

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

August 27, 2009

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, August 27, 2009, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. **CALL TO ORDER**

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of June 30, 2009 (Special), July 5, 2009 (Special), July 8, 2009 (Special), and July 9, 2009 (Regular).* Board requested to authorize.
- B. Agreement with Eastern Contra Costa Transit Authority to Expand and Upgrade the BART Hillcrest Park and Ride Lot.* Board requested to authorize.
- C. Fixing the Fiscal Year 2009-2010 Property Tax Rate for the General Obligation Bonds.* Board requested to authorize
- D. Award of Contract No. 15PS-110, BART Earthquake Safety Program Oakland 4th Street Storage Building.* Board requested to authorize.
- E. Award of Contract No. 15QB-130, Waterproof Orinda Substation and Reroof Concord and Richmond Yard Service & Inspection Pits.* Board requested to authorize.
- F. Award of Invitation for Bid No. 8846, Tie Inserter/Remover Machine.* Board requested to authorize.
- G. Award of Invitation for Bid No. 8847, Pinion End Bearing and Inlet End Bearing.* Board requested to authorize.
- H. Award of Invitation for Bid No. 8854, Inter-Car Barrier Materials.* Board requested to authorize.

RECESS TO STANDING COMMITTEES

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

ALL COMMITTEES ARE ADVISORY ONLY

ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Murray, Chairperson

- A-1. Fiscal Year 2009 Year-End Budget Revision.* Board requested to authorize.
- A-2. Change Order to Agreement No. 6M4030, to Provide Services for the Rental of Monochrome Digital Copy Machines at Various District Offices/Facilities, with Toshiba Business Solutions (C.O. No. 4).* Board requested to authorize.

- A-3. Resolution Ratifying Collective Bargaining Agreement with the Service Employees International Union, Local 1021, Including the BART Professional Chapter, to Include Change to Retirement and Postretirement Benefit for Money Purchase Pension Plan 1.627% (California Gov't. Code Section 7507).* Board requested to adopt.
- A-4. Resolution Ratifying Collective Bargaining Agreement with the American Federation of State, County, and Municipal Employees, Local 3993.* Board requested to adopt.
- A-5. General Discussion and Public Comment.

ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting
Director Keller, Chairperson

- B-1. Award of Contract No. 15CQ-201, Procurement of Direct Fixation Rail Fasteners.* Board requested to authorize.
- B-2. Award of Contract No. 15TD-204, Procurement of Powered Flat Cars.* Board requested to authorize.
- B-3. Award of Contract No. 6M3132, a.c./d.c. Traction Motor Repair Services.* Board requested to authorize.
- B-4. New Rail Vehicle Procurement Request for Proposals.* For information.
- B-5. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Immediately following the Engineering and Operations Committee Meeting
Director Sweet, Chairperson

- C-1. Teen Extreme Program Internet Ticket Sales Update.* For information.
- C-2. Legislative Update – Citizen Oversight for the BART Police Department.* For information.
- C-3. General Discussion and Public Comment.

RECONVENE BOARD MEETING

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

- A-1. Fiscal Year 2009 Year-End Budget Revision.* Board requested to authorize.
- A-2. Change Order to Agreement No. 6M4030, to Provide Services for the Rental of Monochrome Digital Copy Machines at Various District Offices/Facilities, with Toshiba Business Solutions (C.O. No. 4).* Board requested to authorize.
- A-3. Resolution Ratifying Collective Bargaining Agreement with the Service Employees International Union, Local 1021, Including the BART Professional Chapter, to Include Change to Retirement and Postretirement Benefit for Money Purchase Pension Plan 1.627% (California Gov't. Code Section 7507).* Board requested to adopt.
- A-4. Resolution Ratifying Collective Bargaining Agreement with the American Federation of State, County, and Municipal Employees, Local 3993.* Board requested to adopt.

B. ENGINEERING AND OPERATIONS COMMITTEE

- B-1. Award of Contract No. 15CQ-201, Procurement of Direct Fixation Rail Fasteners.* Board requested to authorize.
- B-2. Award of Contract No. 15TD-204, Procurement of Powered Flat Cars.* Board requested to authorize.
- B-3. Award of Contract No. 6M3132, a.c./d.c. Traction Motor Repair Services.* Board requested to authorize.
- B-4. New Rail Vehicle Procurement Request for Proposals.* For information.

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

- C-1. Teen Extreme Program Internet Ticket Sales Update.* For information.
- C-2. Legislative Update – Citizen Oversight for the BART Police Department.* For information.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. (CONTINUED from August 13, 2009, Special Board Meeting)

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: one potential case.

B. CONFERENCE WITH LABOR NEGOTIATORS:


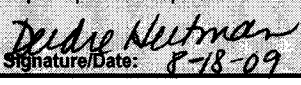
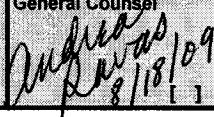

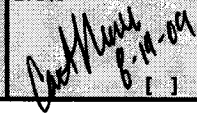
Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy, Assistant General Manager – Administration; M. Carol Stevens, Burke, Williams & Sorensen, LLP

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

Government Code Section: 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/19/2009		BOARD INITIATED ITEM: No		
Originator/Prepared by: Deidre Heitman Dept: Capital Development Signature/Date:  8-18-09	General Counsel  8/18/09	Controller/Treasurer  8/18/09	District Secretary []	BARC  8-19-09 []
Status: Routed		Date Created: 06/29/2009		

TITLE:

Agreement with Tri Delta Transit to Expand and Upgrade the BART Hillcrest Park and Ride Lot

NARRATIVE:

Purpose: To authorize the General Manager to enter into an agreement with the Eastern Contra Costa Transit Authority ("ECCTA") to make improvements to the BART Hillcrest Park and Ride lot in Antioch, California.

Discussion: In 2008, staff from the ECCTA, also known as Tri-Delta Transit, approached BART staff about the possibility of making improvements to the existing Hillcrest Park and Ride lot owned and operated by BART. The existing lot at the intersection of Hillcrest Avenue and Highway 4 in Antioch currently provides parking for approximately 225 vehicles and serves as a transfer point for Tri Delta Transit buses. Tri-Delta Transit operates twelve routes in and out of the Hillcrest Park and Ride lot, eight of which provide service to the Pittsburg/Bay Point BART station. In the last several years, the surface of the lot has fallen into disrepair, and the curb space utilized by Tri Delta Transit has become inadequate for the number of buses that provide service to that location. In addition, there are no amenities for waiting passengers.

Tri Delta Transit currently has an appropriation of \$2.2 million in federal funds for the expansion of a park and ride lot within their service area. Tri Delta Transit has proposed reprogramming these funds to BART. BART will use these federal funds for preventative maintenance. Thereafter, BART will direct \$2.2 million of its general fund revenues to the improvements at the Hillcrest Park and Ride lot. The redirection of federal funds from Tri Delta Transit to preventative maintenance is necessary to ensure that no federal funds are used in any aspect of the eBART project. Tri Delta Transit has also been successful in obtaining a \$585,000 grant in Lifeline Transportation (Proposition 1B) funding which will be contributed to this project. Thus, the total funding available from Tri Delta Transit for this project is \$2,785,000.

The new improvements to the existing site include constructing approximately 100-150 additional surface parking spaces (for a total of 325-375 spaces), expanding and improving the bus loading area, and providing additional passenger amenities, including but not limited to a bus shelter or canopy, benches and minimal landscaping. The new improvements may also include resurfacing and restriping of the existing lot, new or upgraded fencing and other amenities such as signage, garbage cans, and lighting. The final scope of these improvements will be

commensurate with the funding available.

Care has been taken to ensure that the expansion of the lot and the bus loading area are complementary to the future eBART project. The proposed eBART Hillcrest station will utilize the existing and expanded parking constructed as part of this project, and only minimal changes to the bus loading area will be needed.

BART is contributing staff time and labor to this project. The Agreement will be approved as to form by the Office of the General Counsel.

Fiscal Impact: By authorizing the General Manager to enter into an agreement with ECCTA, BART will receive approximately \$2,785,000 to expand and improve the Hillcrest Park and Ride lot in the City of Antioch. BART will also provide in-kind staff services to support the project. No BART or ECCTA capital funds will be used for this project. If, for any reason, the funds identified are not available, or are not available in the amounts specified, BART and ECCTA agree that the scope and budget will be reduced to fit the funding available.

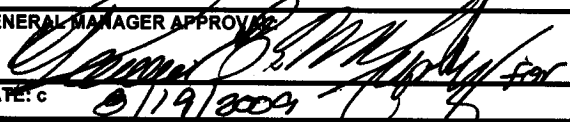
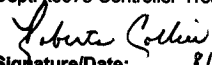
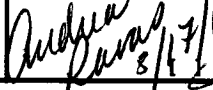
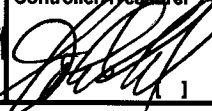
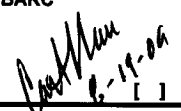
Alternatives: If BART decides against entering into the Agreement with ECCTA, it could lose an opportunity to make needed improvements at its facility.

Recommendation: Adoption of the following motion.

Motion: The BART Board authorizes the General Manager to enter into the Agreement Between the San Francisco Bay Area Rapid Transit District and the Eastern Contra Costa Transit Authority in Connection with Modification of the BART Hillcrest Park and Ride Lot.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:	
DATE: 8/19/2009		BOARD INITIATED ITEM: No	
Originator/Prepared by: Michaela Morales Dept: x6075 Controller-Treasurer's Office Signature:  Date: 8/19/09	General Counsel  8/17/09	Controller/Treasurer  []	District Secretary [] BARC  8-19-09 []

TITLE:

FIXED PROPERTY TAX RATES FY 2009-10 - GENERAL OBLIGATION BONDS

NARRATIVE:

PURPOSE:

Fixing the rate of property taxes for BART in San Francisco, Alameda and Contra Costa Counties for Fiscal Year 2010 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 2010 is \$24,741,807.50 as determined by a Financial Consultant.

The debt service tax rate required by the District for Fiscal Year 2010 is .0057 which equates to \$5.70 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 2010.

ALTERNATIVES:

None.

RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2010 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 2009/10

Resolution No. _____

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2009, to June 30, 2010, 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 2009/10 from the budget of the District for the fiscal year 2009/10 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, 2009 to June 30, 2010, is hereby fixed at .0057, which equates to \$5.70 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 ____, 2009.

Adopted _____



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maureen Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: <i>8/20/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD <i>Shirley Ng</i>	General Counsel <i>Andrew...</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BART <i>Paul...</i>
Signature/Date: <i>Shirley Ng 8/17/09</i>		[] [] [] []		
Status: Routed		Date Created: 07/22/2009		

TITLE:
Award of Contract No. 15PS-110, For BART Earthquake Safety Program, Oakland 4th Street Storage Building

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Contract No. 15PS-110, for BART Earthquake Safety Program, Oakland 4th Street Storage Building, to Nabi Construction & Engineering, San Francisco, CA.

DISCUSSION:

Contract No. 15PS-110 will provide for the seismic strengthening of the Oakland 4th Street Storage Building as part of BART's Earthquake Safety Program. The work includes structural retrofit of the roof structure and work on associated architectural, mechanical, electrical and plumbing components and systems that are impacted by the retrofit.

Advance Notice to Bidders was mailed on June 25, 2009 to 172 firms. The Contract was advertised on June 28, 2009 and Contract Books were sent to 22 plan rooms. A total of 23 firms purchased copies of the Bid Documents. A Pre-Bid Meeting was held on July 7, 2009 with a total of 19 potential Bidders in attendance. Site tours were held following the Pre-Bid meeting on July 7, 2009. Ten Bids were received. Bids were opened publicly on July 28, 2009.

After review by the District staff, the Bid submitted by Cal-Pacific Construction (Cal-Pacific) was determined to have arithmetical errors in the Bid Item totals and/or in the total Bid Price. Article 13.B, Evaluation, of the Instructions to Bidders in the contract clearly states that item totals are provided by the Bidder for the convenience of the District, and that the District will independently calculate such prices based on the unit or lump sum prices bid. In the event of a discrepancy, the District's calculations shall govern. For Cal-Pacific, the correction made by the District did not affect the ranking or the outcome of the bidding.

Tabulation of the Bids, including the corrected bid from Cal-Pacific and the Engineer's Estimate, is as follows:

1. Nabi Construction & Engineering, San Francisco, CA \$865,000.00

2. Bay Construction Company, Oakland, CA	\$894,000.00
3. Bugler Construction, Pleasanton, CA	\$907,000.00
4. Aztec Consultants, Inc., San Ramon, CA	\$947,000.00
5. Kudsk Construction, Inc., Berkeley, CA	\$1,028,000.00
6. CNB Corporation, Fremont, CA	\$1,062,000.00
7. Page Construction Company, Novato, CA	\$1,077,440.00
8. Best Contracting Services, Hayward, CA	\$1,375,000.00
9. Cal-Pacific Construction., Pacifica, CA	\$1,397,200.00
10. Robert L. Brown Construction, Inc., Martinez, CA	\$1,554,000.00

Engineer's Estimate \$929,000.00

The apparent low Bid submitted by Nabi Construction & Engineering has been determined to be fair and reasonable and deemed to be responsive to the solicitation. Examination of this Bidder's business experience and financial capabilities has resulted in the determination that the Bidder is responsible.

FISCAL IMPACT:

Funding for \$865,000.00 for award of Contract No. 15PS-110 is included in the total project budget for the FMS #15PS, ESP 4th Oakland Street Storage Building. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F Earthquake Safety General Obligation Bond \$865,000.00

As of month ending 6/30/09, \$2,500,000.00 is available for commitment from this fund source for this project and BART has committed \$0 to date. There is \$965,493.00 pending commitment in BART's financial management system. This action will commit an additional \$865,000.00 leaving an uncommitted balance of \$669,507.00 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to implement the seismic strengthening of this structure.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No.15-PS110, Earthquake Safety Program, Oakland 4th Street Storage Building, to Nabi Construction & Engineering for the Bid amount of \$865,000.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 5/26/09	REMARKS
ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$226,200,000	
CM	\$61,498,000	\$66,570,729	
Environmental	\$1,042,796	\$2,198,237	
TOTAL E, E & CM	\$249,018,796	\$294,968,966	
CONSTRUCTION			
Transbay Tube			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
San Francisco Ferry Plaza			
SFTS (including Tube liner)	\$73,037,000	\$5,605,380	
Marine Vibro Demo	\$101,285,000	\$74,896,965	
Stitching	\$82,962,000	\$0	
Aerial Guideways			
West Oakland/North Oakland	\$112,923,000	\$101,496,835	
Fremont	\$178,224,000	\$124,519,000	
Concord	\$36,500,000	\$67,400,000	
Richmond	\$80,155,000	\$85,700,000	
San Francisco/Daly City	\$36,590,000	\$33,800,000	
Stations (18)	\$126,961,000	\$127,693,208	
Other Structures			
LMA	\$5,529,000	\$5,265,226	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$8,828,646	
At Grade Trackway	\$22,361,000	\$0	
Systems	\$7,066,000	\$18,000,000	
TOTAL CONSTRUCTION	\$909,469,000	\$687,375,789	
PROGRAM COSTS			
Program Costs (Hazmat, ROW, Consult, Staff)	\$159,894,204	\$236,770,524	
Contingency	\$32,104,000	\$119,661,582	
TOTAL PROGRAM COSTS	\$191,998,204	\$356,432,106	
BASELINE FUNDING	\$1,350,486,000		
REVISED FUNDING (1)		\$1,338,776,861	

(1) BART funding/costs reduced by \$11.5M



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Marcia S. Sander</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: <i>8/20/09</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Ersten Y Imaoka Dept. M & E <i>Ersten Imaoka</i> Signature/Date: <i>8/18/09</i>	General Counsel <i>Andrea Kavas</i> <i>8/18/09</i>	Controller/Treasurer <i>[Signature]</i> <i>8/18/09</i>	District Secretary <i>[Signature]</i>	BARC <i>[Signature]</i> <i>8/20/09</i>
Status: Routed		Date Created: 08/11/2009		

TITLE:

Award Contract No. 15QB-130, Waterproof Orinda Substation, and Reroof Concord and Richmond Yard S&I Pits

NARRATIVE:

PURPOSE: To authorize the General Manager to award Contract No. 15QB-130, Waterproof Orinda Substation, and Reroof Concord and Richmond Yard S&I Pits, to Best Contracting Services.

