

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

**AGENDAS FOR BOARD AND COMMITTEE MEETINGS**

September 24, 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, September 24, 2009, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

Members of the public may address the Board of Directors 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.

Patricia K. Williams  
Assistant 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.

- D. Public Hearing: Lighting Improvement Project at 12<sup>th</sup> Street/Oakland City Center and North Berkeley Stations per Section 4217.12 of the Government Code.\* For information.

## 2. CONSENT CALENDAR

NO ITEMS.

### **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. Lighting Improvement Project at 12<sup>th</sup> Street/Oakland City Center and North Berkeley Stations. Board requested to make finding pursuant to Gov't. Code Section 4217.12.
- A-2. Authority to Withdraw from Northern California Power Agency Agreement for Renewable Geothermal Power Supply.\* Board requested to authorize.
- A-3. General Discussion and Public Comment.

#### ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Keller, Chairperson

- B-1. Agreement with Garcia and Associates to Provide Environmental Construction Monitoring Services for BART's Warm Springs Extension Project (Agreement No. 6M8032).\* Board requested to authorize.
- B-2. Agreement with Quality Engineering, Inc., to Provide Quality Assurance Oversight Consulting Services for BART's Warm Springs Extension Project (Agreement No. 6M8033).\* Board requested to authorize.
- B-3. Award of Contract No. 15IB-120, the 480 Volt Switchgear Replacement Project – Phase 2.\* Board requested to authorize.
- B-4. Award of Contract No. 42AH-205B, Procurement of Car Floor Panels. Board requested to authorize.\*

- B-5. Change Orders to Contract No. 15PM-110, Earthquake Safety Program Parking Structures Retrofit for the Concord, Daly City, El Cerrito del Norte, Hayward, Pleasant Hill and Walnut Creek BART Parking Structures, with West Bay Builders, for Differing Site Conditions.\* Board requested to authorize.
- B-6. Approval to Conduct Competitive Negotiation for Train Control Switch Machines.\* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B-7. General Discussion and Public Comment.

PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE  
Immediately following the Engineering and Operations Committee Meeting  
Director Sweet, Chairperson

NO REPORT.

**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. Lighting Improvement Project at 12<sup>th</sup> Street/Oakland City Center and North Berkeley Stations. Board requested to make finding pursuant to Gov't. Code Section 4217.12.
    - A-2. Authority to Withdraw from Northern California Power Agency Agreement for Renewable Geothermal Power Supply.\* Board requested to authorize.
  - B. ENGINEERING AND OPERATIONS COMMITTEE
    - B-1. Agreement with Garcia and Associates to Provide Environmental Construction Monitoring Services for BART's Warm Springs Extension Project (Agreement No. 6M8032).\* Board requested to authorize.
    - B-2. Agreement with Quality Engineering, Inc., to Provide Quality Assurance Oversight Consulting Services for BART's Warm Springs Extension Project (Agreement No. 6M8033).\* Board requested to authorize.
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C. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

- A. Report of the BART Police Department Review Committee. For information.
- B. Roll Call for Introductions.

7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property:	Property located at the South Hayward BART Station
District Negotiators:	Carter Mau, Executive Manager, Planning & Budgets, Jeffrey P. Ordway, Manager, Property Development
Negotiating Parties:	Wittek Development, LLC and Montana Property Group and San Francisco Bay Area Rapid Transit District
Under Negotiation:	Price and Terms
Government Code Section:	54956.8

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) BART Police Officers Association;  
(2) BART Police Managers Association

Government Code Section: 54957.6

9. OPEN SESSION

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

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors


**DATE:** September 18, 2009

**FROM:** General Manager

**SUBJECT:** Public Hearing: Consideration of an Energy Conservation Project

At the Board meeting on Thursday, September 24, 2009, the Board is scheduled to conduct a public hearing under Section 4217.10 et seq. of the Government Code on a proposed energy conservation project. The project, funded from State Transportation Improvement Program funds, would improve the station lighting at the 12<sup>th</sup> Street and North Berkeley BART stations. As a condition of the funding award, the California Transportation Commission specified that the construction contract for the project must be executed by October 31, 2009.

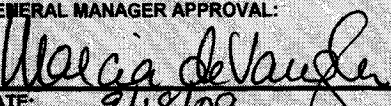
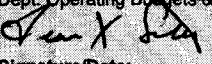
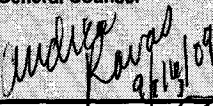
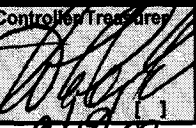
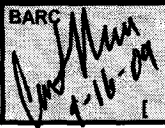
To help ensure that this deadline can be met, this procurement is proposed to be made under Section 4217.10 et seq. of the Government Code, which provides public agencies an exception from statutory competitive bidding requirements for public works for energy contracts related to energy conservation. Under these provisions the District must conduct a public hearing and make certain findings that there will be energy savings from the project before authorizing the procurement. The public hearing on September 24, 2009 and subsequent Board action will fulfill this requirement.

  
Dorothy W. Dugger

cc: Board-Appointed Officers  
Deputy General Manager  
Executive Staff



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and place on September 24, 2009 Administrative Committee Agenda		
<b>DATE:</b> 9/18/09		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Frank Schultz <b>Dept:</b> Operating Budgets & Analysis  <b>Signature/Date:</b> 9/16/09	<b>General Counsel:</b>  9/16/09	<b>Controller/Treasurer:</b>  9/18/09	<b>District Secretary:</b> [ ]	<b>BARC:</b>  9-16-09 [ ]
<b>Status:</b> Routed		<b>Date Created:</b> 09/03/2009		

TITLE:

### Public Hearing for Lighting Improvement Project - 12th Street and North Berkeley Stations

NARRATIVE:

#### PURPOSE

To conduct a public hearing under Section 4217.12 of the Government Code for a lighting improvement project at the 12th Street and North Berkeley stations. As required by this section, the Board also will be asked to make a motion finding that the lighting improvements reduce energy costs. These actions will allow the District to follow an expedited contracting process for the project.

#### DISCUSSION

A major strategy of the District's Strategic Energy Plan is to reduce energy use by implementing energy efficiency measures. Upgrading existing lighting is one of the most effective ways to do so. To this end, the District has upgraded most of the lighting at all the Districts stations, replacing most of the original T-12 lighting with T-8 lamps. These projects have been funded from BART-generated capital funds with rebates from PG&E offsetting a portion of project costs.

This project continues the District's efforts by further upgrading the lighting at the 12th Street and North Berkeley stations. The improvements will replace all remaining T-12 lighting with T-8 lamps, upgrade T-8 fixtures with newer generation lamps and ballasts and add emergency and remote control lighting to both stations. To demonstrate the potential for lighting-emitting diode (LED) lighting at BART stations, this highly efficient lighting will be installed in the central stairway of the North Berkeley station.

This project is funded from the State Transportation Improvement Program (STIP). On September 5, 2007, the California Transportation Commission (CTC) allocated \$248,000 for Preliminary Survey and Environmental (design) work at the stations. On December 11, 2008, the CTC allocated \$3,000,000 for project construction. CTC guidelines require that the construction contract be executed within six months from the CTC allocation which made June 11, 2009 the original deadline for contract award. Staff determined that the District's standard schedule for contract development, approval and award would not allow for a contract award by the CTC deadline. District staff requested that the CTC extend the deadline by an additional seven

months to January 2010. The CTC provided only a four and one-half month extension until October 31, 2009. This deadline allows insufficient time to advertise, award and execute a contract under the District's standard contracting schedule.

Failure to execute the contract by October 31, 2009 will mean that the District will forfeit the \$3 million in STIP funds. The District proposes to make the procurement under Section 4217.10 et seq. of the Government Code to allow execution of the construction contract by the CTC deadline. These sections provide public agencies an exception from statutory bidding requirements for public works related to renewable energy and energy conservation, such as the lighting improvements proposed in this Board item.

Under the provisions of the Government Code, the District must provide at least a two-week public notice and conduct a public hearing before authorizing the procurement. The required notice was given on September 5, 2009. The public agency also must find that the anticipated cost for energy service following the improvements will be less than its existing cost of power supply. As described more fully in the Fiscal Impact section, the installation of energy efficient lighting will yield savings to the District.

The District will follow a limited competition procurement for this project. Staff plans to request bids from four (4) lighting contractors on or about September 24, 2009 and to open bids on September 29, 2009. Staff hopes to return to the Board for authorization to award to the lowest responsive bidder at the October 8, 2009 Board meeting. This will allow the parties to execute the contract by the CTC deadline.

It is noted that the District has previously used these Government Code provisions for the procurement of the lighting improvements at the 16th and 24th Mission Street stations and for the solar photovoltaic projects at the Richmond and Hayward shops and the Orinda station that included related lighting improvements.

## **FISCAL IMPACT**

There is no fiscal impact at this time. When this project is brought to the Board for authorization to award to the lowest responsive bidder, funding of \$3 million will be provided from the State Transportation Improvement Program – Transportation Improvement Fund. The project also qualifies for energy efficiency rebates from PG&E.

The statutory determination that a public agency must make to enter into a procurement under Section 4217.10 et seq. of the Government Code is as follows: that the anticipated cost for electrical energy provided by the lighting improvements will be less than the anticipated marginal cost of electrical energy that would have been consumed by the public agency in the absence of those improvements. Currently (without the lighting improvements) the annual cost for electricity at the 12th Street and North Berkeley stations is \$296,000. Following the installation of the improvements, the annual cost is estimated at \$236,000. This amounts to estimated annual savings of \$60,000 in electrical costs (-20%) and meets the statutory determination.



**ALTERNATIVE**

The Board could request that the CTC provide an additional extension of the deadline to allow procurement under the District's standard schedule for contract advertisement, award and execution. Given that the CTC denied the District's original request and provided only a limited extension of the deadline, staff believe the CTC will not authorize a further extension. The District would lose the \$3 million in STIP funds and the lighting improvements would not be installed.

**RECOMMENDATION**

It is recommended that the Board adopt the following motion.

**MOTION**

That the Board finds pursuant to the provisions of Section 4217.12 of the Government Code that the anticipated cost to the District for electrical energy will be less than the anticipated marginal cost for electrical energy that would have been consumed by the District in the absence of the installed energy conservation measures.



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b>  <b>DATE:</b> 9/18/09		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and Place on September 24, 2009 Administration Committee Agenda										
<b>Originator/Prepared by:</b> Frank Schultz Dept: Operating Budgets & Analysis  <b>Signature/Date:</b> 9/18/09 MB		<b>BOARD INITIATED ITEM:</b> No  <table style="width: 100%; border: none;"> <tr> <td style="width: 20%; border: none;"><b>General Counsel</b></td> <td style="width: 20%; border: none;"><b>Controller/Treasurer</b></td> <td style="width: 20%; border: none;"><b>District Secretary</b></td> <td style="width: 20%; border: none;"><b>BARC</b></td> </tr> <tr> <td style="border: none; text-align: center;">             9/18/09         </td> <td style="border: none; text-align: center;">             9/18/09         </td> <td style="border: none; text-align: center;">           [ ]         </td> <td style="border: none; text-align: center;">             9-18-09            [ ]         </td> </tr> </table>			<b>General Counsel</b>	<b>Controller/Treasurer</b>	<b>District Secretary</b>	<b>BARC</b>	 9/18/09	 9/18/09	[ ]	 9-18-09 [ ]
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 9/18/09	 9/18/09	[ ]	 9-18-09 [ ]									
<b>Status:</b> Routed		<b>Date Created:</b> 08/17/2009										

TITLE:

### Approval to Withdraw from Geothermal Power Supply Agreement with Northern California Power Agency

#### NARRATIVE:

##### PURPOSE

To authorize the General Manager to execute an Amended and Restated Third Phase Agreement for Western Geopower Incorporated Renewable Energy Power Purchase Agreement to permit the District to withdraw from the power purchase agreement.

##### DISCUSSION

The District is a member of the Northern California Power Agency (NCPA), a joint-powers agency. At its February 14, 2008 meeting, the Board authorized the General Manager to enter into a NCPA Third Phase Agreement to participate along with other NCPA members in a geothermal power purchase agreement. The original agreement was to provide the District with up to 1.5 megawatts of geothermal power for twenty years at a fixed price of \$98 per megawatt hour. This would have served approximately 3 percent of the District's electrical power load. Western Geopower, would supply the power from a new facility being constructed at the Geysers geothermal field in Sonoma and Lake Counties.

On July 23, 2009, Western Geopower informed NCPA that it is unable to provide the power at the contracted price due to increased construction and financing costs. Western Geopower is willing to provide the power at \$117 per megawatt hour, a 19 percent increase.

A principal strategy of the District's Strategic Energy Plan is to procure cost-effective renewable energy supplies. The Western Geopower supply at the original price of \$98 per megawatt hour was cost-effective because it approximated the cost of market supply over the twenty-year term of the agreement. At the new price of \$117 per megawatt hour, the Western Geopower purchase is not cost-effective. At that price, the geothermal power is more expensive than the estimated cost of market power throughout the term of the agreement.

Of the eight participants, five participants (including BART) plan to withdraw from the power supply agreement and three plan to continue at the higher price. Under the original NCPA agreement, in order for a participant to withdraw, the participant had to find another taker for its share from either the other participants or, if they decline, from another party. This process is

considerably more cumbersome and time consuming than the proposed amended agreement and would not allow the withdrawing participants to withdraw in a timely fashion. For the participants that want to continue at the higher price, time is of the essence to permit the project to continue. To expedite the process for the continuing participants, NCPA has prepared an amended and restated agreement that permits participants either to withdraw from the power supply arrangement or to continue at the higher price.

Even at the higher price, there is some question whether Western Geopower will complete this project and NCPA could take the project over. If this happens, NCPA has promised that BART and the withdrawing members will be offered their original shares at a price to be determined.

Although the recommendation is to withdraw from this renewable energy project, it is noted that the District recently started to receive renewable power supplied from the first of three solar arrays on District property. A rooftop solar system at the Richmond shop started generating power on July 9th. A larger solar facility at the Hayward shop will be completed this month and will be followed by a solar carport at the Orinda station. In addition to these efforts, staff will continue to work with NCPA members to develop other renewable energy supplies.

The District's Office of Legal Counsel will approve this amended agreement as to form.

#### FISCAL IMPACT

At \$117 per megawatt hour, the cost for the Western Geopower supply in the first year would be \$1,679,000. The estimated cost of market supply (currently at \$70 per megawatt hour) is \$1,123,000, or \$556,000 less. By withdrawing from the geothermal agreement and relying on market supply, the District's power supply costs will be lower by an estimated \$8.2 million over the twenty-year period.

#### ALTERNATIVES

The District could continue to participate in the Western Geopower agreement at a cost of \$8.2 million more than estimated market prices.

#### RECOMMENDATION

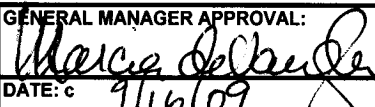
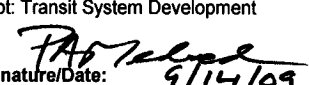
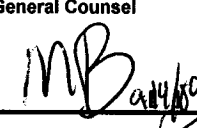
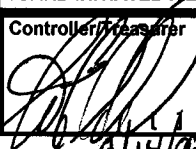
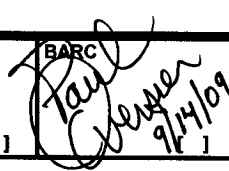
Staff recommends that the Board authorize the General Manager to execute the Amended and Restated Third Phase Agreement for Western Geopower Incorporated Renewable Energy Power Purchase Agreement to permit the District to withdraw from the power purchase agreement.

#### MOTION

That the General Manager is authorized to execute the Amended and Restated Third Phase Agreement for Western Geopower Incorporated Renewable Energy Power Purchase Agreement.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to E&O Committee	
DATE: c 9/16/09		BOARD INITIATED ITEM: No	
Originator/Prepared by: Paul Medved Dept: Transit System Development	General Counsel	Controller/Treasurer	District Secretary
 Signature/Date: 9/14/09	 9/14/09	 9/14/09	 9/14/09
TITLE:			

### AUTHORITY TO EXECUTE AGREEMENT NO. 6M8032, ENVIRONMENTAL CONSTRUCTION MONITORING SERVICES FOR THE WARM SPRINGS EXTENSION PROJECT

#### NARRATIVE:

**PURPOSE:** To authorize the General Manager to execute Agreement No. 6M8032 to provide Environmental Construction Monitoring Services for the Warm Springs Extension Project with Garcia and Associates.

**DISCUSSION:** This Agreement will provide the District with environmental construction monitoring services during the Warm Springs Extension Project construction activities. Assignments under this Agreement will be defined by Work Directives, subject to funding availability. Each Work Directive will have its own scope, schedule and budget. This Agreement will have a term of five years.

On June 22, 2009 the District issued a Request for Statements of Qualifications ("RFSOQ") No. 6M8032. Forty-six consultant firms requested and were sent the RFSOQ. Advertisements soliciting interest were placed in a number of publications including DBE/MBE/WBE publications. A Pre-Submittal meeting which included DBE/MBE/WBE participants was held on July 9, 2009. The RFSOQ was distributed to all interested potential proposers.

On August 4, 2009, submittals were received from the following eight firms:

#### Firm

Garcia and Associates (GANDA)  
ESA  
H.T. Harvey & Associates Ecological Consultants  
SWCA Environmental Consultants  
Zentner Zentner  
AECOM  
LFR  
Condor Country Consulting

#### Location

San Francisco, CA  
San Francisco, CA  
Los Gatos, CA  
Sacramento, CA  
Oakland, CA  
San Francisco, CA  
Emeryville, CA  
Martinez, CA

A Selection Committee ("Committee") consisting of staff from Transit System Development, Environmental Compliance, Office of Civil Rights and Contract Administration reviewed the submittals. The submittals were first reviewed for responsiveness to the requirements of the

RFSOQ. Subsequently, the submittals were evaluated and scored on the basis of the criteria contained in the RFSOQ with respect to qualifications of the firm and key personnel. Of the eight firms, four were short-listed for oral interviews: Garcia and Associates, ESA, H.T. Harvey & Associates Ecological Consultants, and AECOM. Staff conducted oral interviews on August 20, 2009.

Based on the written and oral evaluations, the Committee determined that Garcia and Associates was the most qualified firm.

After making this determination, negotiations were entered into with Garcia and Associates. Contract Administration, with support from Internal Audit and Transit System Development evaluated and discussed the rates and mark-ups (for a cost plus fixed fee Agreement) received from Garcia and Associates. These discussions were concluded on terms agreeable to the parties. In this case, staff determined that the recommended rate structure is fair and reasonable. Examination of Garcia and Associates' business experience and financial capabilities has resulted in the determination that Garcia and Associates is a responsible firm.

Accordingly, staff recommends award for Environmental Construction Monitoring Services to Garcia and Associates.

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

**FISCAL IMPACT:** Funding in the not-to-exceed amount of \$2,000,000 for Environmental Construction Monitoring Services is included in the Warms Springs Extension Project. District financial obligations under the Agreement will be subject to Work Directives. Each Work Directive will have a defined scope of services and separate schedule and budget. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds will come from the following:

WSX RM2/ACTIA	63K	\$2,000,000
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As of August 30, 2009, \$189,398,000 is available for commitment from this fund source for Project 02ED, and \$144,593,688 has been committed by BART to date. There is \$4,704,929 in pending commitments in BART's financial management system. This action will commit a not-to-exceed amount of \$2,000,000, leaving an uncommitted balance of \$38,099,383 in this fund source.

There is no fiscal impact on available unprogrammed District reserves.

**ALTERNATIVES:** The District could reject all proposals and re-solicit new proposals.

**RECOMMENDATION:** It is recommended that the Board adopt the following motion:

AUTHORITY TO EXECUTE AGREEMENT NO. 6M8032, ENV. MONITORING SERVICES, WSX PROJECT

**MOTION:** The General Manager is authorized to execute Agreement No. 6M8032 with Garcia and Associates for a term of five years in an amount not to exceed \$2,000,000 subject to the District's protest procedures.

## FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast 9/14/09	REMARKS
<b><u>ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT</u></b>			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	<i>Completed</i>
<b>TOTAL E, E &amp; CM</b>	<b>\$92,958,175</b>	<b>\$97,987,009</b>	
<b><u>CONSTRUCTION</u></b>			
Fremont Subway	\$282,000,000	\$164,100,660	
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
<b>TOTAL CONSTRUCTION</b>	<b>\$658,000,000</b>	<b>\$538,200,660</b>	
<b><u>BART SERVICES</u></b>			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
<b>TOTAL BART SERVICES</b>	<b>\$0</b>	<b>\$15,000,000</b>	
<b><u>PROGRAM COSTS</u></b>			
Program Costs ( HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	Includes budget for QA Oversight consulting for \$1M and Environmental Monitoring services for \$2M.
Right-Of-Way Acquisitions	\$80,394,486	\$79,202,672	
Contingency	\$2,776,319	\$88,048,837	
<b>TOTAL PROGRAM COSTS</b>	<b>\$139,041,825</b>	<b>\$238,812,331</b>	
<b>TOTAL FUNDING</b>	<b>\$890,000,000</b>	<b>\$890,000,000</b>	



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and forward to E&O Committee	
<b>DATE:</b> 9/16/09		<b>BOARD INITIATED ITEM:</b> No	
Originator/Prepared by: Paul Medved Dept: Transit System Development  <b>Signature/Date:</b> 9/14/09	General Counsel 	Controller/Treasurer 	District Secretary 
<b>BARC</b> 			

TITLE:

### AUTHORITY TO EXECUTE AGREEMENT NO. 6M8033, QUALITY ASSURANCE OVERSIGHT SERVICES FOR THE WARM SPRINGS EXTENSION PROJECT

**NARRATIVE:**

**PURPOSE:** To authorize the General Manager to execute Agreement No. 6M8033 to provide Quality Assurance Oversight Services for the Warm Springs Extension Project with Quality Engineering Inc.

**DISCUSSION:** This Agreement will provide the District with quality assurance oversight support during the Warm Springs Extension Project construction activities. Assignments under this Agreement will be defined by Work Directives, subject to funding availability. Each Work Directive will have its own scope, schedule and budget. This Agreement will have a term of five years.

On June 22, 2009 the District issued a Request for Statements of Qualification ("RFSOQ") No. 6M8033. Twenty-eight consultant firms requested and were sent the RFSOQ. Advertisements soliciting interest were placed in a number of publications including DBE/MBE/WBE publications. A Pre-Submittal meeting which included DBE/MBE/WBE participants was held on July 9, 2009. The RFSOQ was distributed to all interested potential proposers.

On August 4, 2009, submittals were received from the following twelve firms:

Firm

Kwame Building Group, Inc.  
 Resolution Management  
 Quality Engineering Inc.  
 HQE Inc.  
 Extended Resources  
 JL Patterson & Associates  
 Anil Verma Associates  
 TRS Consultants  
 Larkin & Associates  
 Cole Management Engineering, Inc.  
 Analysis & Solutions Consultants  
 Anchor Engineering

Location

St. Louis, MO  
 Sacramento, CA  
 Oakland, CA  
 Oakland, CA  
 Glendora, CA  
 Orange, CA  
 Oakland, CA  
 San Ramon, CA  
 San Francisco, CA  
 Concord, CA  
 San Mateo, CA  
 Lafayette, CA



A Selection Committee ("Committee") consisting of staff from Transit System Development, Office of Civil Rights and Contract Administration reviewed the submittals. The submittals were first reviewed for responsiveness to the requirements of the RFSOQ. Subsequently, the submittals were evaluated and scored on the basis of the criteria contained in the RFSOQ with respect to qualifications of the firm and key personnel. Of the twelve submittals, three were short-listed for oral interviews: Quality Engineering Inc., HQE Inc., and TRS Consultants. Staff conducted oral interviews on August 21, 2009.

Based on the written and oral evaluations, the Committee determined that Quality Engineering Inc. was the most qualified firm.

After making this determination, negotiations were entered into with Quality Engineering Inc. Contract Administration, with support from Internal Audit and Transit System Development evaluated and then discussed the rates and mark-ups (for a cost plus fixed fee Agreement) received from the proposer. These discussions were concluded on terms agreeable to the parties. In this case, staff determined that the recommended rate structure is fair and reasonable. Examination of Quality Engineering Inc.'s business experience and financial capabilities has resulted in the determination that Quality Engineering Inc. is a responsible firm.

Accordingly, staff recommends award for Quality Assurance Oversight Services to Quality Engineering Inc.

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

**FISCAL IMPACT:** Funding in the not-to-exceed amount of \$1,000,000 for Quality Assurance Oversight Services is included in the Warm Springs Extension Project. District financial obligations under the Agreement will be subject to Work Directives. Each Work Directive will have a defined scope of services and separate schedule and budget. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds will come from the following:

WSX RM2/ACTIA	63K	\$1,000,000
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As of August 30, 2009, \$189,398,000 is available for commitment from this fund source for Project 02ED, and \$144,593,688 has been committed by BART to date. There is \$5,704,929 in pending commitments in BART's financial management system. This action will commit a not-to-exceed amount of \$1,000,000, leaving an uncommitted balance of \$38,099,383 in this fund source.

There is no fiscal impact on available unprogrammed District reserves.

**ALTERNATIVES:** The District could reject all proposals and re-solicit new proposals.

**RECOMMENDATION:** It is recommended that the Board adopt the following motion:

AUTHORITY TO EXECUTE AGREEMENT NO. 6M8033, QA OVERSIGHT SERVICES FOR THE WSX PROJECT

**MOTION:** The General Manager is authorized to execute Agreement No. 6M8033 with Quality Engineering, Inc. for a term of five years in an amount not to exceed \$1,000,000 subject to the District's protest procedures.

## FUNDING SUMMARY - WARM SPRINGS EXTENSION PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast 9/14/09	REMARKS
<b><u>ENVIRONMENTAL, ENGINEERING AND CONSTRUCTION MANAGEMENT</u></b>			
Design	\$59,312,460	\$64,217,810	
Construction Management	\$30,045,000	\$30,045,000	
Environmental Clearance	\$3,600,715	\$3,724,199	<i>Completed</i>
<b>TOTAL E, E &amp; CM</b>	<b>\$92,958,175</b>	<b>\$97,987,009</b>	
<b><u>CONSTRUCTION</u></b>			
Fremont Subway	\$282,000,000	\$164,100,660	
Line, Track, Station & Systems	\$376,000,000	\$362,100,000	
Misc. Construction Contracts	\$0	\$12,000,000	
<b>TOTAL CONSTRUCTION</b>	<b>\$658,000,000</b>	<b>\$538,200,660</b>	
<b><u>BART SERVICES</u></b>			
District-Furnished Materials	\$0	\$8,000,000	
BART Force Account Work	\$0	\$7,000,000	
<b>TOTAL BART SERVICES</b>	<b>\$0</b>	<b>\$15,000,000</b>	
<b><u>PROGRAM COSTS</u></b>			
Program Costs ( HazMat, Consulting, Staff, Insurance, Financing Costs and Environmental Mitigation)	\$55,871,020	\$71,560,822	Includes budget for QA Oversight consulting for \$1M and Environmental Monitoring services for \$2M.
Right-Of-Way Acquisitions	\$80,394,486	\$79,202,672	
Contingency	\$2,776,319	\$88,048,837	
<b>TOTAL PROGRAM COSTS</b>	<b>\$139,041,825</b>	<b>\$238,812,331</b>	
<b>TOTAL FUNDING</b>	<b>\$890,000,000</b>	<b>\$890,000,000</b>	



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Delaney</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the E & O Committee	
DATE: <i>9/16/09</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: Keith Fullington Dept: Transit System Development - Systems <i>Keith Fullington</i> Signature/Date: <i>9/14/09</i>	General Counsel <i>Andrew Pappas</i> <i>9/17/09</i>	Controller/Treasurer <i>[Signature]</i> <i>9/15/09</i>	District Secretary <i>[Signature]</i> <i>9/14/09</i>
Status: Routed		Date Created: 09/02/2009	

TITLE:

### AWARD CONTRACT NO. 15IB-120 THE 480 VOLT SWITCHGEAR REPLACEMENT PROJECT-PHASE 2

#### NARRATIVE:

#### PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15IB-120, the 480 Volt Switchgear Replacement Project - Phase 2, to Blocka Construction, Inc.

#### DISCUSSION:

This Contract is for the procurement and installation of new 480V switchgear at 18 passenger stations and 2 maintenance shops using funds allocated from the ARRA (American Recovery and Reinvestment Act 2009), Federal Grant No. CA-56-0003, executed on May 21, 2009. This action will authorize award of one of the District's construction contracts to be funded with ARRA funds. In late 2008, staff identified potential projects for rehabilitating the BART infrastructure that could be funded by the ARRA. The second phase of the 480 Volt Switchgear Replacement Project was identified as a "shovel-ready" candidate for the ARRA funding. The 480 Volt Switchgear distributes electrical power from PG&E to operations-critical systems such as station lighting, ventilation, elevators, escalators, fare collection equipment, and, through uninterruptible power supplies, feeds safety-critical loads such as train control and communication equipment. The existing equipment was installed with the original BART construction in the early 1970s and has exceeded its life expectancy. In a 2007 study, the 480 Volt Switchgear Replacement Project was identified as the number one priority in the Station Modernization Program. This is the second of two contracts that will replace the 480 Volt Switchgear in the original BART stations.

On July 17, 2009, the Advance Notice to Bidders was mailed to 76 prospective Bidders. Contract Documents were sent to 22 plan rooms and Minority Assistance Organizations. The Contract was advertised on July 17, 2009. A total of 18 firms purchased copies of the Contract Documents. A pre-Bid meeting was held on July 28, 2009 with 17 prospective Bidders attending. Bids were publicly opened on September 1, 2009.

The following Bids were received:

<b>Bidder</b>	<b>Location</b>	<b>Total Bid Amount</b>
Helix Electric, Inc.	San Diego, Ca.	\$6,483,000 (withdrawn)
Blocka Construction, Inc.	Fremont, Ca.	\$8,100,000
Steiny and Company, Inc.	Vallejo, Ca.	\$8,189,200
Schimmick Construction Co.	Oakland, Ca.	\$11,160,000
Engineer's Estimate		\$10,586,700

The Apparant low Bidder, Helix Electric, Inc., was permitted to withdraw its bid upon providing proof of mistake in accordance with Section 5100 et seq. of the California Public Contract Code. The withdrawal letter received on September 4, 2009 cited a clerical error as the reason for withdrawal of the Bid. Staff has reviewed the supporting documentation accompanying the withdrawal and have consented to the withdrawal in accordance with the referenced State Code.

The next apparent low Bid submitted by Blocka Construction, Inc. was \$8,100,000.

After review by District staff, the Bid submitted by Blocka Construction, Inc. has been deemed to be responsive to the solicitation. Furthermore, staff's review of the Bidder's business experience and financial capabilities has resulted in a determination that the Bidder is responsible and that the Bid of \$8,100,000 submitted by Blocka Construction, Inc. is fair and reasonable. It is 23% lower than the Engineer's Estimate of \$10,586,700.

Options were established in the Bid Schedule to assure that at least 15 stations could be equipped under the Base work if the bids were higher than expected. Evaluation of the Bids to determine the lowest Bid was based on the Total Bid Amount. Option A is for three additional stations and Option B is for two maintenance shop upgrades. Since the low Bid is lower than expected, there is sufficient funding available for the Base work and both Options A and B. The Base Contract will be awarded initially and Options A and B may be exercised by Change Order at anytime within 180 days after Contract Award.

<b>Bidder</b>	<b>Base Bid</b>	<b>Option A</b>	<b>Option B</b>	<b>Total Bid Amount</b>
Blocka Construction, Inc.	\$6,050,000	\$810,000	\$1,240,000	\$8,100,000

**DBE Program:**

This Contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities, therefore, a DBE participation goal of 10% was set for this Contract. The low Bidder, Blocka Construction, Inc., committed to subcontracting 10% to DBEs.

**Fiscal Impact:**

Funding of \$8,100,000 for award of Contract No. 15IB-120 is included in the total project budget for the FMS #15IB – 480V Switchgear Replacement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. Funds for this Contract will come from the following source:

F/G 53J - CA-56-0003 – American Recovery and Reinvestment Act of 2009 \$8,100,000

As of month ending August 2, 2009, \$20,000,000 is available for commitment from this fund source for this project and BART has committed \$266,474 to date. There is a pending commitment of \$197,953 in BART's financial management system. This action will commit \$8,100,000 leaving an uncommitted balance of \$11,435,573 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

Reject all Bids and not award the Contract. If Bids are rejected, there would be insufficient time to re-advertise the Contract, receive new bids and award the Contract before the November 30, 2009 deadline stipulated for ARRA funding. If the Contract is not awarded, the Project will forfeit its portion of ARRA funding.

**RECOMMENDATION:**

Adoption of the following motion.

**MOTION:**

The General Manager is authorized to award Contract No. 15IB-120, 480 Volt Switchgear Replacement Project - Phase 2, to Blocka Construction, Inc. for the Base Bid amount of \$6,050,000, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and FTA requirements related to protest procedures. The General Manager is further authorized to exercise Option A - Three Additional Stations in the amount of \$810,000 and exercise Option B - Two Maintenance Shop Upgrades in the amount of \$1,240,000.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Maia Delaugh</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors	
DATE: <i>9/18/09</i>		BOARD INITIATED ITEM: No	
Originator/Prepared by: John McCormick Dept: Rolling Stock & Shops (Ext 7557) <i>John McCormick</i> Signature/Date: <i>9/17/09</i>	General Counsel <i>Audrey Harris</i> <i>9/17/09</i>	Controller/Treasurer <i>[Signature]</i> <i>9/17/09</i>	District Secretary <i>Paul Chesnut</i> <i>9/17/09</i>
Status: Approved		Date Created: 07/16/2009	

TITLE:

### Award of Contract No. 42AH-205B: Procurement of Car Floor Panels

NARRATIVE:

**PURPOSE:** To obtain Board authorization for the General Manager to award Contract No. 42AH-205B, (a Federal Stimulus Project), to Milwaukee Composites, Inc. of Milwaukee, Wisconsin.

**DISCUSSION:** Two years ago, the District began improving the interior appearance of the revenue vehicles by replacing worn-out and outdated carpeting with hard surface flooring. To date, 280 cars have been completed. The availability of Federal Stimulus Funds has allowed the District to move ahead with plans to complete more cars. Contract No. 42AH-205B will allow the District to upgrade the floors in another 150 cars through the purchase of carsets of floor panels with pre-installed hard surface floor covering.

The floor panels are an integral part of the car structure. They structurally separate the undercar equipment from the interior of the car. Current floor panel construction consists of a lightweight core sandwiched between two thin layers of aluminum. Over time, soft spots or voids develop where the lightweight core is compressed, causing the aluminum layers to separate from the core. Once this begins, the soft spots quickly spread, making the floor panels unstable. Currently, many cars have floor panels that are in poor condition and need to be replaced. This project replaces all floor panels on a car with a new panel design that is less susceptible to water damage and delamination. The top surface of these new floor panels will have a floor covering that meets all of the District's stringent technical and aesthetic requirements.

Contract No. 42AH-205B, a two-step contract, was advertised on August 18, 2009. Bids were due September 8, 2009 and two (2) Bids were received. The technical Bids were reviewed and only one bidder, Milwaukee Composites, Inc. met the minimum technical requirements. The technical Bid from Kenway Corporation was deemed non-compliant with the minimum technical requirements for not providing documentation demonstrating sufficient experience producing floor panels for transit rail cars, so its Bid was eliminated from further consideration.

The price Bid of Milwaukee Composites, Inc was opened on September 15, 2009, and is reflected below:

<u>Bidder</u>	<u>Total Bid</u>	<u>Bid Including 9.75% Tax</u>
Milwaukee Composites, Inc Milwaukee, Wisconsin	\$3,569,372.21	\$3,917,386

Kenway Corporation Augusta, Maine	Minimum technical requirements not met; price bid not opened.
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Engineer's Estimate	\$3,495,000
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Staff has determined that the apparent low bidder, Milwaukee Composites, Inc. submitted a responsive Bid. Staff has also determined that the bid submitted by Milwaukee Composites, Inc. is fair and reasonable based on similar purchases.

This is an 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 District will also have the authority to purchase up to 150 percent of the contract Bid price, subject to availability of funding.

**FISCAL IMPACT:** Funding of \$3,917,386 for contract 42AH-205B is included in the total project budget for the FMS#42AH – Interior Car Mods. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

<b><u>CA-05-0224 FY08</u></b>	<b><u>53G</u></b>	<b><u>\$1,367,386</u></b>
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As of 08/30/09, \$3,700,000 is available for commitment from this fund source for this project, and BART to date has committed \$20,779. There is \$1,825,856 pending commitment in BART's financial management system. This action will commit an additional \$1,367,386, leaving an uncommitted balance of \$485,979 in this fund.

<b><u>CA-56-0003 ARRA of 2009</u></b>	<b><u>53J</u></b>	<b><u>\$1,171,052</u></b>
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As of 08/11/09, \$1,171,052 was secured through an American Recovery and Reinvestment Act of 2009 ("ARRA") grant and is available for commitment from this fund source for this project, and BART to date has committed \$0. There is \$0 pending commitment in BART's financial management system. This action will commit \$1,171,052, leaving an uncommitted balance of \$0 in this fund.

<b><u>CA-96-X001 ARRA or 2009</u></b>	<b><u>54K</u></b>	<b><u>\$1,378,948</u></b>
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As of 08/11/09, \$1,378,948 was secured through an ARRA grant and is available for commitment from this fund source for this project, and BART to date has committed \$0. There is \$0 pending commitment in BART's financial management system. This action will commit an additional \$1,378,948, leaving an uncommitted balance of \$0 in this fund.

There is no fiscal impact on available unprogrammed District Reserve.

**ALTERNATIVES:** An alternative to awarding the Bid would be to reject the Bid and readvertise the Contract, which is not likely to lead to a better price or more competition.

**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 Contract No. 42AH-205B, Procurement of Car Floor Panels, an estimated quantity contract, to Milwaukee Composites, Inc. for the bid price of \$3,569,372.21, plus all applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and FTA's requirements related to Protest Procedure.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/16/09		BOARD INITIATED ITEM: No		
Originator/Prepared by: Shirley J Ng Dept: TSD	General Counsel <i>[Signature]</i> 9/15/09	Controller/Treasurer <i>[Signature]</i> 9/15/09	District Secretary	BART <i>[Signature]</i> 9/15/09
Signature/Date: <i>[Signature]</i>				
Status: Routed		Date Created: 07/27/2009		

TITLE:

### Contract No. 15PM-110, BART Earthquake Safety Program Parking Structures Retrofit - Change Orders for Differing Site Conditions

NARRATIVE:

#### PURPOSE:

To authorize the General Manager to execute Change Orders for differing site conditions in an aggregate amount not to exceed \$4 million, to Contract No. 15PM-110, BART Earthquake Safety Program Parking Structures Retrofit with West Bay Builders.

#### DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 15PM-110, BART Earthquake Safety Program Parking Structures Retrofit to West Bay Builders on September 25, 2008. The contract entailed the retrofit of six parking structures, El Cerrito del Norte, Daly City, Pleasant Hill, Hayward, Concord and Walnut Creek. Initially, the contractor mobilized at three sites, El Cerrito del Norte, Daly City and Pleasant Hill. During construction, numerous differing site conditions were encountered mainly in the area of rebar congestion and unknown utilities which has resulted in significant redesign of the retrofit.

During design, record drawings were obtained for the six parking structures. The record drawings appeared comprehensive such that the retrofit concept to drill and dowel in the columns would work. To address the accuracy of the information on the Contract drawings, non-destructive testing to locate the existing rebar and tendons was required in the scope of the Contract. In addition, the Contract specifications allowed the Contractor additional tolerance to adjust placement of the dowels. Additional design concepts were explored, however, they were considered more disruptive to the patrons, would be of greater cost and time since the alternative designs would involve more work.

During construction, the non-destructive test results were inconclusive, thus requiring additional exploratory work to expose the actual rebar configuration and tendons at the parking structures. The extra work involved x-ray testing and manual chipping to locate where the new dowels can be drilled. As the differing site conditions have been encountered, modification of the retrofit design to accommodate the actual condition is required.

The structure with the most issues is El Cerrito del Norte where this has necessitated significant redesign of the retrofit work. The congestion of existing rebar and tendon locations has made it extremely difficult or impossible to dowel into the beams and columns as designed without compromising the structural integrity of the structure. See Attachment 1. The revised retrofit scheme avoids drilling through the congestion by going around the columns; however this results in additional time and cost.

The Contractor is now working at all the parking structures. Differing site conditions have also been encountered, but to a lesser extent, on these structures. It is anticipated that additional redesign will be necessary as issues arise. Given what has been exposed to date, it is requested that the General Manager be given authority to execute change orders for differing site conditions in an aggregate amount not to exceed four million dollars.

Pursuant to Board Rule 5-2.4, Change Orders involving expenditures greater than \$200,000 require Board approval. Therefore, since some of the individual Change Orders may exceed \$200,000, staff is hereby seeking Board authority for the General Manager to execute such Change Orders.

The Office of the General Counsel will approve these Change Orders as to form prior to execution.

The Procurement Department will review these Change Orders prior to execution for compliance with procurement guidelines.

**FISCAL IMPACT:**

Funding for \$4,000,000 for these Change Orders are included in the total project budget for the FMS #15PM, ESP Parking Structures Retrofit. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

F/G 01F - Earthquake Safety G.O. Bond:

\$ 4,000,000

As of the month ending August 30, 2009, \$16,239,361 is available for commitment from this fund source for this project and BART has committed \$9,678,277 to date. There are pending commitments of \$463,963 in BART's financial management system. This action will commit an additional \$4,000,000 leaving an uncommitted balance of \$2,097,121 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board can elect not to increase the contract value and terminate the construction contract. This would expose the District to additional cost for demobilization and re-design to re-compete the construction contract. This may also affect the patrons if ridership increases in the next year

or two.

**RECOMMENDATION:**

Recommend that the Board approve the following motion.

**MOTION:**

The General Manager is authorized to execute Change Orders for differing site conditions in an aggregate amount not to exceed \$4 million to Contract No.15PM-110, BART Earthquake Safety Program Parking Structures Retrofit with West Bay Builders.

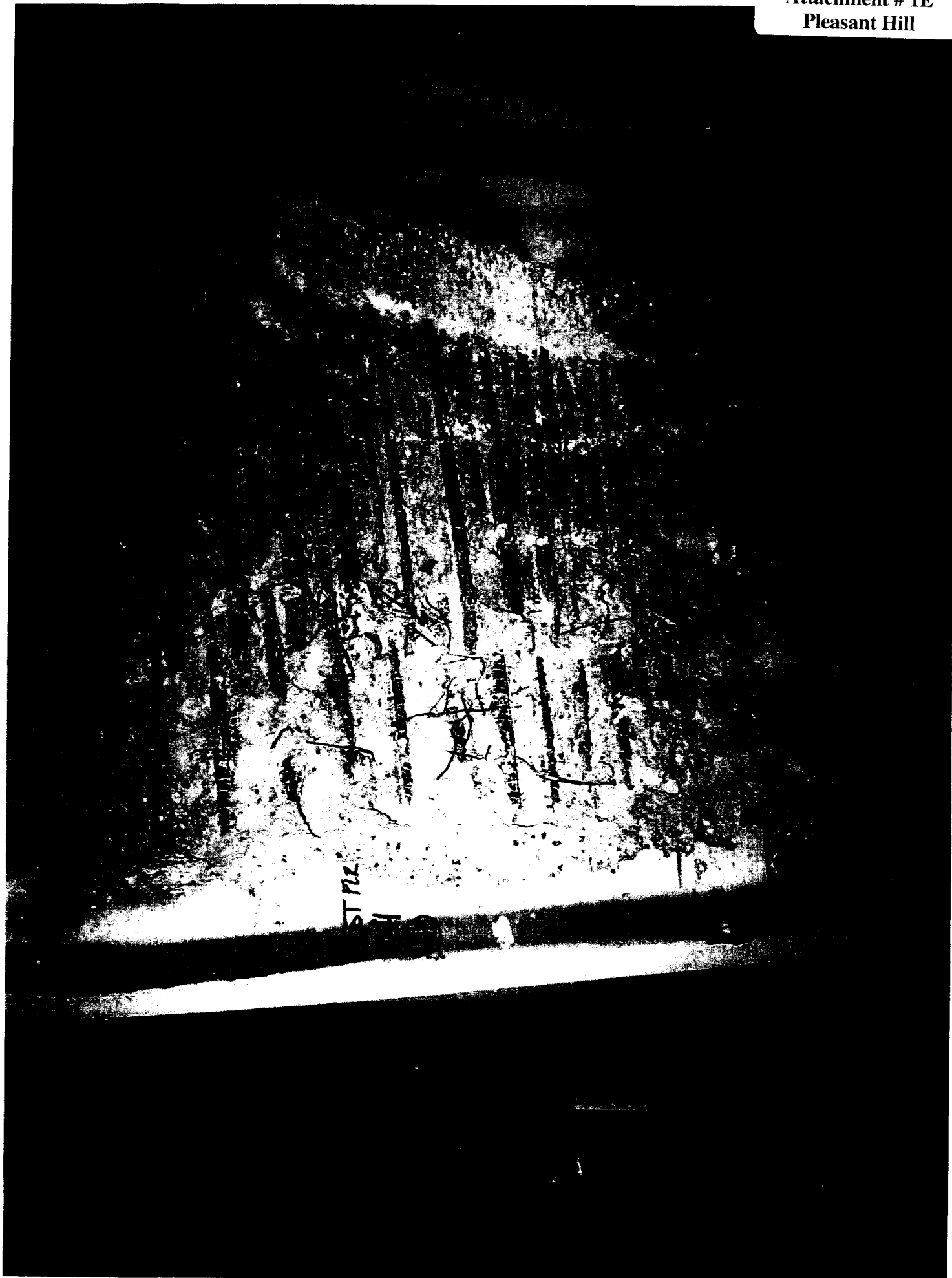














## **EXECUTIVE DECISION DOCUMENT**

### **ATTACHMENT #2**

#### **CHANGE ORDER SUMMARY**

##### **BACKGROUND**

Name of Contractor:	West Bay Builders
Contract No./NTP:	15PM-110 / November 10, 2008
Contract Description:	Parking Structures Retrofit
Percent Complete as of 7/31/09	32.68%

<b><u>COST</u></b>	<b><u>% of Award</u></b>	<b><u>CO Totals</u></b>	<b><u>Contract Amount</u></b>
Original Contract Award Amount			\$7,813,181.00
Change Orders:			
Other than Board Authorized C.O.s	.60%	\$47,487.00	
Pending Board Authorized C.O.s	<u>51%</u>	<u>\$4,000,000.00</u>	
Subtotal of all Change Orders	51.6%	\$4,047,487.00	<u>\$4,047,487.00</u>
<u>Revised Contract Amount:</u>			\$11,860,668.00

##### **SCHEDULE**

Original Contract Duration:	540 days
Time Extension to Date:	0 days
Time Extension Due to Approved COs:	0 days
Revised Contract Duration	540 days

##### **SUMMARY REASON FOR THESE CHANGE ORDERS**

Differing site conditions

## FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget	Current Forecast as of 9/1/09	REMARKS
<b>ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT</b>			
GEC (Bechtel Team)	\$105,000,000	\$226,200,000	
Other GEC	\$81,478,000	\$0	
<b>Subtotal GEC</b>	<b>\$186,478,000</b>	<b>\$226,200,000</b>	
CM	\$61,498,000	\$66,570,729	
Environmental	\$1,042,796	\$2,198,237	
<b>TOTAL E, E &amp; CM</b>	<b>\$249,018,796</b>	<b>\$294,968,966</b>	
<b>CONSTRUCTION</b>			
<b>Transbay Tube</b>			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
<b>San Francisco Ferry Plaza</b>			
SFTS (including Tube liner)	\$73,037,000	\$5,605,380	
Marine Vibro Demo	\$101,285,000	\$74,896,965	
Stitching	\$82,962,000	\$0	
<b>Aerial Guideways</b>			
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	
<b>Stations (18)</b>	<b>\$126,961,000</b>	<b>\$127,693,208</b>	
<b>Other Structures</b>			
LMA	\$5,529,000	\$5,265,226	
Yds & Shops	\$12,436,000	\$22,318,000	
Parking Structures	\$14,437,000	\$12,594,499	
At Grade Trackway	\$22,361,000	\$0	
<b>Systems</b>	<b>\$7,066,000</b>	<b>\$18,000,000</b>	
<b>TOTAL CONSTRUCTION</b>	<b>\$909,469,000</b>	<b>\$691,141,642</b>	
<b>PROGRAM COSTS</b>			
Program Costs ( Hazmat, ROW, Consult, Staff)	\$159,894,204	\$236,770,524	
Contingency	\$32,104,000	\$33,395,729	
<b>TOTAL PROGRAM COSTS</b>	<b>\$191,998,204</b>	<b>\$270,166,253</b>	
<b>BASELINE FUNDING</b>	<b>\$1,350,486,000</b>		
<b>REVISED FUNDING (1)(2)</b>		<b>\$1,256,276,861</b>	



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter D. Langen</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board of Directors		
DATE: 9/16/09		BOARD INITIATED YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
Originator/Prepared by: William R Kearney Dept: Maintenance & Engineering Ext. 6484 <i>William R. Kearney</i> Signature/Date: 9/8/09	General Counsel <i>Andreafina</i> 9/8/09	Controller/Treasurer <i>[Signature]</i> 9/8/09	District Secretary <i>[Signature]</i>	BARC <i>[Signature]</i> 9/14/09
Status: Approved		Date Created: 08/10/2009		

TITLE:

### Approval to Conduct Competitive Negotiation for Train Control Switch Machines

NARRATIVE:

#### PURPOSE:

To request the Board to find, by two-thirds majority, that the purchase of train control switch machines in compliance with the provisions of the California Public Contract Code generally applicable to the purchase does not constitute a method of procurement adequate for the District's needs; and to direct the purchase of train control switch machines by competitive negotiation consistent with California Public Contract Code Section 20229.1, subject to Board approval of the award.

#### DISCUSSION:

BART train operations require power-operated train control switch machines to efficiently effect the routing of trains. In some locations within the District, switch machines transition at a rate approaching 7,000 cycles per month, and this number will increase as projected improvements in headway are implemented. The ALSTOM (Formerly General Railway Signal) G55 switch machines currently in operation at BART have an average life cycle of approximately 25 years. Many of these switch machines are nearing or have surpassed the end of this cycle, and frequently need adjustment and repair. The original supplier is no longer manufacturing the G55 model, and will soon discontinue supplying replacement parts. The District now has the opportunity to procure its next generation switch machine, which will be one of proven reliability that is technologically superior to the switch machine now in use. The new switch machine will provide increased reliability, which translates to better passenger service and reduced maintenance costs.

A competitively negotiated procurement is necessary to procure this important and safety sensitive train control equipment. It will allow District staff to discuss or negotiate any aspect of a proposer's approach, capabilities or understanding of the District's requirements. It also gives the District the flexibility to consider factors other than price when evaluating all technically responsive proposals.

Subject to the Board approval requested in this EDD, a competitive negotiated Request for Proposals (RFP) will be issued based on the procedures consistent with the California Public Contract Code Section 20229.1, to solicit proposals to provide the next generation of switch machines. A Proposal Evaluation Committee will be composed of Price Evaluation and Technical Evaluation Subcommittees, and will be staffed with District employees chosen for their expertise and experience. The price proposals will be evaluated for only those proposers whose technical proposals are determined to be responsive. The evaluation factors for the technical proposal may

include, at a minimum, management approach, past performance, technical approach, manuals and training programs, schedule, and quality assurance capabilities. The procedures and documents for undertaking the competitive negotiation process will be approved as to form by the Office of the General Counsel.

**FISCAL IMPACT:**

The direct fiscal impact from the proposed competitive negotiation process is staff time, and cost of the respective switch machines to be tested. This project identified as FMS #20CE, is being funded by FTA Section 5309 sources.

**ALTERNATIVES:**

Utilize a low bid method of procurement. This could result in award of the contract to a less qualified proposer whose bid is only slightly lower than those of more qualified proposers.

**RECOMMENDATION:**

Adoption of the following motion:

**MOTION:**

The Board finds by two-thirds majority vote, that the procurement of train control switch machines in compliance with the provisions of the California Public Contract Code generally applicable to the purchase does not constitute a method of procurement adequate for the District's needs and authorizes the General Manager to direct the purchase of such equipment by competitive negotiation consistent with California Public Contract Code Section 20229.1, subject to Board approval of the award.

# **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

## **MEMORANDUM**

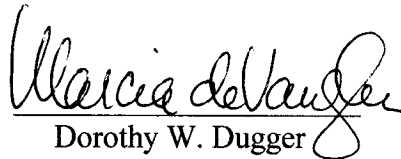
TO: Board of Directors

DATE: September 18, 2009

FROM: General Manager

SUBJECT: Agenda Item 9.A: South Hayward Development Project

A closed Board session has been scheduled for September 24, 2009 under Government Code 54956.8 to discuss price and terms of the proposed transit-oriented development project at the South Hayward BART Station. Immediately following the closed session, the Board will be asked to take an action to authorize an extension of the Exclusive Negotiating Agreement (ENA) with Wittek Development/The Montana Property Group and to include Eden Housing, Inc. in the ENA to pursue the project.



Dorothy W. Dugger

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff