of Civil Rights conducted outreach to approximately 500 DBE/MBE/WBE firms. The Contract was advertised on June 22, 2010. A Pre-Bid meeting was held on July 7, 2010, with five (5) prospective Bidders attending the meeting. 25 Planholders purchased the Contract Book. 8 Bids were received on August 3, 2010.

BIDDER	LOCATION	TOTAL BID
Robert A. Bothman, Inc.	San Jose, CA	\$621,140.00
Valentine Corporation	San Rafael, CA	\$628,369.00
Sposeto Engineering, Inc.	Union City, CA	\$649,500.00
Rodan Builders, Inc.	Burlingame, CA	\$654,000.00
B-Side, Inc.	Oakland, CA	\$672,000.00
Bugler Construction	Pleasanton, CA	\$684,000.00
CF Contracting	Fairfax, CA	\$797,500.00
LC General Engineering & Construction, Inc.	San Francisco, CA	\$849,620.00
ENGINEER'S ESTIMATE		\$798,500.00

After review by District staff, the Bid submitted by the apparent low Bidder, Robert A. Bothman, Inc., was found to be responsive. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has determined that its Bid of \$621,140.00, which is approximately 22% under the Engineer's Estimate, is fair and reasonable.

Staff has determined that there will be no significant effect on the environment from the wayfinding, path and signage improvements and that the action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines section 15301(d) (improvements at existing facilities and structures to meet current standards of public safety protection). The project will receive federal funding and is therefore subject to the National Environmental Policy Act (NEPA). FTA approved the funding under grant 52Z, concurring that the project qualifies for categorical exclusion (c)(15), as defined under 23 CFR 771.117 (c)(15) (Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.).

This Contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities; therefore, a DBE participation goal of 5% was set for this Contract. The low bidder, Robert A. Bothman, Inc., committed to subcontracting 8.3% to DBEs.

FISCAL IMPACT:

The funding award of \$621,140 for Contract No. 15NZ-110 is included in the total project budget for 15NZ - Accessible Path/Wayfinding/Signage. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 52Z

FTA CA-90-Y541

\$621,140

As of the month ending 5/30/10, \$2,207,697 is available for commitment from this fund source for this project and BART has committed \$1,091,056 to date. There is \$12,032 in pending commitments in BART's financial management system. This action will commit \$621,140 leaving an uncommitted balance of \$483,469 in this fund.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE: The alternative is to reject all Bids, which will result in the deferral of path and wayfinding improvements at Lafayette Station. As this work includes the addition of a new accessible ramp at the south entrance, mobility impaired patrons would have to continue to walk around the freeway embankment via Happy Valley Road to the north entrance which is in excess of one quarter mile in distance.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to award Contract No. 15NZ-110, Lafayette Station Wayfinding, Path and Signage Improvements, to R. A. Bothman, Inc., for the Bid price of \$621,140.00, pursuant to notification to be issued by the General Manager and subject to the District's procedures and FTA's requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 8/20/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept: TSP	General Counsel 	Controller/Treasurer 	District Secretary 	BART
Signature/Date: _____ 8/20/10				

TITLE:

Reject all Bids for Contract No. 04SF-110 for Construction of East Contra Costa County (eBART) Transfer Platform and Guideway Improvements

NARRATIVE:

PURPOSE:

To reject all Bids for Contract No. 04SF-110 for Construction of East Contra Costa County (eBART) Transfer Platform and Guideway Improvements.

DISCUSSION:

On April 9, 2009, the BART Board of Directors ("Board") certified the Final Environmental Impact Report ("FEIR") and adopted the East Contra Costa BART Extension (eBART Project). The eBART Project will expand the existing BART System by ten miles and extend transportation services to communities in east Contra Costa County that are currently not served by rail transit.

The Contract Documents provide for the construction of a transfer platform and guideway improvements for the eBART Project and include an option for the construction of the foundation for the Railroad Avenue Station. The Contract Documents further provide that the District may exercise the Option at its sole discretion, no later than 200 calendar days after the effective date of the notice to proceed and contingent upon the availability of funds from the City of Pittsburg, California.

An Advance Notice to Bidders was mailed on May 19, 2010 to 112 firms and Bid Documents were sent to 22 plan rooms. The Contract was advertised on May 21, 2010 in various publications and newspapers. A total of 69 firms purchased copies of the Contract Documents. A conducted inspection tour of the jobsite was held on June 9, 2010 and attended by 30 interested Bidders. The pre-Bid meeting was held on June 10, 2010 with a total of 30 interested Bidders in attendance. In addition, an outreach meeting was held on June 16, 2010 with 28 participants in attendance.

A total of nine (9) Bids were received on July 27, 2010. A tabulation of the corrected Bids, including the Engineer's Estimate, is as follows:

<u>BIDDER</u>	<u>LOCATION</u>	<u>BASE BID PRICE</u>	<u>OPTION</u>
1. BBII/BBRI, JV	Fairfield, CA	\$27,678,000	\$450,000
2. Stacy & Witbeck /Steiny & Co, JV	Alameda, CA	\$28,240,000	\$810,000
3. OC Jones & Sons	Berkeley, CA	\$29,200,000	\$700,000
4. Diablo Contractors	San Ramon, CA	\$32,580,000	\$200,000
5. West Bay Builders	Novato, CA	\$32,667,000	\$1,500,000
6. Shimmick Construction	Oakland, CA	\$32,780,000	\$1,200,000
*7. Granite Construction Co.	Santa Clara, CA	\$33,131,343	\$869,019
*8. William P. Young	San Leandro, CA	\$34,279,312	\$661,650
9. Zovich Construction	Hayward, CA	\$35,094,000	\$1,050,000
Engineer's Estimate		\$31,194,528	\$546,000

*Review of the Bids by District staff revealed that the Bids submitted by Granite Construction Company and William P. Young contained arithmetical errors in the Bid Item totals and/or in the Total Bid Price. The District has corrected these arithmetical errors as provided for in Article 13.B., Evaluation, of the Instructions to Bidders in the Contract Documents, which states that the District will calculate prices based on the unit or lump sum prices bid.

The apparent low Bid submitted by BBII/BBRI, JV was determined to be nonresponsive to the solicitation due to its alteration of the Bid Documents, its failure to comply with the Contract requirements related to the submission of the Statement of Qualifications and Business References for Construction under penalty of perjury on behalf of the Joint Venture as required by statute, and its failure to submit evidence of the authority of the person signing the Bid.

The apparent second low Bid submitted by Stacy & Witbeck/Steiny & Co., JV was determined to be nonresponsive to the solicitation based on its failure to submit a Statement of Qualifications and Business References for Construction on behalf of the Joint Venture and the Bidder's failure to submit a joint venture agreement.

The eBART Project is operating under severe budget constraints which have significantly reduced project contingency and impacts future ability to mitigate risk. Staff believes that it is in the public's and the District's best interest to reject all Bids and readvertise this Contract which may result in a lower responsive bid than the current apparent third low Bid. Following the rejection of Bids, Staff will readvertise this Contract.

FISCAL IMPACT:

There is no fiscal impact resulting from rejection of all bids.

ALTERNATIVE:

The alternative is to award this Contract to the next lowest responsive Bid. However, Staff feels that a significant savings could be realized by rejecting all Bids and readvertising this Contract.

Reject all Bids for Contract No. 04SF-110.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

All Bids for Contract No. 04SF-110, Construction of East Contra Costa County (eBART) Transfer Platform and Guideway Improvements, are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>W. Craig DeBuckler</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: c 8/19/10		BOARD INITIATED ITEM: No	
Originator/Prepared by: Abdulhaque Shaikh Dept: Maintenance & Engineering <i>Abdulhaque Shaikh</i> 8/19/10	General Counsel <i>Michael Kang</i> 8/19/10	Controller/Treasurer <i>Paul Mangitman</i> 8/19/10	District Secretary BART <i>Paul Chen</i> 8/19/10

TITLE:

Reject all Bids for Contract No. 15EL-130 for Installation of Fiber Optic Cable for R-Line Emergency Trip System Project

NARRATIVE:

PURPOSE:

To reject all Bids for Contract No. 15EL-130 for Installation of Fiber Optic Cable for R-Line Emergency Trip System Project

DISCUSSION:

This Contract is for the installation of fiber optic cable which will interconnect equipment in traction power facilities and train control rooms on R-Line and will provide electrically isolated and noise free communication for Emergency Trip System, Supervisory Control And Data Acquisition (SCADA) and BART NET for remote operations of the traction power facilities. Remaining unused fibers in the cable will be connected later to provide communication for operations of train control and communication facilities on R-Line.

Contract No. 15EL-130 was advertised on June 28, 2010. A pre-bid meeting and the site tour was held on July 8, 2010. The following three bids were received and publically opened on July 27, 2010.

BIDDER

TOTAL BID

NEMA Construction, Albany, CA	\$201,000.00
Contra Costa Electric, Inc., Martinez, CA	\$225,106.00
Phase 3 Communication Inc., San Jose, CA	\$645,000.00
Engineer's Estimate	\$291,700.00

The apparent low Bid submitted by NEMA Construction was non-responsive because the Bidder subcontracted out too much of the work. The Contract specifies that the Contractor shall perform

with its own organization, Contract work amounting to not less than 60% of the total Bid Price, excluding any Allowance items. However, the Bid shows NEMA Construction performing work amounting to only 29% of the total Bid price.

The apparent second low Bid was submitted by Contra Costa Electric. This Contract was advertised pursuant to the revised Disadvantaged Business Enterprise (DBE) Program requirements. The Office of Civil Rights (OCR) reviewed the scope of work for this Contract and determined that there were subcontracting opportunities; therefore, a DBE participation goal of 10% was set for this Contract. Contra Costa Electric committed to subcontracting 5.6% to DBEs. Since the Bidder did not meet the DBE participation goal established for this Contract, the District requested that they submit documentation related to their Good Faith Efforts to engage DBEs. After reviewing the documentation submitted, OCR determined that it failed to meet the scope of the Good Faith Efforts requirements specified in the Contract to substantiate that the Bidder adequately sought DBE participation. Accordingly, the Bid is non-responsive.

The apparent third low Bid submitted by Phase 3 Communications, Inc., was 221% higher than the Engineer's estimate and was determined by Staff to be unreasonable.

Staff will review the Bidder's understanding of the Contract sub-contracting requirements and readvertise the Contract later this year.

FISCAL IMPACT:

There is no fiscal impact as a result of rejecting all bids.

ALTERNATIVE:

The option to award this Contract to the highest Bidder is not recommended due to the excessive price above the Engineer's Estimate.

RECOMMENDATIONS:

On the basis of analysis and evaluation by Staff, it is recommended that the Board adopt the following Motion.

MOTION:

All bids for the Contract 15EL-130 for Installation of Fiber Optic Cable for R-Line Emergency Trip System Project are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Ulrica Delaney</i>		GENERAL MANAGER ACTION REQ'D: Board Approval and Authorization		
DATE: <i>8/20/10</i>		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Elaine M. Kurtz Dept: Human Resources <i>Elaine M Kurtz</i> Signature/Date:	General Counsel <i>Andrew P. [unclear]</i> <i>8/18/10</i>	Controller/Treasurer <i>Jeff Mangilano</i> <i>8/20/10</i>	District Secretary []	BARC <i>Carl Marx</i> <i>8-18-10</i> []
Status: Routed		Date Created: 08/16/2010		

TITLE:

EMPLOYEE RECRUITMENT AND RELOCATION FOR THE POSITIONS OF INDEPENDENT POLICE AUDITOR & TWO POLICE COMMANDERS

NARRATIVE:

PURPOSE:

Assembly Bill 1586, effective January 1, 2011, provides the BART Board of Directors with the authority to hire an Independent Police Auditor. The BART Police Department Review Committee (Committee) played a critical role in developing the BART citizen oversight model with significant public input and, since early 2009, has been actively involved with police matters. It is proposed that an executive search firm with experience in law enforcement be engaged to assist the Board in carrying out the search for the Independent Police Auditor, and that the Committee carry out certain functions on behalf of the Board in the selection process for this position.

In addition, the Police Department has two vacancies for the position of Commander, and proposes to engage a recruitment firm to assist in filling them.

Accordingly, this item is to obtain Board authorization for national recruitment and relocation agreements for the positions of the Independent Police Auditor and Police Commander (two positions), as well as for the Committee to carry out certain functions in connection with the Independent Police Auditor recruitment.

DISCUSSION:

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

The Independent Police Auditor and Police Commanders are senior management positions that

require specialized skills derived from unique managerial/technical experience and education, and are critical to the District's progress in the public safety arena.

Specifically, the position of Independent Police Auditor requires extensive knowledge of general legal principles, laws and regulations relating to police conduct and police investigations as well as extensive knowledge of independent, objective, analytical investigation methods. The Independent Police Auditor must also be skilled in identifying, addressing and responding to sensitive community and organization issues, concerns and needs. A summary job description is attached.

The Independent Police Auditor will be selected by and will report to the Board of Directors. Identifying qualified applicants with the necessary skills for this position can be most effectively conducted by utilizing the specialized recruiting efforts of a recruitment firm to assist the Board in its selection. It is proposed that the Committee lead the Auditor selection process to aid the Board in making its selection.

Additionally, the following three-step interview process is proposed for the selection of the Independent Police Auditor: (1) The Committee will monitor the candidate pool proposed by the search firm, and provide for further screening by a professional peer panel; (2) The Committee will then convene a community panel to meet and provide input on the finalist candidates; community panel input will be summarized for review by the Board; and (3) Finalist candidates will be interviewed by the full BART Board of Directors, which will make the final selection.

The Police Commanders provide the lead support within the Police Department to the Chief of Police. A summary job description, attached, provides greater detail on the role of these positions. The retirement of both of the previous incumbents within a short timeframe creates an important resource shortfall at a critical period in the District's history of policing.

The expertise of a recruiting firm which has deep familiarity with policing and the Independent Police Auditor functions, as well as with recruiting sources and prospects will constitute a resource beyond that which is available internally. Likewise, the ability to offer relocation assistance in the event that one or more successful candidates are not from the immediate area will enhance the District's competitive posture in these searches.

By adopting this motion, the Board will authorize staff to engage an executive search firm for the recruitments. This will enhance the District's access to the strong candidate pools needed in order to appropriately make a selection for these key positions. The District will conduct an informal request for proposals from at least three (3) national search firms. The District's intent is to request credentials, experience, and proposed strategies for each of the two classifications, and to enter into a single search agreement for both classifications unless it appears that a stronger result is likely if the work is divided between two firms. The services of the firm(s) will be procured in accordance with the District's policies and procedures. The selected consultant(s) will be required to focus their efforts on individuals within California, specifically the San Francisco Bay Area. However, the recruitments will not be confined to California.

Proposals will be solicited from executive search firms that have:

- Expertise in public safety executive level management positions;
- Expertise in transit and/or public sector recruitment for executive level management positions;
- Ability to provide timely customized searches on a national scale;
- Acceptable business references;
- The ability to meet the terms of agreement;
- Acceptable price and fee structure.

Interested firms will be required to provide a search plan summary document that outlines their search tasks, proposed fee structure and estimated time of completion for each of the two positions.

The Office of the General Counsel will approve any and all recruitment agreements as to form.

The Board's action will also allow for the execution of a relocation agreement with one or more selected employees within the parameters of current District practice as provided in Management Procedure 70. This procedure allows a maximum reimbursement amount of \$18,000 for relocation, and does not include financial participation by the District in the purchase or sale of real estate.

FISCAL IMPACT:

The costs for search firm fees are estimated at \$195,000; \$65,000 for each position. Any subsequent relocation agreement would be capped at \$18,000 for each candidate. The funding for the recruitment and relocation expenses will come from the FY11 operating budget of the Police Department, and from the operating budget earmarked for the Independent Police Auditor's Office.

ALTERNATIVE:

Identify incumbents for the positions using the District's in-house recruitment resources.

RECOMMENDATION:

Adopt the following motion:

MOTION:

That the General Manager or her designee is authorized, in conformance with established District procedures governing the procurement of professional services, to obtain executive search services to identify qualified candidates both inside and outside of California, and to pay relocation assistance in accordance with established procedures for the positions of Police Commander and Independent Police Auditor, if necessary. The Committee will lead the selection process for the Independent Police Auditor and provide the Board with information on

candidates for the Board's consideration. The selection process will include a professional peer panel interview, a community panel to provide input to the Board, and final interviews and selection by the Board of Directors.

Summary Job Description – Police Commander

The Police Commander administers the activities of a bureau or division within the Police Department; provides expert professional assistance to District staff in areas of responsibility; and performs related duties as assigned.

This position provides supervision and direction through subordinate supervisors for one or more bureaus in the Police Department. Incumbent is responsible for managing all sworn and non-sworn police staff and activities within the assigned zone or bureau. The incumbent is accountable for accomplishing division goals and objectives and for furthering District goals and objectives. The Police Commander may act as the Deputy Police Chief or the Police Chief in the latter's absence.

Summary Job Description – Independent Police Auditor

The Independent Police Auditor plans, directs, manages and oversees the activities and operations of the Office of the Independent Police Auditor, maintaining the core principles and accountabilities that are the purpose of this position, including conducting investigations, making recommendations on procedures, managing complaint and appellate processes, reviewing certain Police Department investigations, and completing reports as appropriate.

This position manages, through subordinate staff, the development and implementation of a highly sensitive citizens' complaint and investigation program, coupled with recommendations for improvement, to promote integrity and to encourage systemic change and improvement in police services provided by the District to the public. The incumbent in this position is responsible for carrying out all District policies and procedures as they relate to the Office of Independent Police Auditor.

The search activity will focus on candidates who possess the desired skill set. Subject to the Board's approval, if viable candidates do not appear to be readily available in the "local" market, the search activities will be expanded to a national level.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wanda Delaney</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/19/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: PAM A HERHOLD Dept:	General Counsel: <i>Andrew...</i>	Controller/Treasurer: <i>Jeff...</i>	District Secretary: []	BARC: <i>...</i>
Signature/Date: PH 8-18-10	<i>...</i> 8/19/10	<i>...</i> 8/19/10	[]	[]
Status: Approved		Date Created: 08/13/2010		

TITLE:

Postponement of the CPI-Based 2012 Fare Increase

NARRATIVE:

PURPOSE:

To adopt a First Amendment to BART Board Resolution No. 4885, adopted originally on May 22, 2003, in order to postpone to July 1, 2012 the implementation of the Productivity-Adjusted Consumer-Price-Index Based Fare Increase scheduled for January 1, 2012.

DISCUSSION:

On May 22, 2003, the Board adopted Resolution No. 4885, authorizing the General Manager to implement Productivity-Adjusted Consumer-Price-Index Based (CPI-based) fare increases effective January 1 of 2006, 2008, 2010, and 2012. The formula used to calculate the CPI-based fare increase accounts for inflation in the Bay Area and nationally over a two-year period, reduced by a "productivity factor" valued at 0.5%, which is an adjustment to represent BART's continual improvements in efficiencies. Small, less-than-inflation fare increases are part of the District's policy to ensure financial health and stability.

CPI-based fare increases were duly calculated and implemented on January 1st of 2006 and 2008. However, because BART was facing a large deficit for Fiscal Year 2010 (FY10), the Board authorized the CPI-based fare increase scheduled for January 1, 2010 to become effective on July 1, 2009 in order to generate an additional six months of fare revenue to help address that deficit.

Over the last few months, the District's economic outlook has improved because BART unexpectedly received approximately \$26 million (M) in State Transit Assistance funding for use in FY11. The Board has recently approved expenditure of some funds for a number of customer appreciation initiatives to thank BART's customers for their loyalty during difficult times. In recognition that the 2010 CPI-based fare increase was implemented six months earlier than scheduled, an additional customer appreciation initiative now under consideration is to postpone for six months the next CPI-based fare increase so that the increase would take effect on July 1, 2012 instead of January 1, 2012.

The 2012 CPI-based fare increase will reflect the rate of change in inflation between 2008 and 2010. The exact fare increase percentage will not be known until the Bureau of Labor Statistics reports final inflation figures for 2010 in January 2011. Inflation has been very low since 2008.

Based on the past 18 months, the 2012 CPI-based increase is estimated to be approximately 1.5% (2% inflation over two years less the 0.5% productivity factor). The percentage will be finalized after December 31, 2010.

The delay in increasing the rates and charges for service set forth in Exhibit A to Resolution No. 4885 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.

A Title VI assessment is required to identify the effects of fare changes. However, because the proposed postponement of the CPI-based fare increase would not be a fare change but rather a continuance of existing fares, a Title VI assessment is not required. Once the exact value of the CPI-based fare increase is known, public outreach for both the postponement and the subsequent fare increase will be conducted in accordance with BART's Title VI Public Participation Plan.

FISCAL IMPACT:

Based upon the current 335,000 average weekday trips, a six-month postponement of the 2012 CPI-based fare increase is estimated to result in receipt of approximately \$2.2M less fare revenue for the core system in FY12.

ALTERNATIVES:

Do not amend Resolution No. 4885 and implement the next CPI-based fare increase on January 1, 2012.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

Adoption of the attached First Amendment to Resolution No. 4885. Two-thirds vote required.

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

In the Matter of Adopting

First Amendment to

Resolution No. 4885 (adopted May 23, 2003)

Resolution No. _____

WHEREAS, since the Productivity-Adjusted Consumer-Price-Index Based Fare Increase scheduled for January 1, 2010 in accordance with Resolution No. 4885 (adopted May 23, 2003) was implemented six months earlier on July 1, 2009 in order to generate fare revenue to help address a large deficit projected for Fiscal Year 2010; and

WHEREAS, the Board wishes to express its appreciation to BART riders for their continued patronage during recent difficult times; and

WHEREAS, the Board has determined that postponing until July 1, 2012 implementation of the Productivity-Adjusted Consumer-Price-Index Based Fare Increase scheduled for January 1, 2012 will be a benefit to BART riders;

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

- (1) Paragraph Nine of Exhibit A to Resolution No. 4885 (dated May 23, 2003) is deleted in its entirety and replaced with the following:

“Effective Dates:

The productivity-adjusted CPI-based fare increases will be effective on January 1st of 2006 and 2008, and July 1st of 2009 and 2012, for a total of four calculations of the productivity-adjusted CPI-based fare increase formula. If application of the formula returns a positive result, i.e., it does not reflect deflation, the resulting factor is the amount fares are to be increased across-the-board (with each actual fare rounded to the nearest \$0.05). Productivity-adjusted CPI-based fares are to be implemented on January 1st of fiscal years 2006 and 2008 and July 1st of fiscal years 2010 and 2012, or as soon thereafter as the fare schedule can be implemented.”

####

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

In the Matter of Adopting

New Fare Rates and Charges: Productivity-Adjusted
CPI-Based Fare Increases

Resolution No. 4885

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, the District's financial forecasts demonstrate the continued need for increased revenue generation over the next fiscal year and subsequent fiscal years to fund operating and capital expense; and

WHEREAS, the District's recently adopted Financial Stability Policy has a combination of strategies that address operating expenses, capital investment, revenues and reserves by supporting passenger revenue increases tied to service costs and system needs, with particular consideration to small regular fare increases tied to CPI-based cost increases or other major cost factors and productivity; and

WHEREAS, the District staff has studied and made proposals to this Board concerning possible productivity-adjusted CPI-based fare increases to fund these expenses; and

WHEREAS, the recommended modifications are set forth in the attached Exhibit A entitled "Productivity-Adjusted CPI-Based Fare Rates and Charges"; and

WHEREAS, a public hearing has been held at a special meeting of the Board to consider productivity-adjusted CPI-based fare rates and charges; and

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

- (1) 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.
- (2) The modifications to the rates and charges set forth in Exhibit A are for the purposes of:
- (a) Meeting operating expenses such as employee wage rates and fringe benefits,
 - (b) Purchasing or leasing supplies, equipment or materials;
 - (c) Meeting financial reserve needs and requirements; and
 - (d) Obtaining funds for capital projects, necessary to maintain service within existing service areas.

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

- (1) The General Manager is authorized and directed to calculate and implement productivity-adjusted CPI-based increases to rates and charges for BART service as set forth in Exhibit A.
- (2) The productivity-adjusted CPI-based increases to rates and charges for BART service calculated and implemented as set forth in Exhibit A are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines, 14 Cal. Code Regs. § 15273 and that Notices of Exemption shall be filed in the four affected counties.
- (3) Prior to the implementation date for the productivity-adjusted CPI-based increases to rates and charges for BART service, the Board will review and consider the fare structure. This review will include issues of distribution and equity.

#

EXHIBIT A—NEW FARE RATES AND CHARGES: PRODUCTIVITY-ADJUSTED CPI-BASED INCREASES

Productivity-adjusted CPI-based fare rates and charges shall be calculated according to the following process.

The Formula:

The following formula accounts for changes in inflation, less a productivity factor valued at 0.005 (½ percent). Changes in inflation are measured over a two-year period, with the first productivity-adjusted CPI-based fare increase to become effective January 1, 2006.

Step One: Productivity-Adjusted CPI-Based Fare Increase Factor =

$$\left(\frac{(\text{NCPIU}_2 - \text{NCPIU}_0)}{\text{NCPIU}_0} + \frac{(\text{BACPIW}_2 - \text{BACPIW}_0)}{\text{BACPIW}_0} \right) \div 2 - 0.005 \text{ Productivity Factor}$$

Step Two: Productivity-Adjusted CPI-Based Fare Rates and Charges are calculated by increasing all components of fares then in effect, except the San Mateo County surcharge and SFIA Premium Fare, by the Productivity-Adjusted CPI-Based Fare Increase Factor and then rounding these fares to the nearest \$0.05.

Definitions:

NCPIU is the **National CPI-U Annual Average** which is the annual average over a calendar year of the U.S. City Average consumer price index for all urban consumers, for all items, with an index base period of 1982-84 = 100 as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

BACPIW is the **Bay Area CPI-W Annual Average** which is the annual average over a calendar year of the San Francisco-Oakland-San Jose, CA local consumer price index for urban wage earners and clerical workers, for all items, with an index base period of 1982-84 = 100 as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

The "0" of NCPIU_0 and BACPIW_0 signifies the respective calendar year from which the change in inflation is calculated (e.g., 2002 for the FY06 fare increase and 2004 for the FY08 fare increase)

The "2" of NCPIU_2 and BACPIW_2 signifies the respective calendar year against which the change in inflation is calculated (e.g., 2004 for the FY06 fare increase and 2006 for the FY08 fare increase).

Productivity Factor is an adjustment representing BART's anticipated continual improvements in the efficiency of its labor force and operations to the

extent of reducing its inflation-adjusted costs of operation by 0.005 (½ percent) every two years.

Effective Dates:

The productivity-adjusted CPI-based fare increases will be effective on January 1st of 2006, 2008, 2010, and 2012, for a total of four calculations of the productivity-adjusted CPI-based fare increase formula. If application of the formula returns a positive result, i.e., it does not reflect deflation, the resulting factor is the amount fares are to be increased across-the-board (with each actual fare rounded to the nearest \$0.05). Productivity-adjusted CPI-based fares are to be implemented on January 1st of fiscal years 2006, 2008, 2010, and 2012, or as soon thereafter as the fare schedule can be implemented.

Sample Methodology:

The following is a sample methodology that illustrates how to calculate the productivity-adjusted CPI-based fare increase factor and resulting fares. The process will be followed during the preparation of the budget for each even-numbered fiscal year from 2006 through 2012. This example describes the process for FY06; the same process will be followed for the other even-numbered fiscal years.

In February 2005, the change over two years in the National CPI-U Annual Average and the Bay Area CPI-W Annual Average will be calculated as follows:

- The change to be measured will be for calendar years 2003 and 2004.
- Index change during this two-year period is measured by the change in the annual average of the index. For example, if
 - The annual average of the National CPI-U for 2002 is 100, and
 - The annual average of the National CPI-U for 2004 is 106, then
 - The change is 0.06 (or 6.0%) for the two-year period between 2002 and 2004.
- The change in the Bay Area CPI-W Annual Average for the two-year period is to be calculated in the same way.
- The changes in the National CPI-U Annual Average and the Bay Area CPI-W Annual Average are then averaged to capture change in both national and local pricing patterns.
- From the average of the national and local pricing increases, a productivity factor of 0.005 (½ percent) is deducted. For example, if the average of the change in the National CPI-U Annual Average and the change in the Bay Area CPI-W Annual Average for the two-year period is 0.06 (or 6.0%), the result of the formula is a productivity-adjusted CPI-based fare increase factor of 0.055, or 5.5%.
- The productivity-adjusted CPI-based fare increase factor is the increase to be applied across-the-board to the components of the fare rates and charges then in effect, except the San Mateo County surcharge and SFIA Premium Fare. The resulting station-to-station fares will then be rounded to the nearest nickel to produce the new productivity-adjusted CPI-based fare rates and charges.

Exhibit A—New Fare Rates and Charges:

PRODUCTIVITY-ADJUSTED CPI-BASED INCREASES



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter S. [Signature]</i>		GENERAL MANAGER ACTION REQ'D: Place on the August 26, 2010 Board of Directors Agenda		
DATE: c 8/19/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept: Operating Budgets & Analysis	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>[Signature]</i>
Signature/Date: <i>ROU/Umbreit 8/19/10</i>		[] [] [] []		

TITLE:

Fiscal Year 2010 Year-End Budget Revision

NARRATIVE:

PURPOSE To amend the Fiscal Year 2010 (FY10) Budget for year-end adjustments.

DISCUSSION Results for FY10 indicate that the District finished the fiscal year \$6.1M (1.0%) favorable in total sources and \$1.3M (0.2%) favorable in total uses, excluding non-cash expense adjustments of \$3.1M, for a net positive result of \$4.3M. FY10 was a challenging year; ridership declined 6% from FY09 and sales tax dropped 10%. The adopted budget had a \$21M deficit, which worsened during the early part of the year. Mid-year the budget was revised and a balanced budget was produced through the implementation of budget reductions, labor contract savings, and use of ARRA and federal flexible grant funds. Staff requests Board approval to amend the final budget to allocate the \$4.3M result to capital, as well as make adjustments to operating expense in compliance with Board Rules regarding the budget. The results are summarized below, with more detail included in Attachment 1:

FY10 Operating Results

	<u>Budget</u>	<u>Actual</u> ⁽¹⁾	<u>Var.</u>	<u>%</u>
Sources				
Operating Revenue	\$ 366.0	\$ 368.7	\$ 2.7	0.7%
Sales Tax	162.5	166.5	4.0	2.5%
Other Assistance	90.9	90.3	(0.6)	-0.7%
Total Sources	619.4	625.5	6.1	1.0%
Uses				
Operating Expense	535.6	534.9	0.6	0.1%
Debt Service	68.5	68.5	0.0	0.0%
Capital Allocations	22.4	23.8	(1.3)	-5.9%
Other Allocations	8.0	6.0	2.0	24.9%
Total Uses	634.5	633.2	1.3	0.2%
OPEB Unfunded Liability ⁽²⁾	(15.1)	(14.4)	(0.7)	
Lakeside Lease Adjustment	-	2.4	(2.4)	
Net Result	\$ 0.0	\$ 4.3	\$ 4.3	

⁽¹⁾Board approval of closing budget revisions requested

⁽²⁾OPEB: Other Post Employment Benefits, primarily retiree medical

The District was able to end the year with a positive result by staying within the expense budget, while revenue dropped slightly less than the budget had predicted. A major factor in the revenue

performance was sales tax finishing favorable to budget by \$4M. This occurred because of growth of 3.4% in the 4th quarter, which was surprising after 7 straight quarters of decline, including drops of 19.6%, 14.2%, and 5.4% in the first three quarters of FY10. Average weekday ridership ended the year at 334,984, down 6% from the FY09 total - a decline of just under 22,000 trips per day. However, this was slightly better than the budget had predicted. Ridership ended the year favorable to budget, and passenger revenue was \$2.6M (0.8%) favorable as a result. Other revenues were essentially on budget, with a one-time receipt of Hayward insurance reimbursement of \$2.4M offsetting under budget performance in advertising, parking and interest revenue. Other Financial Assistance also finished very close to budget, due to a combination of factors, including property tax finishing favorable to budget despite the problems in the housing market. The major factors contributing to the positive year-end result were sales tax and passenger revenue, so the District ended the year \$6.1M or 1% favorable in revenue overall.

Expenses ended the year \$0.6M or 0.1% favorable in total, with labor and benefits \$2.8M favorable and non-labor \$2.2M unfavorable. The operating expense budget was very tight all year, after significant budget reductions over the past two years tightened every department's budget significantly. However, the departments did a good job in controlling their expenses. Overtime was lower in FY10 (\$22.1M) than FY09 (\$24.9M), with reductions due to labor contract efficiencies and lower police overtime contributing factors. The main cause of the non-labor unfavorable variance was an unbudgeted need to increase general liability self insurance funding by \$2.2M, otherwise the District would have also finished on-budget in non-labor expenses.

Capital allocations were \$1.3M over budget because Proposition 1B funds from SamTrans to fund SFO reserve payments occurred at a lower amount than was budgeted. BART was to receive \$2.0M in Proposition 1B funds for capital projects, lower the capital allocation by the same amount, and put the \$2.0M instead into the SFO reserve. Due to reduced sale of Proposition 1B bonds by the State of California, the actual 1B funding received was only \$0.7M. This resulted in higher capital allocations since a lower amount of funds were allocated into the SFO reserve.

Other Allocations are generally budgeted to process one-time grant funding and the offsetting allocation of the funds, or for joint development related revenues and expenses. Therefore these items do not affect the net operating result. The Other Allocations category finished \$2.0M favorable to budget due to a combination of factors. A planned allocation to the Hillcrest Park and Ride project of \$2.2M was not made because the associated grant revenue has not yet been received. The \$2M SFO reserve allocation discussed above was only \$0.7M, for a favorable variance of \$1.3M. These two items totaled to a \$3.5M favorable variance. Offsetting this was a \$1.5M allocation to the West Dublin project. The West Dublin allocation did not use general operating funds, as savings from the 480 volt switchgear project freed up \$1.5M in ARRA preventive maintenance grant funds that was received in the operating budget as financial assistance.

Summary of Disposition of Year-End Results and Proposed Budget Revisions for Board Approval

Staff recommends that the \$4.3M in available funding be allocated to capital. One underlying reason is the District used \$19.2M in federal grants and matching allocations in the operating

budget for FY10 as part of the District's measures to address the shortfall caused by the recession. These included federal flexible grant funds, ADA set-aside grant funds and ARRA preventive maintenance grants. The flexible grant funds and the ADA set-aside are normally used by BART to fund capital projects, and the one-time ARRA grants would typically be used for capital as well. In addition, as discussed during the budget process, the capital program has no reserves for unforeseen needs or project shortfalls. There are a number of capital needs currently seeking funds, including the Hayward Maintenance Complex and other projects. Because of the recession and resulting lack of available operating funding, allocations over the past few years have barely funded the minimum ongoing requirements, and there is a large amount of unfunded need on the capital side.

Board approval is also requested for the following two adjustments, previously discussed, in order to conform the final budget to Board Rules regarding the budget. Although the overall expense budget can accommodate the \$2.2M in general liability self insurance funding, the amount needs to be transferred from the labor budget to non-labor. Capital allocations need to be increased by \$1.3M, and the SFO reserve allocation reduced by the same amount, related to the SamTrans Prop 1B funding exchange. The last adjustment is increasing the ARRA preventive maintenance grant budget by \$1.5M and an allocation of operating funds to the West Dublin project of \$1.5M.

FISCAL IMPACT:

If the Board approves the proposed allocations the District will finish the year balanced.

ALTERNATIVES:

If the Board does not make the recommended capital allocation, the District would end the year with a favorable result of \$4.3M. Alternatively, the Board could specify other uses for the funding.

RECOMMENDATION:

Approval of the motion below.

MOTION:

Approval of the attached resolution "In the Matter of Amending Resolution No. 5084 (as amended by Resolution No. 5127) regarding Fiscal Year 2010 Annual Budget".

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

In the matter of amending Resolution No. 5084 regarding Fiscal Year
2010 Annual Budget

Resolution No. _____

RESOLVED, that Resolution No. 5084 (as amended by Resolution No. 5127) is amended by changing the following line items in Exhibit A thereof:

	<u>Current</u> <u>Amount</u>		<u>Increase/</u> <u>(Decrease)</u> <u>In This</u> <u>Resolution</u>		<u>Amended</u> <u>Amount</u>
<u>Fund Source Line Item:</u>					
American Recovery and Reinvestment Act of 2009 Transit Grant	\$ 15,000,000	\$	1,500,000	\$	16,500,000
<u>Fund Use Line Item:</u>					
Net Labor Expense	\$ 369,509,458	\$	(2,221,324)	\$	367,288,134
Non Labor Expense	\$ 143,367,576	\$	2,221,324	\$	145,588,900
Allocations to Capital - Rehabilitation	\$ 22,447,753	\$	5,626,885	\$	28,074,638
Allocation to SFO Operating Reserve	\$ 1,977,028	\$	(1,326,885)	\$	650,143
Allocation - West Dublin Project	\$ -	\$	1,500,000	\$	1,500,000



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Melena Gallagher</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to E&O Committee		
DATE: 8/18/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Melena Gallagher Dept: TSD Stations <i>Melena Gallagher</i> Signature/Date:	General Counsel <i>Andrew Davis</i> 8/18/10	Controller/Treasurer <i>W. H. H. H.</i> 8/18/10	District Secretary I I	BARC <i>Paul C. H. H.</i> 8/18/10
Status: Approved		Date Created: 07/27/2010		

TITLE:

Memorandum of Understanding for the Design Review of Phase 2 of the Intermodal Station Improvements at Union City Station

NARRATIVE:

Purpose:

To obtain the Board's authorization to enter into a Memorandum of Understanding (MOU) with the City of Union City and the Community Redevelopment Agency of the City of Union City (Parties) for the Design Review of Phase 2 of the Intermodal Station Improvements at Union City Station.

Discussion:

The Union City Intermodal Station District was created by the City of Union City (City) to provide a unique opportunity to advance "Smart Growth" planning for transit-oriented development at and around the Union City BART Station. The Parties have worked with BART to coordinate a multi-agency planning process, perform necessary environmental review, organize funding, acquire critical properties and define a process for implementation.

This MOU will set forth the intent of the three public entities to enter into a mutually binding definitive written agreement regarding the funding of and payment for BART's review of the construction documents required for the installation of Phase 2 Union City Station Improvements. The parties are currently negotiating a Phase 2 Cooperative Agreement that will address the design, construction and installation of the Intermodal Station Phase 2 Union City Station Improvements.

In order to expedite the review process, BART and the Parties wish to execute the MOU at this time.

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

Fiscal Impact:

The City is still the sponsor of this project, and has committed to obtaining all funds,

approximately \$620,000, needed to reimburse BART staff and consultant costs associated with the review of the design documents for Phase 2 of the Station Improvements. Nothing in the MOU obligates BART to expend any District funds for the project. There is no fiscal impact on available unprogrammed District Reserves.

Alternatives:

Not entering into this MOU with the Parties, and therefore delaying the completion of the Intermodal Station.

Recommendation:

Adoption of the following motion:

Motion:

The General Manager is authorized to execute the MOU with the City of Union City and Community Redevelopment Agency of the City of Union City for the funding of the design review of Phase 2 of the Intermodal Station Improvements Project.