DISCUSSION: The Work of this Contract includes furnishing all labor, equipment, materials and services required to provide three-ply modified bitumen roofing using one-part cold adhesive on the existing metal roof decking of the S&I Pit Building at Concord Yard and Richmond Yard, and on the existing steel panels at the Orinda Substation.

Advance Notice to Bidders was mailed on June 30, 2009 to 19 prospective Bidders. Contract Books were mailed to 20 plan rooms and minority assistance organizations. The Contract was advertised on July 6, 2009. A Pre-Bid meeting and site tour were conducted on July 21, 2009, with 12 prospective Bidders attending the meeting, and eight prospective Bidders attending the site tour. The following four Bids were received on August 11, 2009:

BIDDER	LOCATION	TOTAL BID
Best Contracting Services	Hayward, CA	\$259,000.00
Andy's Roofing Company, Inc.	Milpitas, CA	\$259,700.00
IMR Contractor Corp.	Hayward, CA	\$270,000.00
D7 Roofing Services, Inc.	Sacramento, CA	\$302,768.00
ENGINEER'S ESTIMATE		\$190,070.00

After review by District staff, the Bid submitted by the apparent low Bidder, Best Contracting Services, 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 \$259,000.00, which is approximately 36% over the Engineer's Estimate, is fair and reasonable. The significant discrepancy is the result of Staff's underestimating the following: (1) the complexity of reroofing the S&I Pit Buildings due to their numerous roof penetrations, (2) the loss of work efficiency when reroofing during inclement weather which is likely to occur during the construction period, and (3) the restrictive work hours at all three sites.

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

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 no subcontracting opportunities, therefore, no DBE participation goal was set for this contract.

FISCAL IMPACT: Funding for \$259,000.00 for award of Contract No. 15QB-130 is included in the total project budget for the FMS #15QB, Reroof Structures. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$259,000.00 will be funded as follows:

<u>F/G 52W – FTA CA-90-Y270 FY04</u>	<u>\$215,250.00</u>
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As of the month ending 6/30/09, \$413,550.00 is available for commitment from this fund source for this project, and BART has committed \$153,191.00 to date. There are no pending commitments in BART's financial management system. This action will commit \$215,250.00, leaving an uncommitted balance of \$45,109.00 in this fund source.

<u>F/G 47Z – FTA CA-05-0216 FY07</u>	<u>\$43,750.00</u>
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As of the month ending 6/30/09, \$43,750.00 is available for commitment from this fund source for this project, and BART has committed \$0.00 to date. There are no pending commitments in BART's financial management system. This action will commit \$43,750.00, leaving an uncommitted balance of \$0.00 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.


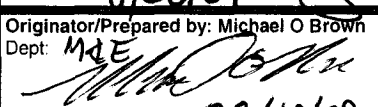
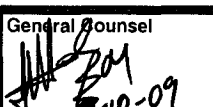

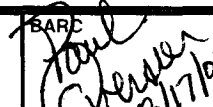
ALTERNATIVE: The alternative is to reject all bids, which will result in the deferral of roof replacement at the S&I Buildings and waterproofing at the Orinda Substation that is necessary for proper maintenance. Such deferral could lead to moisture and property damage caused by age-induced failure of the roofing systems and, at the Orinda Substation, water leakage could result in failure of electrical equipment that could lead to disruption of revenue service.

RECOMMENDATION: Adoption of the following motion:

MOTION: The General Manager is authorized to award Contract No. 15QB-130, Waterproof Orinda Substation, and Reroof Concord and Richmond Yard S&I Pits, to Best Contracting Services, for the Bid price of \$259,000.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:	
DATE: c 8/20/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Michael O Brown Dept: M&E 	General Counsel  8-10-09 []	Controller/Treasurer  8/11/09 []	District Secretary []
Signature/Date: 08/10/09		BART  8/17/09 []	

TITLE:

Award Invitation for Bid No. 8846, Tie Inserter/Remover Machine

NARRATIVE:

PURPOSE:

To request Board authorization for the General Manager to award Invitation for Bid No. 8846 to Modern Track Machinery Inc., Elgin, Illinois, in the amount of \$129,408.42, including applicable taxes, for the purchase of one Tie Inserter/Remover Machine.

DISCUSSION:

Current California Public Utility Commission requirements, District safety standards and industry practice require that crossties be maintained to minimum standards. The District's main line track, between Walnut Creek and Concord Stations rides over the original "Diablo Test Track" which was built in the 1960's using wooden crossties. Additionally, the District has 453 turnouts most of which use wood crossties. These crossties are nearing the end of their life cycle.

The acquisition of this machine will increase the productivity of existing District personnel and provide for a more ergonomical method for installation. This machine will supplement existing District equipment to allow more flexibility in performing geographically separated work tasks.

On December 4, 2008, Staff requested and received Board authority to Reject the Sole Bid received for Invitation for Bid No. 8838 for the purchase of a Tie Inserter/Remover Machine. The reason for the rejection was another prospective bidder advised Staff that they did not receive a notice of the Invitation for Bid. The prospective bidder indicated that they were interested in submitting a Bid. However, this prospective bidder did not submit a Bid for this Invitation for Bid No. 8846.

A notice requesting bids was published on November 9, 2008 and bid requests were mailed to four (4) prospective bidders. Bids were opened on February 24, 2009 and one (1) Bid was received.

<u>Bidder</u>	<u>Unit Price</u>	<u>Grand Total including</u>
	<u>1 each</u>	<u>9.75% Sales Tax</u>
Modern Track Machinery, Inc. Elgin, Illinois	\$117,912.00	\$129,408.42

Independent cost estimate by BART staff: \$100,000.00

Staff has determined that the apparent low Bidder, Modern Track Machinery, submitted a responsive Bid. Staff has also determined that the Bid pricing is fair and reasonable based on the independent cost estimate.

FISCAL IMPACT:

Funding for \$129,408 for the purchase of Tie Inserter/Remover Machine is included in the total project budget for the FMS #15TD - Wayside Equipment. 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 sources:

F/G 47X – FTA-CA-05-0211-0 FY06 Capital Improvement \$129,408

As of month ending 05/24/09, \$3,534,722 is available for commitment from this fund source for this project and BART has committed \$1,403,444 to date. There is a pending commitment of \$1,768,853 in BART's financial management system. This action will commit \$129,408 leaving an uncommitted balance of \$233,017 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

Three possible alternatives have been identified:

1. Cancel this IFB and readvertise again. Staff estimates that readvertising would take an additional three to six months and would not increase the number of Bidders.
2. Cancel this IFB and continue crosstie replacements using existing machines with lower productivity.
3. Cancel this IFB and readvertise with specifications for a larger, more expensive machine. Staff estimates that readvertising would take an additional six to nine months and would increase the price by at least 30%.

RECOMMENDATION:

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:

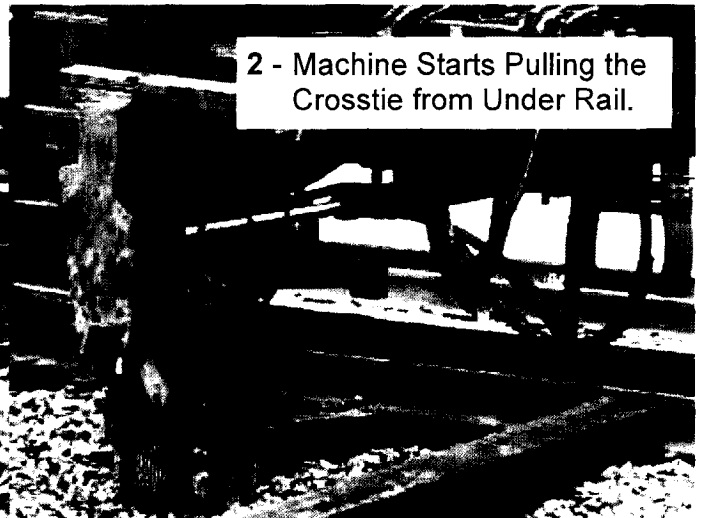
MOTION

The General Manager is authorized to award IFB No. 8846, for the Purchase of a Tie Inserter/Remover Machine to Modern Track Machinery Inc., Elgin, Illinois in the amount of \$129,408.42, including applicable taxes, pursuant to notification to be issued by the General Manager.

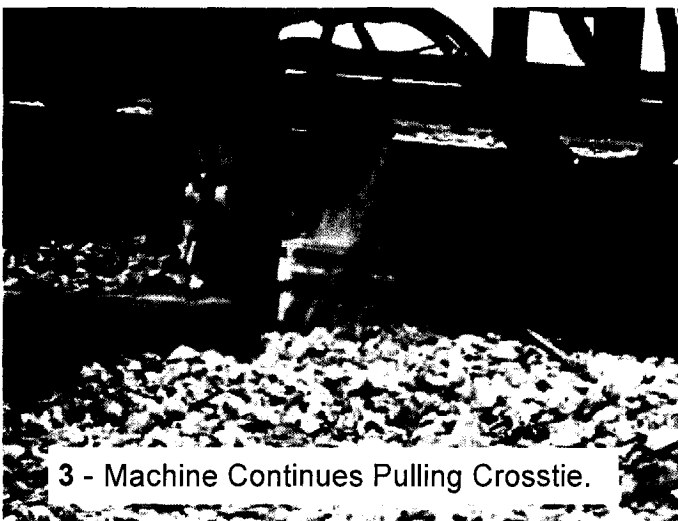
IFB 8846 – Tie Inserter / Remover Machine



1 - Machine Grabs End of the Crosstie.



2 - Machine Starts Pulling the Crosstie from Under Rail.



3 - Machine Continues Pulling Crosstie.



4 - Machine Complete Crosstie Removal.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: 	
DATE: 8/20/09		BOARD INITIATED ITEM: NO	
Originator/Prepared by: Jaime Cabrales Dept: Signature/Date: 8/21/09	General Counsel: 8/21/09	Controller/Treasurer: 8/21/09	District Secretary: [] BARC: 8/21/09
Status: Approved		Date Created: 08/14/2009	

TITLE:

Award of IFB No. 8847 for the Purchase of Pinion End Bearings and Inlet End Bearing Assemblies

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to award IFB No. 8847 in the amount of \$828,245.49 to BDI of Stratford, CT, for the Purchase of Pinion End Bearings and Inlet End Bearing Assemblies.

DISCUSSION: The District's fleet of revenue vehicles are each powered by four traction motors. Each motor has two bearings that support its rotor, which spins whenever the revenue vehicle moves whether accelerating or decelerating. These bearings have a finite life and must be replaced routinely to prevent serious motor failure and disruption of revenue service. This purchase will allow the District to properly maintain the revenue fleet.

This is a thirty-six (36) month estimated quantity contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract the District is required to purchase from the supplier a minimum amount of 50 percent of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract bid price, subject to availability of funding.

A notice requesting bids was published on June 10, 2009 and bid requests were mailed to twelve (12) prospective bidders. Bids were opened on June 23, 2009 and nine (9) bids were received, and the four (4) bidders shown below were deemed compliant with the technical requirements.

<u>Bidder</u>	<u>Unit Price Item 1</u>	<u>Unit Price Item 2</u>	<u>Grand Total including 9.75% Sales Tax</u>
BDI 640 Access Road Stratford, CT	\$475.21	\$250.43	\$828,245.49
Jamaica Bearings Co., Inc. PO Box 1080 1700 Jericho Turnpike	\$257.42	\$484.54	\$846,873.14

New Hyde Park, NY

Bearing Engineering Co. 667 McCormick Street San Leandro, CA	\$507.78	\$269.75	\$887,472.74
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Applied Industrial Tech. 30077 Ahern Avenue Union City, CA	\$509.25	\$270.55	\$890,063.72
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Independent cost estimate by BART staff: \$1,000,000

- Item 1: Pinion End Bearing
- Item 2: Inlet End Bearing

Staff has determined that the low bidder, BDI, submitted a responsive bid. Staff has also determined that the bid pricing is fair and reasonable based on bid competition.

FISCAL IMPACT: Funding for contract IFB No. 8847 will be provided from the General Fund, Materials & Supplies Inventory build-up account.

The bearing assemblies are scheduled to be procured over the contract's 36-month period at the following estimated annual costs:

FY 10	\$275,000
FY 11	\$276,623
FY 12	\$276,623
Total	\$828,246

Funding for FY10 expenditures of \$275,000 are currently available in the General Fund, Materials & Supplies Inventory build-up account. Any additional orders of pinion end bearing and inlet end bearing assemblies over and above the currently available funds of \$275,000 will only be placed with BDI upon certification by the Controller-Treasurer that funds are available.






ALTERNATIVES: An alternative to awarding the bid would be to reject all bids and readvertise the contract.

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

MOTION: The General Manager is authorized to award IFB #8847, an estimated quantity contract for the Procurement of Pinion End Bearing and Inlet End Bearing Assembly, to BDI of Stratford, CT for the Bid price of \$828,245.49, including all applicable taxes, pursuant to notification to be issued by the General Manager, and subject to the District's Protest Procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors	
DATE: c 8/20/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: John McCormick Dept: Rolling Stock & Shops (ext 7557)  Signature/Date: 8/19/2009	General Counsel  8/19/09	Controller/Treasurer  8/19/09	District Secretary  8/20/09

FILE:

Invitation for Bid No. 8854: Procurement of Inter-car Barrier Materials

NARRATIVE:

PURPOSE:

To authorize the General Manager to award Invitation for Bid (IFB) No. 8854 to Diamond Tool & Die of Oakland, CA in an amount not to exceed \$250,194.71.

DISCUSSION:

Pursuant to the requirements outlined in Federal Americans with Disabilities Act (ADA) Regulations for Transportation Vehicles (49 CFR Section 38.63), rapid transit vehicles must provide "inter-car barriers" which prevent, deter or warn individuals from inadvertently stepping off the platform between cars. The concern is that a visually impaired passenger may inadvertently mistake the area between the cars as a doorway, and may fall into this space. BART engineers have developed a suitable design which will deter patrons from inadvertently stepping off the platform into the area between the cars and meet the ADA requirements. The inter-car barrier design incorporates a series of ten (10) white PVC plastic safety bars connected to the end of each car, in a pattern that avoids contact with the bars on the adjacent car. By staggering the position of these safety bars, a visually impaired patron will contact these safety bars, and not inadvertently mistake the between-car space to be a doorway.

This procurement provides the parts for retrofitting this design into all 669 rail vehicles in the BART fleet. Installation will be performed by BART maintenance workers.

This is a twenty-four (24) month estimated quantity Contract. Pursuant to the terms of the Contract, during the term of the Contract, the District is required to purchase from the Supplier a minimum amount of fifty (50) percent of the Contract Bid Price. Upon Board approval of this Contract, the General Manager will also have the authority to purchase up to 150 percent of the Contract Bid Price, subject to the availability of funding.

A Notice Requesting Bids was published on June 12, 2009. Bid Requests were mailed to thirty-four (34) prospective Bidders. Bids were opened on July 14, 2009 and the following seven (7) Bids were received:

Invitation for Bid No. 8854: Procurement of Inter-car Barrier Materials

<u>Bidder</u>	<u>Total Including 9.75% Sales Tax</u>
Diamond Tool & Die Oakland, CA	\$250,194.71
Matthew Metals Gilroy, CA	\$269,494.11
GCM Mission Viejo, CA	\$270,048.16
HUB Associates Oakland, CA	\$410,431.96
Metal Specialists Hayward, CA	\$547,930.00
BCH Mfg. Oakland, CA	\$843,342.28
DLR Distributors	Bid revoked by bidder due to errors

Independent cost estimate by BART staff is \$925,370.50. This estimate was based upon prototype pricing. Bid pricing in production quantities proved to be significantly less.

Staff has determined that the Bidder, Diamond Tool & Die, submitted a responsive Bid, and that the Bid pricing is fair and reasonable based on similar purchases.

Fiscal Impact:

Funding of \$250,195 for IFB No. 8854 was secured through an American Recovery and Reinvestment Act of 2009 (ARRA) grant and is included in the total project budget for the FMS#42AJ – Between Car Barriers. The Office of the Controller/Treasurer certifies that the following funds are currently available to meet this obligation.

CA-96-X001 (ARRA) Stimulus Fed.
\$250,195

54K

As of 07/31/09, \$2,300,000 is available for commitment from this fund source for this Contract and BART to date has committed \$0. There is \$0 pending commitment in BART's financial management system. This action will commit an additional \$250,195, leaving an uncommitted balance of \$2,049,805 in this fund.

There is no fiscal impact on available un-programmed District Reserves.

Alternatives: The alternative is to reject all Bids and readvertise the Contract. This alternative is problematic, however, as this Contract utilizes ARRA stimulus funds, which are granted under specific time constraints. Delays associated with readvertising and rebidding the Contract could jeopardize that funding. Moreover, readvertising this Contract is not likely to lead to a better price or more competition.

Recommendation: Adoption of the following motion.

Motion: The General Manager is authorized to award IFB No. 8854, an estimated quantities Contract for the Procurement of Inter-car Barrier Materials to Diamond Tool & Die of Oakland, CA for the Bid price of \$250,194.71, including all applicable sales tax, pursuant to notification to be issued by the General Manager, and subject to the District's Protest Procedures and FTA's requirements related to protest procedures.





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c 8/21/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Umbreit Dept: Operating Budgets & Analysis	General Counsel 	Controller/Treasurer 	District Secretary 	BARC
Signature/Date: 8/21/09	8/21/09	8/21/09	8/21/09	8/21/09

TITLE:

Fiscal Year 2009 Year-End Budget Revision

NARRATIVE:

PURPOSE: To amend the Fiscal Year 2009 (FY09) Budget for year-end adjustments.

DISCUSSION:

Summary of FY09 Operating Results

Preliminary FY09 results show the District finished \$12.5M unfavorable in total operating sources, offset by a \$2.1M favorable variance in total operating uses, for a net loss of \$10.4M. The budget was revised twice during the year as the economy declined, but revenues continued to drop more than anticipated. The result includes an accrual for an estimated insurance reimbursement for Hayward fire repairs of \$5M. Staff requests Board approval to amend the final budget to increase the use of operating reserves to cover the deficit, as well as make adjustments to operating expense and allocations in compliance with Board Rules regarding the budget.

(\$millions)

FY09 Operating Results

	Adopted Budget	Revised Budget ⁽¹⁾	Actual	Variance	
Operating Sources					
Operating Revenue	\$ 355.3	\$ 352.5	\$ 349.3	\$ (3.2)	-1%
Sales Tax	206.8	191.2	184.3	(6.9)	-4%
Other Financial Assist & Allocations	88.2	68.4	66.0	(2.4)	-4%
Operating Reserves	5.8	12.9	12.9	-	0%
Total Sources	656.0	625.1	612.5	(12.5)	-2%
Operating Uses					
Operating Expense	557.4	552.2	547.1	5.1	1%
Debt Service	69.9	67.6	67.7	(0.1)	0%
Capital & Other Allocations	28.8	5.3	8.2	(2.9)	-55%
Total Uses	\$ 656.0	\$ 625.1	\$ 623.0	\$ 2.1	0%
Net Operating Result	\$ -	\$ -	\$ (10.4)	\$ (10.4)	

⁽¹⁾ Board approval of closing budget revisions requested

NOTE: For presentation purposes summary excludes (A) \$17.5M budget for one-time SFO Agreement Financial Assistance (Sources) and Other Allocations (Uses) and (B) \$1.3M budget and \$5.2M actual for OPEB Unfunded Liability Expense and Offset; neither affect Net Result.

The primary causes of the deficit were steep declines in passenger trips and sales tax receipts during the second half of FY09. Passenger revenue was \$3.2M below the revised budget. Overall, FY09 weekday trips averaged 356,712 and total annual trips were 106.9M. Ridership in

FY09 started out strongly, growing 5% over FY08 in the first quarter. However, growth quickly slowed and turned negative as the recession took hold in the Bay Area. By June, average weekday trips were 339,340, down about 31,000 trips per day from June of 2008. The speed and strength of this downturn exceeds the ridership losses experienced in the 2000 recession.

Sales tax revenues of \$184.3M in FY09 were significantly below budget – \$6.9M below the February 2009 revised budget of \$191.2M and \$22.5M below the original FY09 budget. The third and fourth quarters dropped 12% and 20%, respectively, below the same quarters in FY08, and were two of the largest drops in BART's history.

It is also worth noting that BART started FY09 with a budget of \$17.4M for State Transit Assistance. State budget actions eliminated this funding source and BART's February 2009 budget revision reflected that revenue loss.

Previously, one-time funding from SamTrans was budgeted as financial assistance with a corresponding allocation to reserves; however these funds will now be booked directly into the reserve and recorded when used to subsidize operating expenses of the SFO extension. To simplify the summary table, the budget of \$17.5M for financial assistance in Sources and the budget for a corresponding \$17.5M allocation to the reserve in Uses have been excluded from the summary, as have non-cash expense and allocation entries for Other Post Employment Benefit Liability; since neither affects the Net Operating Result. This has been done in order to more clearly display the budget variances for revenues and expense and the resulting impact on the net result.

Operating expenses were \$5.1M favorable, with labor and benefits slightly over budget by \$2.5M (0.6%), while non-labor was favorable by \$7.4M (5.0%). Factors in the labor overrun included the Hayward repairs, Police and Transportation overtime and less attrition than expected, resulting in less than anticipated savings from the hiring freeze instituted this fall. Non labor savings of \$7.4M resulted from electric power (\$0.7M), purchased transportation (\$2.1M), other non-labor (\$3.4M), and the non-cash Lakeside lease accrual (\$1.2M). Savings in purchased transportation result from Express Bus (\$1.7M) and ADA Paratransit (0.5M). Express Bus expense was budgeted at \$2.5M, but had actual expenses of \$0.8M. These savings are offset by the loss of \$2.1M in the budget for STA funds received from the State in the 1st quarter. MTC rescinded the STA funds to fund the bus operators, and BART paid only \$0.8M of the budgeted \$2.5M in Express Bus funding.

The District received \$0.6M in actual payments from the insurance carrier for the Hayward fire incident. The financial results also include an accrual for another \$5M to recognize a conservative estimate for additional reimbursement of the estimated \$12M in actual repair expenses in FY08 and FY09. The actual reimbursement is expected to be received in FY10. Talks are progressing with the insurance carrier, and while the reimbursement is not 100% certain, accounting standards require recognition of the reimbursement and it is expected that at least \$5M will be received.

Capital & Other Allocations were \$2.9M over budget for FY09. The operating budget included \$2.3M in operating expenses for outside counsel related to litigation regarding the Advanced Automatic Train Control (AATC) project. During the year, it was decided that the outside counsel expenses are capital rather than operating, so instead of recording an operating expense, an allocation to capital is recorded, offset by lowering the budget in operating expenses.

Therefore, capital allocations are increased \$2.3M and the operating budget is lowered by \$2.3M, with no resulting effect on the net operating result.

Other allocations are over budget by \$0.6M, due to the following small items: \$0.3M for an electrical sub-station capital repair covered by insurance, \$0.2M for the Westfield Powell St. Station joint development project offset by the same amount of revenue, \$0.1M for trailers needed to support the Hayward fire effort, and \$35,000 ground lease revenue committed to construction of the West Dublin station. The year-end budget resolution asks Board approval to increase the budget \$2.9M for these allocations.

Other debt service was unfavorable to budget by \$0.1M, due to recording of a loan payment for the Fruitvale garage that is covered by the same amount of revenue. The resolution requests approval to increase the debt service budget by this amount.

The net loss of \$10.4M requires increasing the use of operating reserves to produce a balanced year-end result. The FY09 budget already included using \$12.1M of operating reserves, which was set aside from one-time STA spillover funds generated in prior years to help fund the one-time \$14.6M retiree medical “catch-up” payment for FY06 and FY07 made during FY09. The District began the year with \$37.1M in reserves, and the use of the total of \$22.5M will leave a \$14.7M balance.

Summary of Proposed Budget Revisions for Board Approval

Further information regarding FY09 operating results is available in Attachment 1. The budget revision line items are listed on the attached resolution. The sum of these proposed budget adjustments will produce a balanced year-end result for FY09. The \$6.3M increase to net labor includes both the net labor overrun of \$2.5M discussed above plus the \$3.8M increase to the non-cash OPEB unfunded liability expense, with the offset also increased \$3.8M.

The \$2.5M net labor budget overrun and the \$3.0M increase to capital and debt service allocations discussed above can be covered within the overall budget by the savings in the non-labor budget. However, the revenue shortfall from passenger revenue and sales tax requires an increased allocation of \$10.4M from reserves to balance the year-end result.

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 operating and capital allocations, the District would end the year with an unfavorable result of \$10.4M.

RECOMMENDATION:

Approval of the motion below.

MOTION:

Adoption of the attached resolution.

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

In the matter of amending Resolution No. 5052 (as amended by Resolution No. 5061 and Resolution No. 5072) regarding Fiscal Year 2009 Annual Budget

Resolution No. _____

RESOLVED, that Resolution No. 5052 (as amended by Resolution No. 5061 and Resolution No. 5072) is amended by changing the following line items in Exhibit A thereof:

	<u>Current Amount</u>		<u>Increase/ (Decrease) In This Resolution</u>		<u>Amended Amount</u>
<u>Fund Source Line Item:</u>					
Operating Revenue	\$ 352,477,593	\$	(3,466,470)	\$	\$ 349,011,123
Sales Tax	\$ 191,250,255	\$	(6,964,690)	\$	\$ 184,285,565
Allocations from Reserves	\$ 12,062,317	\$	10,431,160	\$	\$ 22,493,477
 <u>Fund Use Line Item:</u>					
Net Labor Expense	\$ 380,593,037	\$	6,253,483	\$	\$ 386,846,520
Non Labor Expense	\$ 150,242,602	\$	(5,374,612)	\$	\$ 144,867,990
Allocations - Other Debt Service	\$ -	\$	73,422	\$	\$ 73,422
Allocations to Capital Rehabilitation	\$ 4,389,664	\$	2,895,261	\$	\$ 7,284,925
 Other Post Employment Benefits Unfunded Liability	 \$ (1,343,904)	 \$	 (3,847,554)	 \$	 (5,191,458)

Fourth Quarter FY09 BUDGET PERFORMANCE REPORT EXECUTIVE SUMMARY

M=million

REVENUE

●Ridership growth slowed dramatically throughout FY09. 4Q core avg wkdy trips dropped 7.2% compared to 4Q08 (after starting FY09 with 4% growth). SFO Ext trips dropped 1.6% (started FY09 with 21% growth). Core avg wkdy ended FY09 1.1% under budget, SFO Ext trips 2.6% under budget and systemwide trips 1.2% under budget. Passenger revenue \$3.2M under revised budget.

●FY09 other operating revenue on budget. Under budget advertising (\$1.0M) and interest (\$0.7M) offset by: unbudgeted Medicare Part D reimbursement \$0.5M; over budget rent \$0.3M, parking fines \$0.2M, and \$0.3M support cost reimb; and \$0.2M unbudgeted AirBART revenue.

EXPENSE

●Labor for the fourth quarter was on budget, including accrual of reimbursement credit of \$3.7M for Hayward repairs. For the year, slightly unfavorable mainly due to over budget overtime in the Transportation & Police depts., but within 1% of budget.

●OPEB Unfunded liability (expense) unfavorable for both quarter (\$1.0M) and YTD (\$3.9M), is a non-cash entry shown as expense and offset. No bottom line impact.

●Electric Power was 11.4% favorable this quarter. Increased cost for market power and PG&E public purpose charges in the 4th quarter was offset by a rebate for prior year NCPA expenses leaving power favorable to budget by \$0.7M for the year.

●Purchased transportation was favorable because Express Bus funding was supplied by MTC diversion of \$2.1M of BART STA funds rather than through expense budget; offset by negative variance in Financial Assistance.

●The Lakeside building lease is recognized over the life of the lease, which is a non-cash book entry and not budgeted; budget includes actual cash outlay for lease payments.

●Other Non Labor was favorable to budget for the quarter and YTD due to spending controls, and \$2.3M AATC litigation expense budgeted in Legal that was instead allocated to the capital project (no impact on Net Op. Result). Included in results is reimbursement credit of \$1.9M for non-labor portion of Hayward reimbursement.

●Total operating expense for the quarter and YTD excluding the OPEB entry was \$5.1M favorable.

FINANCIAL ASSISTANCE & ALLOCATIONS

●4Q09 sales tax dropped 20% (\$9.6M) below 4Q08 - worst drop in BART history. FY09 was 9% below the revised budget and \$22.5M below original FY09 budget.

●Other Assistance under budget due mainly to \$2.1M rescission of 1Q09 STA funds.

●SFO Ext Funding reflects SamTrans' funds used for \$2.8M SFO Ext net operating deficit.

●Capital Allocations includes \$4.4M for budgeted capital rehabilitation and the \$2.3M for AATC legal fees, plus total of \$0.6M for sub-station repair, Powell joint development, and trailers for Hayward fire repairs.

●OPEB Unfunded Liability is offset to Expense recorded above. No bottom line impact.

●Allocation from Operating Reserves in "actual" column includes recommended additional year-end allocation of \$10.4M to balance the operating deficit.

NET OPERATING RESULT

●The net operating result for the quarter was favorable to budget, assuming the use of the additional \$10.4M in reserves as recommended, which would balance the net result for the year.

SYSTEM OPERATING RATIO / RAIL COST PER PASSENGER MILE

●The operating ratio (revenue divided by expense) and rail cost per passenger mile were very close to budget, but slightly negative for the year because of the declining ridership and passenger revenue.

**The Other Post Employment Benefits (primarily retiree medical) is a non-cash expense to recognize the difference between actual retiree medical funding and the full Annual Required Payment, and does not affect the Net Operating Result.

CURRENT QUARTER

(\$Millions)*

FISCAL YEAR-TO-DATE

<u>Budget</u>	<u>Actual</u>	<u>Var.</u>		<u>Budget</u>	<u>Actual</u>	<u>Var.</u>
REVENUE						
82.2	79.7	-3.0%	Net Passenger Revenue	321.3	318.1	-1.0%
8.2	9.1	11.3%	Other Operating Revenue	31.2	31.2	0.2%
90.4	88.8	-1.7%		352.5	349.3	-0.9%
EXPENSE						
92.4	92.5	-0.1%	Net Labor	379.2	381.7	-0.6%
0.3	1.3		OPEB Unfunded Liability**	1.3	5.2	
9.2	8.1	11.4%	Electric Power	37.5	36.8	2.0%
6.1	4.1	32.1%	Purchased Transportation	16.9	14.8	12.7%
0.0	(0.3)		Lakeside Lease Accrual	0.0	(1.2)	
29.6	26.5	10.6%	Other Non Labor	95.8	92.4	3.5%
137.6	132.2	3.9%	Total Operating Expense	530.8	529.6	0.2%
EXTRAORDINARY EXPENSES						
3.5	0.5	-87.0%	Rail Car Fund Swap	22.7	22.7	0.0%
(50.7)	(43.9)	15.6%	OPERATING DEFICIT	(201.0)	(203.0)	-1.0%
FINANCIAL ASSISTANCE & ALLOCATIONS						
43.4	38.8	-10.6%	Sales Tax	191.2	184.3	-3.6%
13.5	12.6	-6.9%	Property Tax	30.7	30.4	-1.2%
4.1	0.8	-81.2%	Other Assistance and Alloc.	13.4	10.1	-24.0%
3.5	0.5	-87.0%	Rail Car Fund Swap	22.7	22.7	0.0%
1.7	2.2	29.2%	SFO Ext Funding	1.7	2.8	67.9%
(16.3)	(14.7)	10.0%	Debt Service	(67.6)	(67.7)	-0.1%
0.0	(2.6)	-	Capital Allocations	(4.4)	(7.3)	-66.0%
0.3	1.3		OPEB Unfunded Liability Offset**	1.3	5.2	
12.1	22.5	86.5%	Allocation from Operating Reserve	12.1	22.5	86.5%
62.2	61.3	-1.5%	Net Financial Assistance	201.0	203.0	1.0%
11.6	17.4		NET OPERATING RESULT	0.0	0.0	
65.7%	67.2%	1.5%	System Operating Ratio	66.4%	66.0%	-0.4%
35.2 ¢	35.4 ¢	-0.6%	Rail Cost Per Passenger Mile	35.2 ¢	35.7 ¢	-1.5%

* Totals may not add due to rounding to the nearest million.

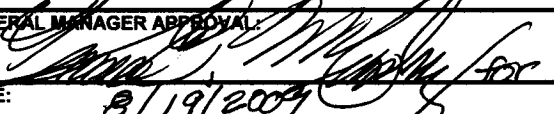
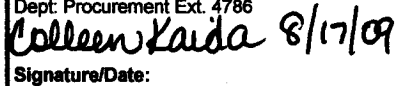
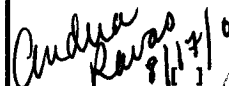

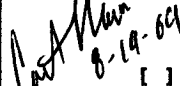
■ No Problem

□ Caution: Potential Problem/Problem Being Addressed

■ Significant Problem



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors	
DATE: 8/19/2009		BOARD INITIATED ITEM: No	
Originator/Prepared by: Colleen Kaida Dept: Procurement Ext. 4786  Signature/Date: 8/17/09	General Counsel  8/17/09	Controller/Treasurer  8/18/09	District Secretary [] BARC  8-19-09 []
Status: Routed		Date Created: 04/15/2009	

TITLE:

EXECUTE A CHANGE ORDER TO AGREEMENT NO. 6M4030 TO PROVIDE SERVICES FOR THE RENTAL OF MONOCHROME DIGITAL COPY MACHINES AT VARIOUS DISTRICT OFFICES/FACILITIES

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Change Order No. 4 to Agreement No. 6M4030 with Toshiba Business Solutions, formerly MBA of California, to provide services for the rental of digital monochrome copy machines at various District Offices/Facilities.

DISCUSSION:

This Agreement was approved by the Board for a period of three years, with an option to renew on a month-to-month basis at the contract rate for up to 12 additional months at a cost not-to-exceed \$873,504.

The three-year base Agreement will terminate on October 4, 2009. A savings can be achieved if the District takes advantage of an unsolicited offer by the current provider to extend the current lease for a period of two (2) years at a discounted rate of approximately 20%. Toshiba Business Solutions would continue providing maintenance services but in addition, would include all parts, labor and supplies, excluding paper. The total cost for the two-year extension, effective October 5, 2009 through October 4, 2011 will be \$356,164 resulting in a savings to the District of approximately \$124,400 compared to the prorated costs for an extension under the existing terms of the three-year Agreement. This savings includes the discounted monthly lease payments and elimination of the costs to purchase toner, toner waste bottles and staples which are currently being purchased by the District.

The total projected expenditures for the existing three-year Agreement will be \$614,340. With the projected total cost for the two-year extension of \$356,164, the total not-to-exceed cost for the Agreement would become \$970,504. Accordingly, the original not-to-exceed amount must be increased by \$97,000 to allow for the two-year extension.

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

FISCAL IMPACT:

The estimated total costs for the two-year extension on copy machines and services are as follows: \$123,998 for FY2010, \$165,331 for FY2011 and \$66,835 for FY2012. The Agreement will be subject to the availability of fiscal year funding. All funding will come from Procurement's Common Expense Operating Budget.

ALTERNATIVES:

(1) To initiate another Request for Proposal (RFP). Staff believes this would be unlikely to result in more competitive pricing.

(2) The discontinuance of rental copy machines services. This would jeopardize daily operations.

(3) The District could purchase copy machines; however, the District can more economically take advantage of productivity enhancing technological advances by renting.

RECOMMENDATIONS:

Adopt the following Motion:

MOTION:

The General Manager is authorized to execute Change Order No. 4 to Agreement No. 6M4030 to Provide Services for the Rental of Monochrome Digital Copy Machines at Various District Offices/Facilities with Toshiba Business Solutions to extend the term of the Agreement to October 4, 2011 and to increase the total compensation for the Agreement by \$97,000 for a total not-to-exceed amount of \$970,504.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

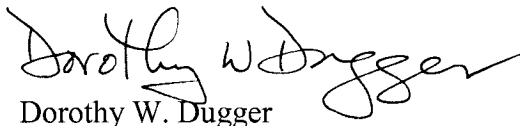
MEMORANDUM

TO: Board of Directors **DATE:** August 20, 2009
FROM: General Manager
SUBJECT: Ratification of 2009-2013 Labor Agreement with SEIU

On August 13, 2009, the Board approved and ratified the recently negotiated labor agreement with SEIU Local 1021, with the exception of an amendment to Section 5.2 which suspends the District's contribution of 1.627% of salary to the Money Purchase Pension Plan for FY 12 and FY 13. The two weeks public notice of this change is now completed and the Board may act to vote on amended Section 5.2 of the 2009-2013 Labor Agreement with SEIU.

Also attached is the Resolution that will be put before the Board at the August 27, 2009 Board meeting.

If you have any questions, please contact Carol Stevens, Chief Negotiator, at 650-387-5813.


Dorothy W. Dugger

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Carol Stevens

2009-2013 District-SEIU Tentative Agreement

Summary of Changes

This document represents a summary of the changes negotiated with the Union. As the specific contract language is not presented, it should not be relied on as providing every detail. It is merely descriptive. In the event there is any inconsistency between this summary and the labor agreement, it is the language and intent of the labor agreement which governs.

Section 1.2 – Term of Agreement

The agreement shall take effect July 1, 2009 and terminate June 30, 2013 (four years).

Section 1.5 – Beneficial Practices: The Beneficial Practices provision was revised and provides that a past practice cannot become a term of the Labor Agreement, unless it has been accepted by management and is unequivocal, clearly enunciated and acted upon.

Section 5.2 – PERS – Medical & Prescription Drug Benefits

Bay Area Blue Shield or Bay Area Kaiser Plan, whichever is greater, is established as Maximum District Contribution towards CalPERS Health Plans for employees and retirees.

Employees who opt-out of District paid medical coverage will receive \$100 per month as “Medical Opt-out in lieu” payment.

The District will suspend the anticipated FY 12 and FY 13 contribution of 1.627% of wages into the Money Purchase Pension Plan.

Section 8.2 – Cost of Living/Wage Adjustment

A Cost of Living Adjustment shall be granted to the wages and salaries of all employees.

Section 9.0 – Sick Leave & Disability

The Retirement Sick Leave Buy-Back program was eliminated. The District, through an amendment of its PERS contract, will convert unused sick leave into PERS Service Credit at the time of retirement. Employees will continue to have the option to “buy-back” sick leave on a yearly basis. Employees also have the one-time option to convert current sick leave, either accrued or banked into PERS credit. If that option is not exercised, all sick leave accrued before October 19, 2009 will be preserved and distributed in accordance with prior provisions.

Section 11 – Health and Safety

Section 11.1 – Safety: The District will insure that dollies are available to assist with moving heavy objects and will provide other assistive devices required to accommodate employees.

Section 11.2 – Health & Safety Committee: Committee name changed to Joint Union/Management Safety and Health Committee. Committee will address issues of employee injuries, ergonomics, and potential accommodations.

NEW Section 11.5 – Physical and Weight Lifting Requirements: This section was added providing that physical requirements for essential duties of positions will be in job descriptions. Employees must be able to perform essential functions of positions at time of bid. District will provide lifting devices or other aides as necessary to prevent injury and reasonably accommodate employees.

Section 12.3 – Safety Shoes: The District will make the payment for safety shoes annually, in the month of September, receipts will no longer be required.

Section 13.1 – 5-8 Work Day & Work Week: Revised to provide for a Transition Staffing Plan with two (2) foreworker positions and fourteen (14) other positions with Saturday and Sunday RDOs and four (4) foreworker and twenty (20) other positions with Monday and Tuesday RDOs.

Section 14.7 – Temporary Instructor: Revised to provide that clerical employees may act as temporary instructors.

Section 14.8 – Compensatory Time Off: Revised to provide that time off in lieu of overtime payment is equivalent to forty (40) hours worked for the equivalent of sixty (60) hours of compensatory time.

Section 16.4 – Holiday Overtime:

Section 16.5 – Holiday Scheduling:

Revised to provide that the District will determine the staffing levels on holidays.

NEW Section 17.8 – Training Equipment and Material: New Section providing the District with option to enhance hands-on training for new mainline equipment.

NEW Section 17.9 – Training Programs: New Section that provides for development of Training Programs for unit members.

Section 24.0 – Bidding / Section 24.1 – Clerical Subunit: Elimination of provision requiring use of Advanced Bid Form for employees who are away from the District during the entire time a position is posted for bid.

Section 24.5 – Advance Bid Procedure: The District shall post positions five days prior to the effective date of implementation.

Section 25.3 – Recall: Notice of recall (reinstatement) shall be sent by certified mail and email to employees if they have provided correct email and mailing addresses.

Section 27.3 Part-Time Employment and Temporary Employment

Part-time employees promoted to full-time in the same classification will be credited with up to sixty (60) days towards completion of the probationary period required for full-time positions.

Section 28.2 – Functional Classification: Revised class description for Vehicle Inspector, Transit Vehicle Mechanic, Transit Vehicle Electronic Technician, and Utility Worker. New classification of Quality Team Leader created.

New job description for Electrical Helper created.

Revised Structures Worker and Buildings Worker classifications with overlapping and interchangeable duties.

Eliminated Patio Worker sub-category of Grounds Worker. Broadened job duties of System Service Worker classification to perform work inside and outside.

Section 28.4 – Base Wage Schedule: Employees will receive the following lump sum payments that will not be added to the wage schedule:

FY 10 \$0

FY 11 \$500

FY 12 \$1000

FY 13 \$1500

Also provides for the potential of a 1% wage increase at the conclusion of the contract if certain criteria are met.

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

In the matter of Ratifying the 2009 - 2013

Collective Bargaining Agreement between the

District and SEIU, Local 1021 / Resolution No. _____

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District (the "Board") recently passed Resolution No. 5095, ratifying certain provisions of the Collective Bargaining Agreement between the District and the Service Employees' International Union, Local 1021; and

WHEREAS, the Board desires now to ratify the complete Collective Bargaining Agreement between the District and the Service Employees' International Union, Local 1021;

BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby ratifies the 2009 - 2013 Collective Bargaining Agreement between the District and the Service Employees' International Union, Local 1021, as generally described in the attached Summary of Changes; and

BE IT FURTHER RESOLVED that this Resolution shall supercede Resolution No. 5095; and

BE IT FURTHER RESOLVED that the General Manager is authorized to execute the Agreements on behalf of the District.

###

Adopted _____

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

DATE: August 21, 2009

TO: Board of Directors

FROM: General Manager

SUBJECT: Ratification of 2009-2013 Labor Agreement with AFSCME

The Board is scheduled to vote on whether to approve the recently negotiated labor agreement with AFSCME Local 3993 at the August 27, 2009 Board Meeting.

The District's Negotiator has prepared the attached overview of changes to highlight the revisions to the agreement resulting from the tentative agreement reached on July 31, 2009. Also attached is the Resolution that will be put before the Board at the Meeting.

If you have any questions, please contact, Carol Stevens, Chief Negotiator, at 650-387-5813.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Carol Stevens

Attachment

2009-2013 District-AFSCME Tentative Agreement

Summary of Changes from 2005-2009

This document represents a summary of the changes negotiated with the Union. As the specific contract language is not presented, it should not be relied on as providing every detail. It is merely descriptive. In the event there is any inconsistency between this summary and the labor agreement, it is the language and intent of the labor agreement which governs.

Section 1 – Duration of Agreement: The agreement will take effect July 1, 2009 and terminate June 30, 2013, (four years).

Section 3.2A – Classification: The following classifications have been added, (based on prior assignment to AFSCME);

District Right-of-Way Supervisor
Facilities/utilities Location Coordinator
Logistics Program Administrator
Maintenance Support Administrator
Manager of Access Programs
Manager of Credit/Debit Fare Programs
Senior Right-of-Way Officer
Supervisor, Business Systems Operations
Technical Maintenance Support Administrator

Section 3.2F – Contracting out work normally performed by an AFSCME classification: AFSCME does not have exclusive jurisdiction over work performed by its classifications. However, the Union President will be given advance notice, via the usual Contract Notification form, when work normally performed by an AFSCME classification is being considered for contracting. The President will have seven (7) days to give input to the responsible Department Head. Thereafter, the Department Head's decision is final.

Section 3.2.1A – Evaluation, Assessment and Revision of Job Descriptions and Classifications: The parties will meet in an effort to reach mutual agreement regarding the status of the 2007 Segel Classification Study. The meetings must be completed by December 31, 2009.

Section 8 – Union Representatives: The Union President will have two (2) designated full-release days per week. The Union President shall receive grave shift differential. The Union's negotiating team shall consist of no more than twelve (12) members.

Section 18 – Parenting Leave: Date correction.

Section 24 – Pass Privileges: An employee must notify the District when his/her marriage is dissolved so that the spouse's pass privileges can be terminated.

Section 33 – PERS Medical and Prescription Drug Benefits: Bay Area Blue Shield or Bay Area Kaiser Plan, whichever is greater, is established as Maximum District Contribution towards CalPERS Health Plans for employees and retirees.

Employees who opt-out of District paid medical coverage will receive \$100 per month as "Medical Opt-out in lieu" payment.

The District will suspend the anticipated FY 13 contribution of 1.627% of wages into the Money Purchase Pension Plan.

Section 35 – Sick Leave: The Retirement Sick Leave Buy-Back program was eliminated. The District, through an amendment of its PERS contract, will convert unused sick leave into PERS Service Credit at the time of retirement. Employees will continue to have the option to "buy-back" sick leave on a yearly basis. Employees also have the one-time option to convert current sick leave, either accrued or banked into PERS credit. If that option is not exercised, all sick leave accrued before October 19, 2009 will be preserved and distributed in accordance with prior provisions.

Section 43 – Safety Shoes: The District will pay each employee required to wear safety shoes \$125 per year, payment made in September.

Section 44 – Lost Articles: If possible, employees must turn in lost articles on the day they are found.

Section 47 – Compensation: Employees will receive the following lump sum payments that will not be added to the wage schedule:

FY 10 \$0

FY 11 \$500

FY 12 \$1000

FY 13 \$1500

Also provides for the potential of a 1% wage increase at the conclusion of the contract if certain criteria are met.

Section 48 – Holidays / Section 49 - Vacations: Each employee will donate two (2) vacation days, or floating holidays in FY 11; each employee will donate three (3) vacation days or floating holidays, in FY 12.

NEW Section 56.1: AFSCME represented employees will have access to the Elapsed Time page to enter their time. They will not be permitted to make base line schedule changes.

Section 58 – Beneficial Practices: The General Manager and Union President will meet within sixty (60) days after receipt of a beneficial practice claim at the GM level.

Section 59 – Grievance Procedure: Formal grievances may be processed only by an AFSCME designee and must be submitted to the District's Labor Relations Office. The parties will establish a permanent arbitration panel. Arbitration appeals will be scheduled and heard within specified time limits. The "immediate arbitration" process has been eliminated.

NEW Section 61 – Workdays and Workweek: The District will conduct a pilot Alternative Work Program, permitting an employee to telecommute part or all of their workweek. Participation by an employee is voluntary, and must be approved by both the Department and Executive Manager. The program will be overseen and evaluated by the District's Manager of Human resources.

Section 66 – Job Postings: Job vacancies may be posted on the internet in lieu of a paper posting, at the District's option.

Section 72 – Special Provisions Applicable to Operations Control Center - Rest Periods: Clarifies but does not change compensation for Train Controllers working alone with no more than *de minimus* assistance.

Section 74 – Special Provisions Applicable to Operations Control Center - Extra Board: Establishes a forty (40) hour "bank" each quarter to compensate extra board Train Controllers for working sixth and seventh days.

Section 77 – Special Provisions Applicable to Operations Control Center - Vacation Allocation: Operations Control Center employees may only bid for vacations based on accrued vacation leave on the book at the time of the bid.

Section 78 – Special Provisions Applicable to Operations Control Center - Overtime Allocation: Establishes a specific "pecking order" for involuntary overtime assignments in the Operations Control Center.

Section 80 – Special Provisions Applicable to Operations Control Center - Performance Incentives: Already established Operations Control Center incentives will be paid based on weekday, Monday - Friday, performance.

Section 82 – Special Provisions Applicable to Power and Way Controllers (P&W) - Scheduling: Changes "Division Manager, Maintenance Support," to "OCC Scheduling Manager."

Section 83 – Special Provisions Applicable to Power and Way Controller Supervisor (P&W) - scheduling: Changes "Division Manager, Maintenance Support" to "OCC Scheduling Manager."

Section 84 – Special Provisions Applicable to Line/Yard Senior Operations/Line Operations Supervisors - Clothing Maintenance Allowance: Section has been deleted.

Section 85 – Special Provisions Applicable to Line/Yard Senior Operations/Operations Supervisors - Uniforms: The Chief Transportation Officer will have the exclusive right to fund the uniform program each year, based on the recommendation of the Uniform Committee. The uniform maintenance allowance shall be \$25 per month.

Section 86 – Special Provisions Applicable to Line/Yard Senior Operations Supervisors and Operations Supervisors - Scheduling: Supervisors shall bid once each year, system-wide. If the District decides that it is necessary to realign the bid, the Union will assist in developing and scheduling the realignment.

Section 89 – Special Provisions Applicable to Yard and Line Senior Operations/Operations Supervisors - Vacation Allocation: The vacation period shall be year-round.

Section 91 – Probationary Period: For employees in classifications requiring certification, the probationary period shall cover the entire certification period.

Side Letter #AFSCME/SL-1 – Train Controllers On-the-Job Instructor Program (OJI): Temporary OJI's will be paid 1.5 hours of overtime for each day or portion of a day they perform the temporary assignment.

NEW Side Letter – Retiree Medical Eligibility and Cost Savings: All interested bargaining units and the District will jointly seek legislation to amend relevant Government Code Sections and permit BART to adopt a 15-year eligibility schedule for retiree medical. If the all parties agree to the 15-year eligibility schedule and the schedule saves the District money, the parties agree to discuss allocation of savings, including allocation to wage increases.

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

In the matter of Ratifying the 2009 - 2013

Collective Bargaining Agreement between the

District and AFSCME, Local 3993 /

Resolution No. _____

BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby ratifies the 2009 - 2013 Collective Bargaining Agreement between the District and AFSCME, Local 3993, as generally described in the attached Summary of Changes; and

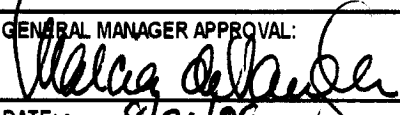
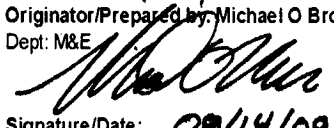
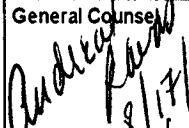

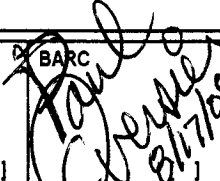
BE IT FURTHER RESOLVED that the General Manager is authorized to execute the Agreement on behalf of the District.

###

Adopted _____



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board	
DATE: c 8/20/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Michael O Brown Dept: M&E  Signature/Date: 08/14/09	General Counsel  8/17/09	Controller/Treasurer  8/17/09	District Secretary  8/17/09

TITLE:

AWARD OF CONTRACT NO. 15CQ-201 - PROCUREMENT OF DIRECT FIXATION FASTENERS

NARRATIVE:

PURPOSE:

To request Board authorization for the General Manager to award Contract No. 15CQ-201 for the Procurement of Direct Fixation Fasteners to L. B. Foster Company of Pittsburgh, Pennsylvania.

DISCUSSION:

Direct Fixation Fasteners are a composite steel and rubber component that holds the rail to the concrete subway and aerial track structures. The District has approximately 345,000 of these fasteners that are nearing 40 years of age.

This is an indefinite quantity procurement contract with an initial term of five years, with a maximum potential value of \$15,245,857.70, not including applicable taxes. The Contract includes an option for the District to extend the Contract for an additional five years. Staff will return to the Board to seek authority prior to exercising this option. This Contract provides the District flexibility to order materials and spare parts on an as needed basis to supply its capially funded fastener replacement program. There is no obligation for the District to order any additional materials beyond the initial order, currently planned for approximately \$1.7 Million, including applicable taxes. This Contract is not exclusive and in no way limits future construction contracts to use these materials. The Contract includes prices for spare parts so that future District needs can be met.

A multi-year contract minimizes the number of different parts the District is required to stock for maintenance replacements. Different suppliers provide varying proprietary designs. This multiplies the number of fasteners and spare parts that the District would need to keep on hand. A multi-year Contract provides identical fasteners supplied by the same manufacturer at a competitive price. In addition, if BART had multiple suppliers, each different supplier would have to go through the District's rigorous product manufacturing testing, quality control and approval process. This would further increase the cost of the material, District costs for testing, engineering review, and the costs associated with the multiple procurement processing effort.

The Contract includes provisions for price adjustments for commodities, labor and shipping. Additional provisions have been included to limit future District's orders to prevent overriding the Supplier's production capabilities to prevent possible contractual disputes. These provisions were included to reduce unnecessary Supplier risk and were based upon various Supplier comments during industry review.

Advance Notice to bidders was mailed to 19 prospective bidders and the Contract was advertised on February 3, 2009. A pre-bid meeting was held on March 31, 2009 with four prospective bidders in attendance. Bids were received on April 28, 2009 and the following price bids were opened and publicly announced on May 12, 2009:

Bidder	Total Bid
L. B. Foster Co., Pittsburgh, PA	\$15,245,857.70
Advance Track Products, LLC., Mattituck, NY	\$16,180,409.00
Engineer's Estimate	\$26,000,000.00

Bids were evaluated and staff determined that the Bid Price of \$15,245,857.70, submitted by L. B. Foster Co, is fair and reasonable based upon adequate price competition. Staff also determined that the Bid, submitted by L. B. Foster Co., is responsive to the Bid submittal requirements. A review of the business experience and financial capabilities resulted in a determination that L. B. Foster Co., is a responsible entity.

FISCAL IMPACT:

Funds amounting to \$1,700,000 are currently available to fund this Contract of \$15,245,857.70; there are no funds available for the balance of \$13,545,857.70. Any additional orders of direct fixation fasteners over and above the currently available funds of \$1,700,000 will require authorization from the General Manager and certification from the Controller/Treasurer that funds are available before the procurement order can be placed with L. B. Foster Company of Pittsburgh, PA.

The currently available funding of \$1,700,000 for Contract No. 15CQ-201 is included in the total project budget for the FMS#15CQ – Rail, Tie and Fastener Replacement.

FTA-CA-05-0216 FY07 Capital Improvement 47Z \$1,700,000

As of month ending 05/24/09, \$8,935,450 is available for commitment from this fund source for this project and BART to date has committed \$6,642,157. There is \$0.00 pending commitment in BART's financial management system. This action will commit \$1,700,000 leaving an uncommitted balance of \$593,293 in this fund.

There is no fiscal impact on available un-programmed District Reserves.

ALTERNATIVE:

Four possible alternatives have been identified:

1. Cancel this Bid and re-bid another multi-year contract. With this alternative, it is expected by staff to take an additional 6 months to 1 year to award another contract. This alternative would delay deliveries of fasteners which would be expected to occur within 9 months of Award of Contract No. 15CQ-201.
2. Cancel this Bid and re-bid another contract as a one-time order. With this alternative, it is expected by staff to take an additional 6 months to 1 year to award another contract. This alternative would delay deliveries of fasteners which would be expected to occur within 9 months of Award of Contract No. 15CQ-201. This alternative would risk having to mix different products in the track, which is not preferred by staff

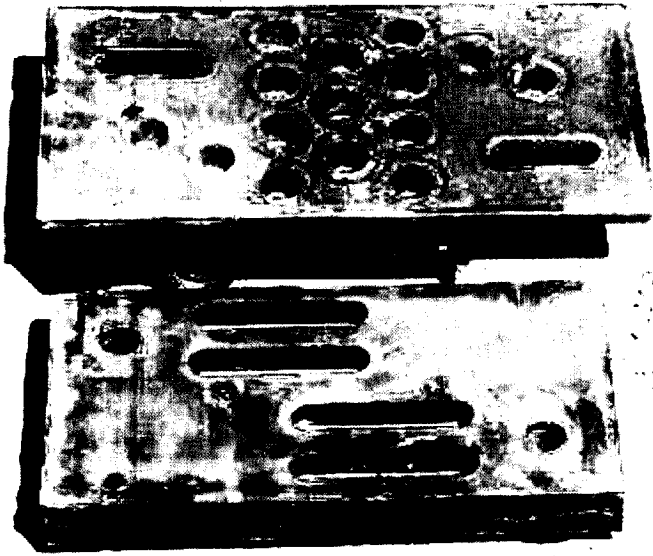
3. Only authorize the General Manager to execute the planned initial order of approximately \$1.7M. This Contract, if awarded, provides no guarantees of orders beyond the initial order. The alternative would allow the Contract to be awarded, but limit the spending as if it were a typical one-time Contract. This alternative would reduce the time associated with re-bidding, but would create the risk of having to mix different products in the track which is not preferred by staff because of spare parts supply and performance.
4. Cancel this Bid and do not re-bid another contract. This alternative would interrupt the supply of fasteners needed by District forces to maintain the tracks to expected standards.

RECOMMENDATIONS:

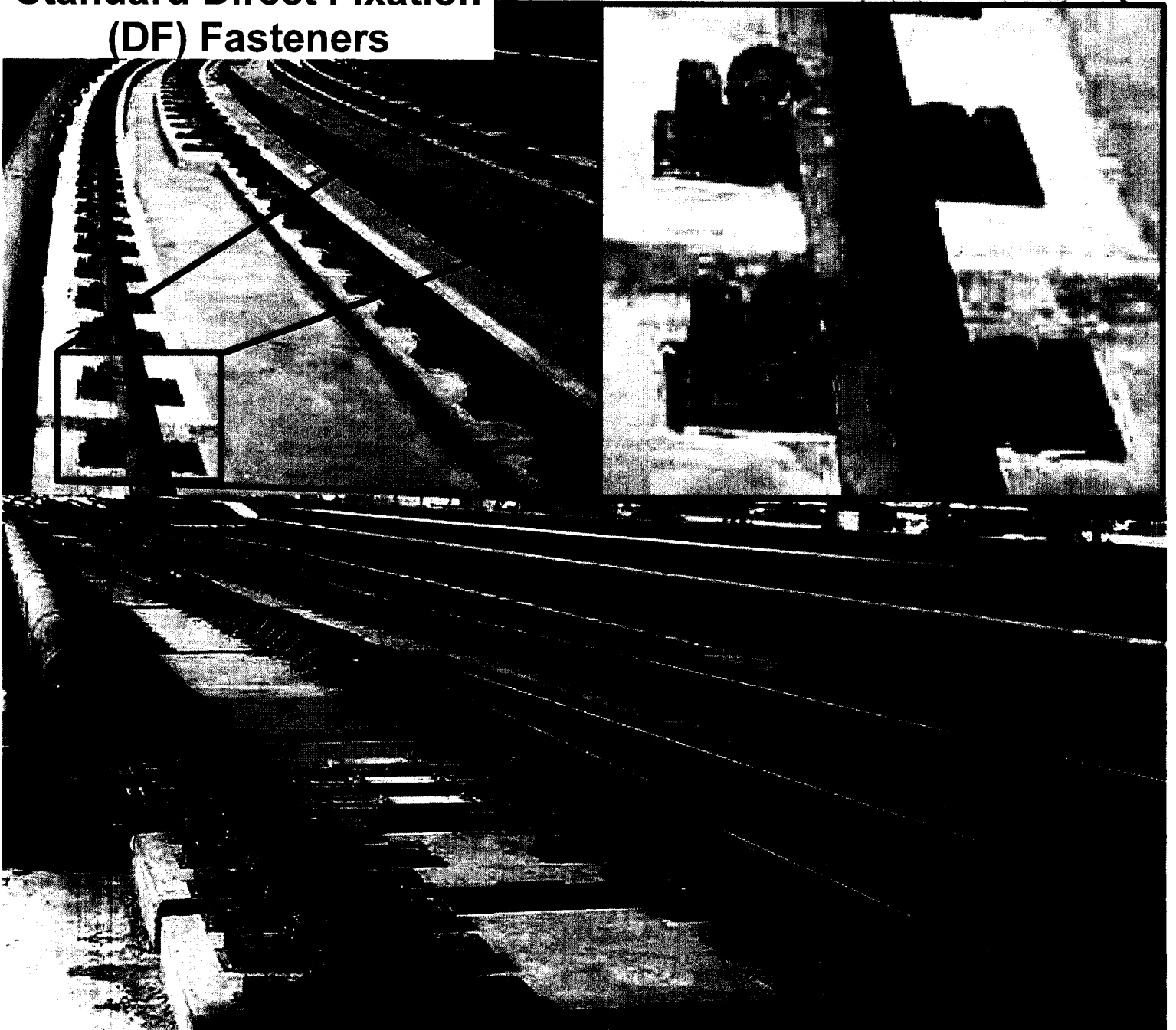
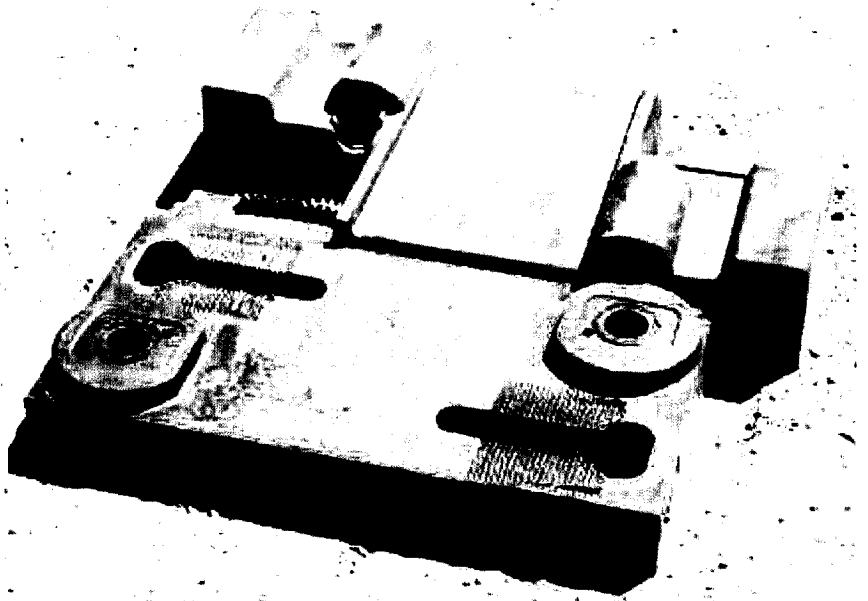
On the basis of analysis by staff, it is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 15CQ-201 for the Procurement of Direct Fixation Fasteners to L. B. Foster Company of Pittsburgh, Pennsylvania for the initial five year term, in the amount not-to-exceed \$15,245,857.70 to which applicable sales tax will be applied, subject to General Manager approval and certification of funding availability by the Office of the Controller/Treasurer and subject to the District's protest procedures and FTA's requirements related to protest procedures.



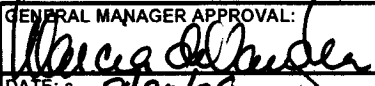
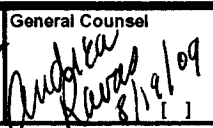
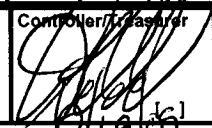
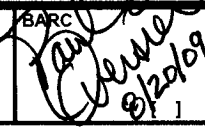
**Standard Direct Fixation
(DF) Fasteners**



Special Trackwork Direct Fixation (SPDF) Fasteners



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/20/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michael O Brown Dept: M&E	General Counsel  8/19/09	Controller/Treasurer  8/19/09	District Secretary []	BARC  8/20/09
Signature/Date: 08/18/09				
TITLE:				

AWARD OF CONTRACT NO. 15TD-204 - PROCUREMENT OF POWERED FLAT CARS

NARRATIVE:

PURPOSE:

To request Board authorization for the General Manager to award Contract No. 15TD-204 for the Procurement of Powered Flat Cars to Brandt Engineered Products Ltd., Regina, Saskatchewan, Canada.

DISCUSSION:

Powered Flat Cars are a locomotive with a flat deck. They have advantages over using a locomotive towing flat cars since they cost less and require less staff to operate. These Powered Flat Cars are required to support various capitol projects, including rail replacement, direct fixation fastener replacement, tie replacement, bridge inspection and 34.5 Kv cable replacement. Three Powered Flat Cars are being jointly procured by these various projects minimizing the need for training, spare parts and allowing universal compatibility for attachments.

Staff chose to advertise this Contract with six (6) alternate bids for two reasons. First, a wide range of estimated costs were received during industry review. Staff was concerned that if insufficient funding were available, the Contract would have to be re-bid. While all of the alternate items included are important and useful, the main need is for the base unit. If necessary, the alternate items could be added in the future when more funding became available. Re-bidding would take more time that would interfere with the schedule of the various projects. Second, during industry review, some of the potential bidders indicated that they could not provide certain features. This Contract allowed Bidders to bid on one, any or all alternates. The use of alternates increased potential competition since potential Suppliers were not excluded by mandating bid items that a particular Supplier could not provide that the District may not have been able to afford.

Advance Notice to bidders was mailed to 8 prospective bidders and the Contract was advertised on May 8, 2009. A pre-bid meeting was held on June 1, 2009, with 5 prospective bidders in attendance. Price bids were opened and publicly announced on June 30, 2009. The Bids received and the Engineer's Estimate are shown in the Attachment "15TD-204 Bids & Description."

Brandt Engineered Products, Ltd, submitted the low bid on all of the Alternatives. Alternate Bid A included all of the features the District sought for the Powered Flat Cars. If each bid for Alternate Bid A exceeded the available funds, Staff would look to Alternate Bid B. Alternate Bids B removed the low emissions work system. If each bid for Alternate Bid B exceeded the

available funds, Staff would look at Alternate Bid C. Alternative Bid C removed the low emissions work system and cable reel stands. Alternate Bids D through F removed additional features. Available funding, announced prior to bid opening, was \$6,472,567.66.

The low bid submitted by Brandt Engineered Products Ltd, Regina, Saskatchewan, Canada for Alternate Bid A is \$4,732,743.63 is approximately 27% below the Engineer's Estimate. Alternate Bid A was selected based on the available funding.

Bids were evaluated and staff determined that the Bid Price of \$4,732,743.63 for Alternate Bid A submitted by Brandt Engineered Products Ltd., is fair and reasonable based upon adequate price competition. Staff also determined that the Bid, submitted by Brandt Engineered Products Ltd., is responsive to the Bid submittal requirements. A review of the business experience and financial capabilities resulted in a determination that Brandt Engineered Products Ltd., is a responsible entity.

Brandt Engineered Products, a Canadian company, executed the Certificate of Non-Compliance with the Buy America requirement. The Federal Transit Administration granted a waiver to the Buy America requirement because the next low bid for Alternate A was more than 25% higher than the bid of Brandt Engineered Products Ltd.

FISCAL IMPACT:

Funding for this \$5,180,593 (\$4,732,744 bid plus \$447,849 estimated tax) for award of Contract 15TD-204 is included in the project budget for the following projects:

15TD – Wayside Equipment	\$2,562,041
15TG – Inspection Platform I-680	\$ 903,643
15EJ – Traction Power (Cables)	<u>\$1,714,909</u>
Total	\$5,180,593

The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The total cost of \$5,180,593 will be funded by Federal sources.

As of the month ending June 30, 2009, the following funding is available for commitment from these sources:

Project	Fund Grant	Funds Available	Committed	Pending Commitments	Funds Allocated to this EDD	Funds Remaining
15TD	47X-Federal	\$3,534,722	\$1,553,444	\$686,220	\$1,062,041	\$233,017
15TD	47Z-Federal	\$5,219,603	\$469,522	\$0	\$1,500,000	\$3,250,081
15TG	54G-Federal	\$800,000	\$0	\$0	\$800,000	\$0
15TG	52Z-Federal	\$200,000	\$96,357	\$0	\$103,643	\$0
15EJ	47W-Federal	\$2,851,991	\$1,347,270	\$0	\$1,500,000	\$4,721
15EJ	52Z-Federal	\$4,703,654	\$3,250,000	\$106,588	\$214,909	\$1,132,157
Total		\$17,309,970	\$6,716,593	\$792,808	\$5,180,593	\$4,619,976

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE:

Three possible alternatives have been identified:

1. Cancel this Bid and re-bid another contract. A re-bid is estimated to take an additional 3 to 6 months to award another contract. On-going maintenance work would be impacted, since equipment needed for maintenance would be required to support the various capitol projects. Staff would not expect a better price by re-bidding this Contract.
2. Cancel this Bid and re-bid another contract with a lesser number of Powered Flat Cars. A re-bid is estimated to take an additional 3 to 6 months to award another contract. On-going maintenance work would be impacted, since equipment needed for maintenance would be required to support the various capitol projects. Staff expects higher unit pricing if a smaller quantity of Powered Flat Cars were ordered.
3. Cancel this Bid and do not re-bid another contract. With this alternative the various Capitol Projects that require these Powered Flat Cars would be less productive. On-going maintenance work would be impacted, since equipment needed for maintenance would be required to support the various capitol projects.

RECOMMENDATIONS:

On the basis of analysis by Staff, it is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Alternate Bid A to Contract No. 15TD-204 for the Procurement of Powered Flat Cars to Brandt Engineered Products Ltd., Regina, Saskatchewan, Canada for the bid amount of \$4,732,743.63 to which applicable sales tax will be applied, and subject to the District's protest procedures and FTA's requirements related to protests.

Contract 15TD-204 – Procurement of Powered Flat Cars

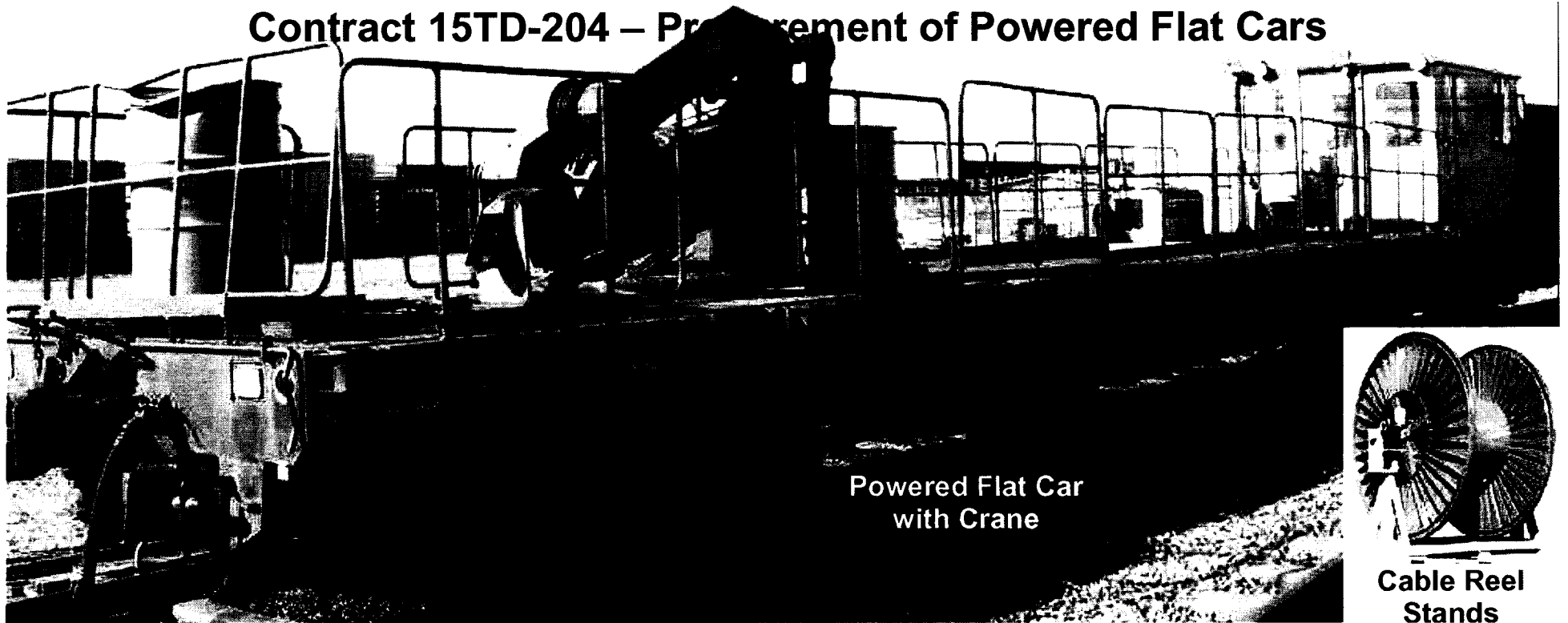
Bid Form Summary

No.	Bidder	Total Price Bid					
		Alternate Bid A	Alternate Bid B	Alternate Bid C	Alternate Bid D	Alternate Bid E	Alternate Bid F
1	Brandt Engineered Products Ltd., Regina, Saskatchewan, Canada	\$4,732,743.63	\$4,483,660.74	\$4,375,645.74	\$4,204,289.49	\$4,169,946.99	\$3,720,413.79
2	Plasser American Corporation, Chesapeake, Virginia, USA	No Bid	\$4,537,692.00	\$4,502,367.00	\$4,372,150.00	\$4,313,101.00	\$4,038,856.00
3	Loram Maintenance of Way, Inc., Hamel, Minnesota, USA	\$8,143,304.00	\$7,749,725.00	\$7,732,124.00	\$7,657,191.00	\$7,547,592.00	\$7,182,717.00
4	Modern Track Machinery Inc., Elgin, IL 60123, USA	\$8,363,088.00	\$7,488,747.00	\$7,108,047.00	\$6,939,059.00	\$6,864,824.00	\$6,525,226.00
Engineer's Estimate:		\$6,472,567.66	\$6,397,000.00	\$6,383,000.00	\$6,283,000.00	\$6,170,000.00	\$5,185,000.00

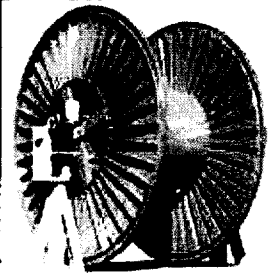
Alternate Bid Summary

Alternate Bid	Base Unit	Alternate Features Included				
		1 Each Underbridge Inspection Platform	3 Each Diesel Powered Generators	1 Each Elevated Work Platform	3 Each Cable Reel Stands	3 Each Low Emissions Work Systems
A						
B						No
C					No	No
D				No	No	No
E			No	No	No	No
F			No	No	No	No

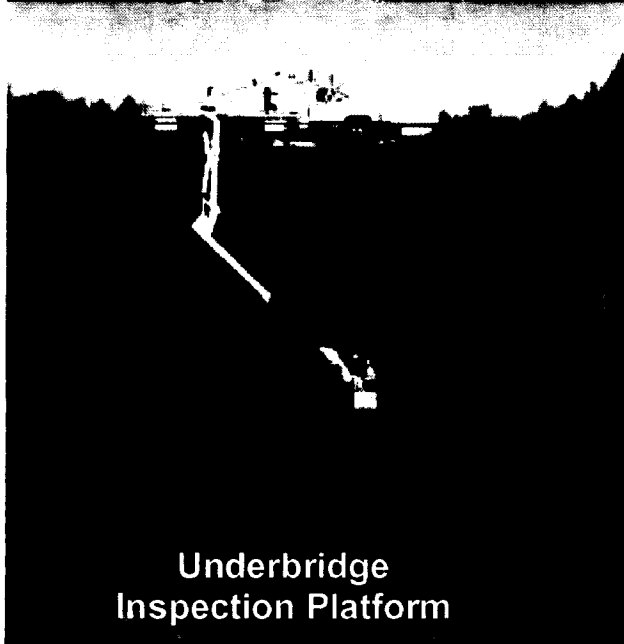
Contract 15TD-204 – Procurement of Powered Flat Cars



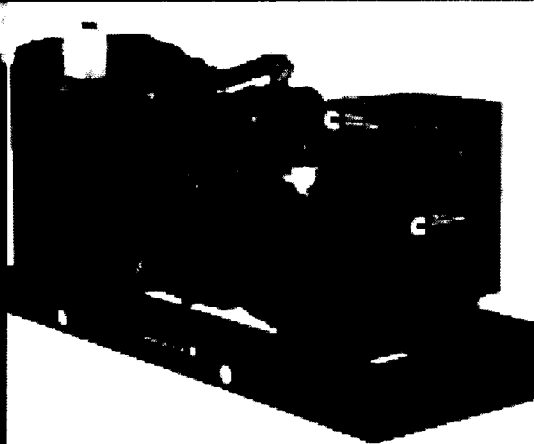
Powered Flat Car
with Crane



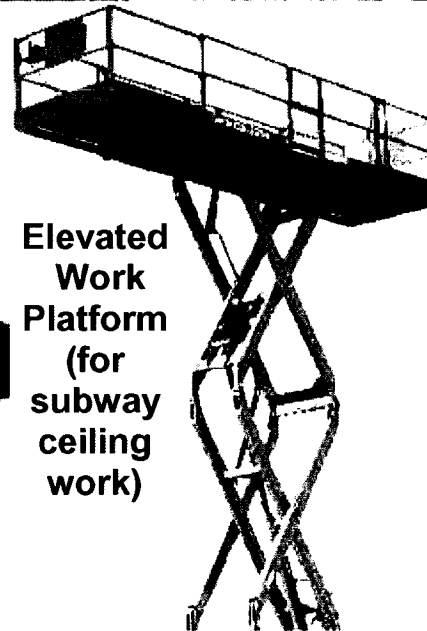
Cable Reel
Stands



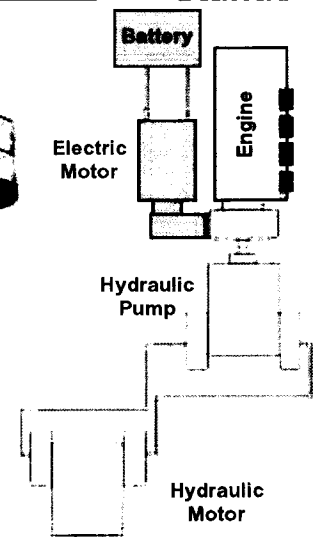
Underbridge
Inspection Platform



Generator Set
(for welding and operating
other equipment)



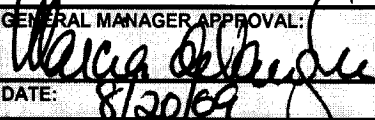



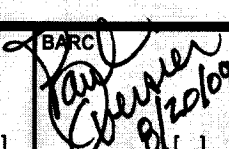
Elevated
Work
Platform
(for
subway
ceiling
work)



Low Emissions
Work System



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:	
DATE: 8/20/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Jaime Cabrales Dept: Rolling Stock and Shops  Signature/Date: 8/19/09	General Counsel  8/19/09	Controller/Treasurer  8/19/09	District Secretary  BARC 8/20/09

Status: Routed	Date Created: 08/04/2009
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TITLE:

Award of Contract No. 6M3132 - Procurement of AC and DC Traction Motor Repair Services

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 6M3132 for the procurement of AC and DC Traction Motor Repair Services.

DISCUSSION:

Contract No. 6M3132 is a two-step procurement contract for the procurement of all labor, material, equipment and services to repair Bombardier Type 1507C AC and Bombardier 1463B DC transit vehicle traction motors. The time of completion and delivery is for a three (3) year base contract plus options to extend for up to three (3) one-year periods. This is the first combined AC/DC traction motor repair contract for the District. The AC traction motor is used on the A2/B2 transit vehicle fleet and the DC traction motor is used on the C Car fleet. There is one traction motor per axle or four per car. These traction motors perform necessary propulsion and braking functions. There are a total of 1,756 AC motors installed with 80 spare motors, and 920 DC motors installed with 110 spares. Each motor is rated at 150 horse power.

Traction motors must be repaired and/or overhauled when they fail or no longer perform within specifications. This Contract covers all specialized repairs that cannot be performed by District personnel due to facility and equipment restrictions.

The Contract provides for fixed unit pricing for labor and materials for the three (3) year base contract period. The Contract provides for price adjustments for escalation in labor and material costs based on various published indices in the option years. These price adjustment provisions were included in the contract in response to concerns expressed by potential bidders that fixed pricing beyond three years would require that they assume too much risk of changing circumstances in the economy.

This is an estimated quantities contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract the District is required to purchase from the supplier a minimum amount of fifty (50) percent of the contract bid price. Upon Board approval

of this Contract, the General Manager will also have the authority to purchase up to one hundred fifty (150) percent of the contract bid price, subject to the availability of funding.

The Contract was advertised on April 10, 2009. An Advance Notice to Bidders was sent to fifteen (15) prospective bidders based on a listing from the Sponsor and email requests from companies interested in this effort on April 10, 2009. A Pre-Bid Meeting was held on April 21, 2009 and was attended by Two (2) potential bidders. Six (6) firms purchased plans. Two addendums were issued.

One (1) bid was received on May 26, 2009 from Swiger Coil Systems LLC (Swiger). On May 28, 2009, a BART Technical Evaluation Committee reviewed the technical response from the bidder and determined that Swiger submitted a responsive technical proposal. The Price Bid was opened on June 2, 2009. When contacted, the other 5 plan holders who did not bid provided the following reasons for not bidding: the need to obtain OEM approval, lack of adequate tooling, and schedule constraints.

<u>Name of Firm</u>	<u>Bid Amount (Base + Option Years*)</u>	<u>With applicable Sales Tax</u>
Swiger Coil System LLC. Cleveland OH	\$15,743,300.00*	\$16,588,393.44*
Engineers Estimate	\$16,124,775.00	\$17,026,136.00

*Note: The total bid is based on the fixed unit prices that will apply for the base three-year period. As noted above, the contract provides for adjustments in unit pricing for escalation during the option years.

The Engineers Estimate was based on prices on the previous separate contract for repair of AC and DC traction motors. Staff has determined that the bid submitted by Swiger Coil Systems LLC is responsive and that the bid price is fair and reasonable.

FISCAL IMPACT:

Funding for contract 6M3132 will be provided from the Rolling Stock & Shops (RS&S) operating budgets for Maintenance Contracts, account 680-300.

The motor repair services under this contract are contemplated to be performed over the six-year period as covered by the contract, which will require funding of \$2,764,732.24 per year from fiscal years 2010 through 2015. The required funding for the current fiscal year is included in RS&S operating budget for FY 2010. The annual funding requirements from fiscal years 2011 through 2015 will be included in RS&S operating budgets for such years.

In the event an accelerated replacement program, which becomes necessary under a scenario of "worst case" failure rate for motors in service, the repairs under this contract will be performed within the first three years of the contract. The funding requirements under the "worst case"

scenario are as follows: FY 2010 - \$5,529,464.48; FY 2011 - \$5,529,464.48; and FY2012 - \$5,529,464.48. Since the “worst case” scenario will require accelerated funding, this option will only be exercised upon certification by the Controller-Treasurer that funds are available.

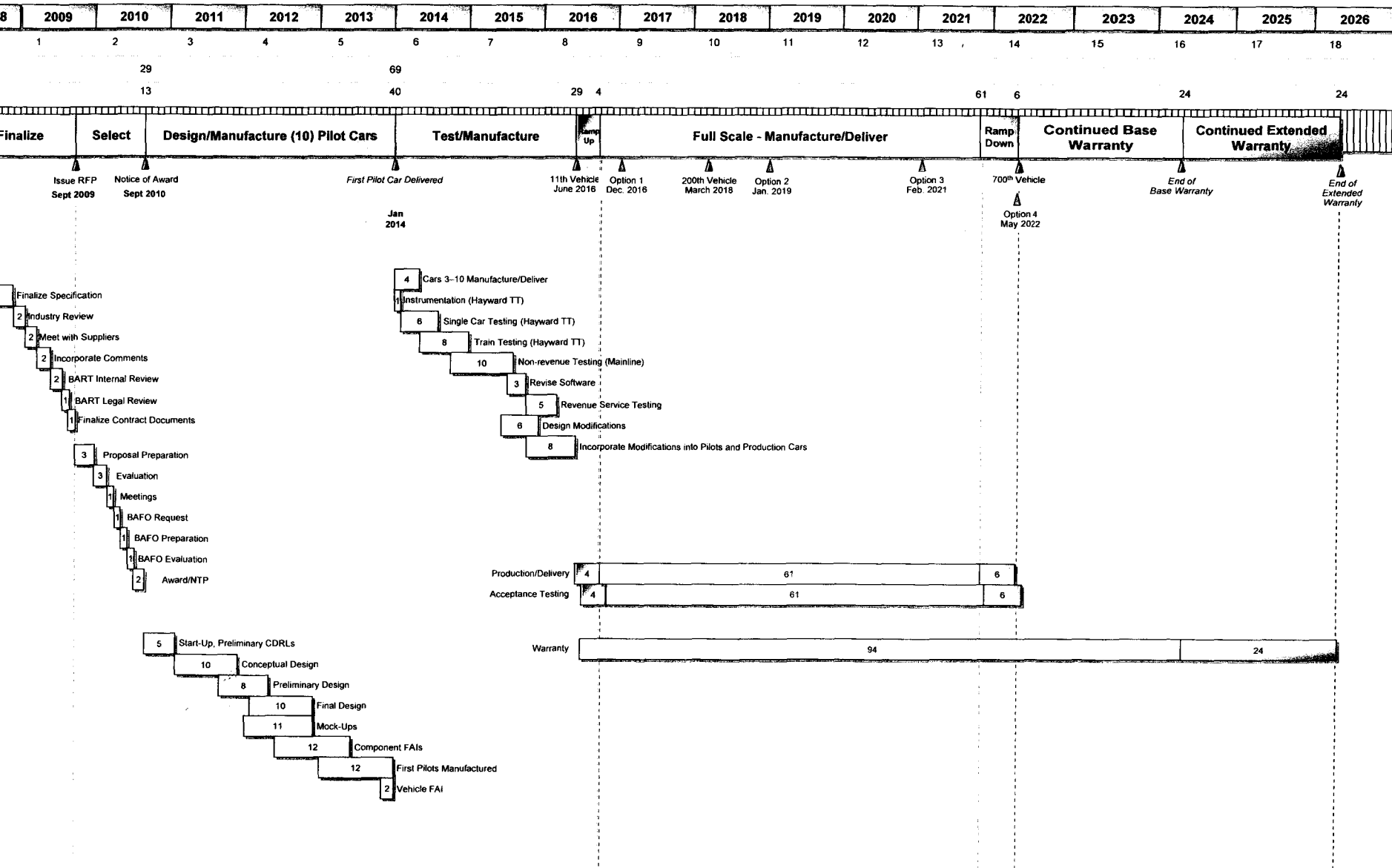
RECOMMENDATION;

Adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 6M3132, an estimated quantities contract, for the Procurement of AC and DC Traction Motor Repair Services to Swiger Coil Systems LLC, for the three (3) year base contract period and up to three (3) optional one-year extensions for the bid amount of \$15,743,300.00, plus applicable taxes, pursuant to notification to be issued by the General Manager.

BART 700 Vehicle Procurement Schedule with Option Release Dates up to 1000 Vehicles



8/20/09

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** August 20, 2009

FROM: General Manager

SUBJECT: Teen Extreme Program Internet Ticket Sales Update - For Information

Background:

In May 2008, the Board of Directors authorized the General Manager to create an internet ticket sales service as an adjunct to the Student Discount Ticket Program. (See Attachment A) Participating schools could elect to include the internet ticket sales option as another way for students to purchase the orange tickets. Staff was directed to provide the Board with a report after one year of internet ticket sales. Following is a synopsis of the program results.

School Participation:

All schools in the four county BART service area are eligible to participate in the program. Our sales records indicate that 70% of tickets were sold by schools within 1 mile from a BART station. Therefore, outreach efforts were concentrated on schools in close proximity to the BART stations and included both public and private schools throughout our service area.

The number of schools enrolled in the Student Discount Ticket Program reached a high of 160 in 2006. Since 2006, there has been an ebb and flow of schools in and out of the program. Between 2008 and 2009, 29 schools joined the program while 47 schools either opted out or closed down. Currently, the program includes 142 participating schools of which 54 have elected to offer internet ticket sales to its students. Attached is a list of the schools enrolled in the program. (See Attachment B)

Number of Students:

The 54 schools participating in the on-line service registered 330 student accounts. Less than 50% of those with on-line accounts actually placed orders during the school year.

Tickets Sold:

The internet sales option includes a 4 ticket per month limit per student. The average student ordered 15 tickets during the school year, well below the 4 ticket per month limit. As shown in the following table, ticket sales for the 2008 school year were 2401 tickets via the internet and 21,823 tickets from on-site ticket sales. Ticket sales rose 6% from

2007 to 2008. The addition of the internet sales service did not significantly increase orange ticket sales, accounting for less than 10% of annual sales.

School Year Sales

<u>School Year</u>	<u># Tickets Sold</u>	<u>% Change</u>
2000	4,610	
2001	8,192	78%
2002	10,340	26%
2003	13,581	31%
2004	15,637	15%
2005	19,637	26%
2006	23,737	21%
2007	22,937	-3%
2008	24,224	6%

Sales by Type 2008:

		<u># of Tickets</u>	<u>Revenue</u>
Schools Participating	142	24,224	\$387,584
On-site Sales Only	88	21,823	\$349,168
On-line Sales Only	14	2,401	\$ 38,416
Both	40		


County Information:

	<u>Schools Enrolled In Program</u>	<u>Students Enrolled in On-Line Program</u>
Alameda	61	173
Contra Costa	34	80
San Francisco	42	38
San Mateo	5	28
Other		12

Summary:

Staff anticipated that more schools would participate if the administrative burden of the program was reduced by introducing internet sales. However, it may be too soon to tell based on the first year experience. Of the 29 new schools that joined the program in 2008-09, 16 schools elected to make internet sales available to their students. While the internet sales service may be attractive as a feature, it does not necessarily drive the decision by schools to participate or not.

Marketing the program continues to be a challenge. Last year, we did not have the resources or space available to advertise the program within the system. We are requesting car card space for the outreach effort this year and have received a favorable response to a previous car card promotion.


Dorothy W. Dugger

Attachments

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Manager, Customer Services

ATTACHMENT A

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: May 16, 2008

FROM: General Manager

SUBJECT: Internet Subscription Pilot Program for Student Discount Tickets

Purpose: To increase participation by schools and students in the Teen Extreme Program by allowing students to buy student discount tickets via the internet. To encourage more schools to enroll in the program by easing the administrative burden placed on already overburdened school personnel. Selling the tickets over the internet directly to students, will reduce or eliminate in-school transactions, thus reducing the time required by school personnel to administer the program. On-site sales will remain an option for schools to serve students unable to establish an internet account.

Discussion: The Board directed staff to create an internet sales program on a demonstration basis for one school year. Prior to implementing the program, the Board requested that staff present the details of the program for its review.

Nearly every school in the program was called, starting with the schools with the highest sales. The list included approximately 150 private, public and charter schools. Each school representative contacted was given a detailed description of the new program, which was followed by a solicitation of their interest to participate in the program.

The responses were overwhelmingly in support of the new program with the caveat that the existing program should also remain in place. Some school districts use the existing program to provide pre-paid transportation for children in shelters or in alternative school programs. Additionally, some students do not have the required tools to purchase items over the internet. Of the 143 schools contacted, 119 were in favor of the new program; while 11 schools were not interested, 3 schools were uncertain and we are awaiting feedback from ten other schools.

School Responsibilities:

Participating schools are those that have signed an agreement with the District, which states they will adhere to the rules of the program. A new section will be added to the existing agreement to address the process and responsibilities for schools that choose to implement the internet sales method.

Aside from promoting the program to its students, the school's primary role will be to gather and verify enrollment information such as name, address, birth date, student identification number, and the responsible adult's e-mail address, from students requesting internet accounts. An Excel spreadsheet with this information will be forwarded by the school to BART staff.

BART Responsibilities:

BART will develop all collaterals for the program including sign-up forms, program descriptions for use by schools to promote the program, and program posters to promote ticket sales. BART will work with the schools to create low cost, high impact promotional programs to reach out to as many students as possible.

Once the verified student spreadsheet is received by BART, staff will assign and maintain a database of student account numbers. BART will relay account numbers to students via the e-mail address of the responsible adult who will be instructed to go to the website to establish the student account.

BART will forward the account numbers to the ticket vendor so only students with approved account numbers can open an internet account. Each student will be allowed only one account. All customer disputes related to account numbers and verification of student status or mailing address will be handled by BART.

Ticket Vendor Responsibilities:

The student can establish an account on-line if a BART issued account number is used. The customer should be able to access their sales history, order status, update their credit card information, and change their monthly subscription on-line. Credit card information, ticket orders and delivery will be handled by the ticket vendor.

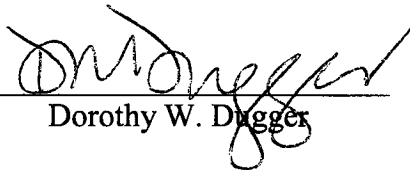
The rules of the program will be stated as part of the sign-up process. The responsible party will have to agree to the terms of the program and acknowledge the responsibilities of the student using the ticket and those of the person buying the ticket.

A subscription program can be established so that ordering and payment is automatic, or tickets can be purchased on an as needed basis. Regardless of how tickets are ordered, each account is limited to one transaction per month for a maximum purchase of 4 tickets. In order to control the limit on the number of tickets sold, a student with an internet account cannot buy tickets on site at the school.

The internet orders will be fulfilled within two days and mailed to the address listed on the account. If the student prefers to pick up the tickets, arrangements can be made for pick up at a Tectrans outlet located throughout the system.

Program Cost: We have had discussions with our existing internet tickets sales vendor, Tetrans. They are very interested in performing the work for BART. The District would need to pay the contractor \$10,000 to develop the web system to support this additional internet sales program. In addition to the one time cost to develop the program, the vendor will charge the District \$1.75 per transaction. This fee includes postage, bank transaction fees, and commission fees. The customer will not be charged any additional amount above the cash price of the ticket(s). Staff estimates that the transaction fees will be approximately \$21,000 if sales remain at the same level they were in FY 2007-08. Staff is still negotiating with the vendor.

Conclusion: Staff believes this is a reasonable approach to conducting the program. Schools need to be approached and sent program materials by the end of May so that students can sign up for internet sales in September, 2008.



Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

ATTACHMENT B

Internet ID	School Name	School Type	County
	Life Academy High School of Health and BioScience	Public	Alameda
	Alameda County Office of Education-CALSAFE	Public	Alameda
R0001	Robertson High School	Public	Alameda
	James Logan High School	Public	Alameda
O0004	Oakland Aviation High School	Private	Alameda
	Fremont Unified School District	Public	Alameda
	John F. Kennedy High School	Public	Alameda
K0001	Kipp King Collegiate High School	Private	Alameda
I0002	International Christian School	Private	Alameda
	Shining Light Christian Academy (S.L.C.A)	Private	Alameda
A0001	Alternatives in Action	Public-Charter	Alameda
C0001	Candell's College Preparatory Academy	Private	Alameda
	Lighthouse Comm Charter School	Charter	Alameda
	Golden Gate Apple School	Private	Alameda
	Making Waves Educational Program	Private	Alameda
	Maybeck High School	Private	Alameda
U0002	United For Success	Public	Alameda
	MetWest High School	Public	Alameda
	Millennium High School	Public	Alameda
	Berkeley Technology Academy	Public	Alameda
	Emery Unified School District	Public	Alameda
C0003	Castro Valley Unified School District	Public	Alameda
	Chinese Christian School	Private	Alameda
B0003	Bishop O'Dowd High School	Private	Alameda
C0005	College Preparatory School	Private	Alameda
	Berkeley High School	Public	Alameda
B0002	Bayhill High School	Private	Alameda
B0001	Bates Avenue School	Private	Alameda
	East Bay Arts High School/S Lorenzo USD	Public	Alameda
	Holy Names High School	Private	Alameda
	El Cerrito High School	Public	Alameda
	Albany High School	Public	Alameda
	Encinal High School	Public	Alameda
	Envision Academy of Arts/Technology	Private	Alameda
	Fame Public Charter School	Public/Charter	Alameda
	American Indian Public High School	Public	Alameda
	Youth Empowerment School	Public	Alameda

ATTACHMENT B

Internet ID	School Name	School Type	County
	Head-Royce School	Private	Alameda
	Hercules Middle School/High School	Public	Alameda
	Lionel Wilson College Prep Academy	Private	Alameda
	Arise High School	Charter	Alameda
I0001	Impact Academy of Arts & Technology	Private	Alameda
A0003	Alameda Science and Technology Institute	Private	Alameda
S0005	St. Mary's College H.S.	Private	Alameda
	The Crowden School/Crowden Music Center	Private	Alameda
	The Marin School	Private	Alameda
O0001	Oakland Military Institute College Preparatory Academy	Public	Alameda
	St. Elizabeth High School	Private	Alameda
S0003	School for Independent Learners/East Bay	Private	Alameda
	San Leandro High School	Public	Alameda
	San Lorenzo Unified School District/Happyfaces	Public	Alameda
S0006	San Domenico School	Private	Alameda
	Tennyson High School	Public	Alameda
M0004	Mindspring School of the Arts	Private	Alameda
L0002	Links Homeschoolers	Private	Alameda
O0002	Oakland School for the Arts	Public	Alameda
M0002	Moreau Catholic High School	Private	Alameda
	Peralta Creek Middle School	Public	Alameda
	Pacific Boychoir Academy	Private	Alameda
W0001	Windrush School	Private	Alameda
	Oakland Charter High School	Private	Alameda
C0002	Carondelet High School	Private	Contra Costa
	Heritage Oaks Christian Academy	Private	Contra Costa
	Ygnacio Valley High School	Public	Contra Costa
	Campolindo High School	Public	Contra Costa
D0003	Dublin High School	Public	Contra Costa
	Athenian School (The)	Private	Contra Costa
	Valley High School	Public	Contra Costa
D0004	Diablo Valley School	Public	Contra Costa
	Venture School	Public	Contra Costa
	College Park High School	Public	Contra Costa
D0001	Del Amigo High School	Public	Contra Costa
	De La Salle High School of Concord	Private	Contra Costa
C0006	Contra Costa Christian Schools	Private	Contra Costa

ATTACHMENT B

Internet ID	School Name	School Type	County
C0007	Crossroads High School	Public	Contra Costa
	Bentley School	Private	Contra Costa
	Clayton Valley High School	Public	Contra Costa
	Pleasant Hill Christian Sch/PH Adventist Acad.	Private	Contra Costa
	Woodrose Preparatory School	Private	Contra Costa
M0003	Mt Diablo Unified School Dist./Homeless	Public	Contra Costa
	Mt. Diablo High School	Public	Contra Costa
S0010	Stanley Middle School	Public	Contra Costa
	Oasis High School	Charter	Contra Costa
	Olympic High School	Public	Contra Costa
O0003	Orinda Academy as N Bay Orinda School	Private	Contra Costa
	Pittsburg High School	Public	Contra Costa
	Orion Academy	Private	Contra Costa
	Pleasanton Unified School District	Public	Contra Costa
H0001	Holden High School	Public	Contra Costa
	Sequoia Middle School	Public	Contra Costa
S0007	Springstone School, The	Private	Contra Costa
M0001	Miramonte High School	Public	Contra Costa
	Fortress Hill Academy	Private	Contra Costa
	Livermore Valley Joint Unified School District	Public	Contra Costa
	Oak Tree Private Education Center	Private	Contra Costa
S0009	Synergy School	Private	San Francisco
	Metropolitan Arts & Tech High School	Private	San Francisco
	George Washington High School	Public	San Francisco
A0002	Archbishop Riordan High School	Private	San Francisco
	Balboa High School	Public	San Francisco
S0008	School of the Arts	Private	San Francisco
B0004	Bridgemont Jr High/High School	Public	San Francisco
	SFUSD School Health, Foster Youth Svcs	Public	San Francisco
	San Francisco University High School	Public	San Francisco
G0001	Galileo Academy of Science & Tech.	Public	San Francisco

ATTACHMENT B

Internet ID	School Name	School Type	County
	Life Learning Academy	Charter	San Francisco
L0003	Lowell High School	Public	San Francisco
	Mercy High School (SF)	Public	San Francisco
	Mission High School	Public	San Francisco
	Rooftop Alternative School, SFUSD	Public	San Francisco
	Leadership Public Schools, Inc.	Public	San Francisco
S0001	San Francisco Christian School	Private	San Francisco
L0001	Leadership High School	Public	San Francisco
S0002	San Francisco Waldorf High School	Private	San Francisco
	St. Ignatius High School	Private	San Francisco
S0004	Sterne School	Private	San Francisco
B0005	Bay School of San Francisco	Private	San Francisco
U0001	Urban School of San Francisco	Private	San Francisco
W0002	Woodside International School	Private	San Francisco
	Youth Chance High School	Private	San Francisco
	Sacred Heart Cathedral Prep.	Private	San Francisco
	Gateway High School	Charter	San Francisco
C0004	City Arts & Tech High School	Public	San Francisco
	Civic Center Secondary School	Public	San Francisco
C0009	Convent of the Sacred Heart	Private	San Francisco
	Cornerstone Academy	Private	San Francisco
	De Marillac Academy	Private	San Francisco
	Downtown High School	Public	San Francisco

ATTACHMENT B

Internet ID	School Name	School Type	County
D0002	Drew School	Private	San Francisco
	Lick-Wilmerding High School	Private	San Francisco
F0001	French-American International School	Private	San Francisco
C0010	Chinese-American International School	Private	San Francisco
	Hilltop School	Private	San Francisco
	Immaculate Conception Academy	Private	San Francisco
	International Studies Academy H. S.	Public	San Francisco
	Jefferson High School	Public	San Francisco
	Jefferson Union H.S. District	Public	San Francisco
	Highlands Christian College Prep	Private	San Mateo
	Mills High School	Public	San Mateo
	Mercy High School	Public	San Mateo
C0008	Crystal Springs Uplands School	Private	San Mateo
	El Camino High School	Public	San Mateo

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

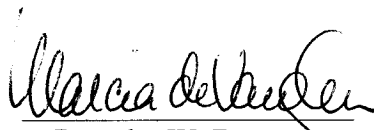
MEMORANDUM

TO: Board of Directors **DATE:** August 21, 2009

FROM: General Manager

SUBJECT: Legislative Update: Citizen Oversight of the BART Police Department -
For Information

The above information item holds a place on the August 27, 2009 Board of Directors meeting agenda in the event that there are new developments to report regarding the District's efforts to seek necessary legislative changes to Public Utilities Code Section 28500 et. seq. (the BART Act). Changes to the BART Act are required in order to implement citizen oversight of the BART Police Department as adopted by the Board at its August 13 meeting.


Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff