

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

BOARD MEETING AGENDA

October 14, 2010

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, October 14, 2010, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

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: Fares/Parking Fees for the West Dublin/Pleasanton Station.*

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of September 16, 2010 (Special), and September 23, 2010 (Regular).* Board requested to authorize.
- B. Award of Contract No. 93GB-111, Power Distribution Upgrade for Auxiliary Power Supply Equipment (APSE) Tester Hayward Shop.* Board requested to authorize.
- C. Earthquake Safety Program: Re-appointment of Citizens' Oversight Committee Members.* Board requested to appoint.
- D. Audit of Directors' Use of District Property for Fiscal Year 2010.* For information.

3. ADMINISTRATION ITEMS

Director Blalock, Chairperson

- A. Fares/Parking Fees for the West Dublin/Pleasanton Station. For information.
- B. Amendment Number 5 to Lease for 300 Lakeside Drive, Oakland.* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Keller, Chairperson

- A. Award of Contract No. 04SF-110A, Construction of East Contra Costa BART Extension Project Transfer Platform and Guideway Improvements.* Board requested to authorize.
- B. Award of Invitation for Bid No. 8880, Gasoline & Diesel Fuel.* Board requested to authorize.

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

Director Ward Allen, Chairperson

NO REPORT.

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

A. Report of the BART Police Department Review Committee. For information.

B. Roll Call for Introductions.

8. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.
(CONTINUED from September 23, 2010, Board Meeting)
Significant exposure to litigation pursuant to subdivision (b) of Government
Code Section 54956.9: one potential case.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: October 7, 2010

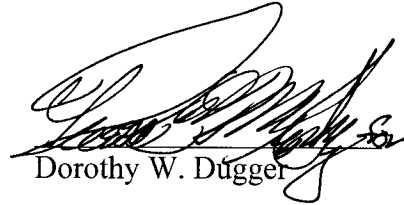
FROM: General Manager

SUBJECT: West Dublin/Pleasanton Proposed Fares and Parking Fees

On October 14, 2010, at the Board meeting at 9:00 a.m. we will be holding a public hearing on the proposed fares and parking fees for the West Dublin/Pleasanton Station. Enclosed is the presentation staff will be making at the public hearing.

After the public hearing, the Board will have the opportunity to discuss the proposed fares and parking fees, but no action will be taken at the October 14th meeting. We are currently scheduled to ask the Board to take action on West Dublin/Pleasanton fares at the October 28th Board meeting and to take action on parking fees at the December 2nd Board meeting.

If you have any questions, please contact Carter Mau, Executive Manager, Office of Planning and Budget, at 510-464-6194.



Dorothy W. Dugger

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

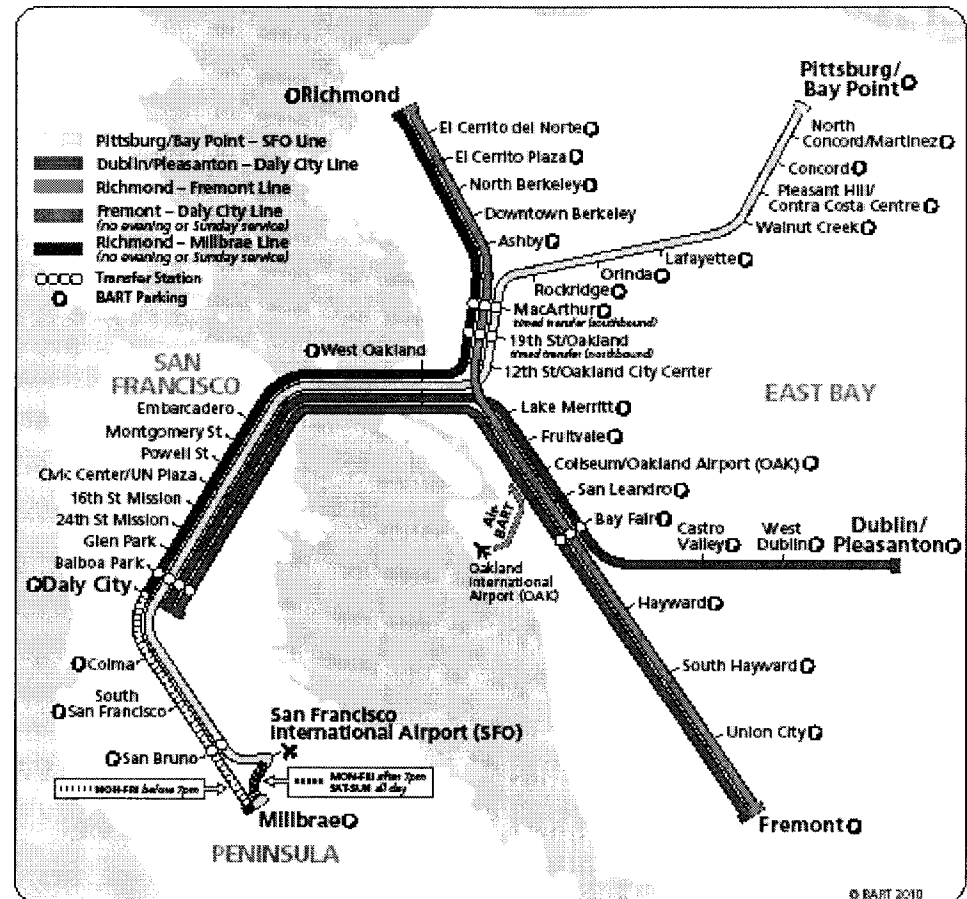
West Dublin/Pleasanton Station Proposed Fares and Parking Fees

Public Hearing

October 14, 2010

West Dublin/Pleasanton Station

- West Dublin/Pleasanton Station, located between Dublin/Pleasanton and Castro Valley stations, is scheduled to open in early 2011.



West Dublin/Pleasanton Station

- About 6,000 daily entries and exits are estimated for the first full year of operation, of which approximately 3,600 are new trips.
- The station's parking includes 1,190 spaces: 722 spaces in a garage on the Dublin side and 468 spaces in a garage on the Pleasanton side.

West Dublin/Pleasanton Station Proposed Fares

- Proposed fares are calculated using the same distance-based formula applied throughout the BART system.

Sample West Dublin Proposed Fares

	Proposed Fare
Embarcadero	\$5.40
12th Street	\$3.85
Berkeley	\$4.15
Walnut Creek	\$5.05
SFO	\$10.40

West Dublin/Pleasanton Station Proposed Parking Fees

- Proposed parking fees are consistent with those charged at adjacent BART Stations and at most East Bay BART Stations.
- A Title VI Analysis and Public Outreach are being conducted.

West Dublin/Pleasanton Station Proposed Parking Fees




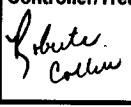

- Monthly Reserved \$63.00 per month
- Single-Day Reserved \$ 4.00 per day
- Daily \$ 1.00 per day
- Airport/ Long-Term \$ 5.00 per day
- The parking policies established by the BART Board of Directors for all BART Stations located in the East Bay will govern any subsequent parking fees charged at the West Dublin/Pleasanton Station.

Next Steps

- Proposed fares are scheduled for Board action at October 28th meeting.
- After parking fee Title VI analysis and public outreach are completed, proposed parking fees are scheduled for Board action at December 2nd meeting.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE:		BOARD INITIATED ITEM: No		
Originator/Prepared by: Khawaja Zubair Dept: M & E  Signature/Date: 10/4/10	General Counsel  9/30/10	Controller/Treasurer  10/1/10 []	District Secretary []	BARC  []

Status: Routed	Date Created: 08/31/2010
----------------	--------------------------

TITLE:

AWARD OF CONTRACT NO. 93GB-111, POWER DISTRIBUTION UPGRADE FOR AUXILIARY POWER SUPPLY EQUIPMENT (APSE) TESTER, HAYWARD SHOP

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 93GB-111 for power distribution upgrade for the auxiliary power supply equipment (APSE) tester at Hayward Shop to JDI Electric Services, Inc.

DISCUSSION:

At present there is a need to upgrade the power supply at the Hayward Shop. This power supply is used to test auxiliary systems and subsystems in the revenue vehicles. The existing power distribution panel at the Hayward Shop does not meet the power need for the APSE tester. Therefore, an upgrade of the power distribution system is required. To upgrade the power distribution, a new circuit breaker, disconnect and fuse will be installed. The work also includes installation of new cables in conduits from the main power panel outside the shop to the APSE location in the shop.

The District provided advance notices to sixty-one (61) prospective Bidders on June 21, 2010 and Contract Documents were sent to twenty-four (24) plan rooms. The Contract was advertised on June 23, 2010. The pre-bid meeting for prospective Bidders was conducted on August 12, 2010. Six (6) prospective Bidders attended the meeting. Bids were publicly opened on August 31, 2010. The following six Bids were received:

BIDDER

BID PRICE (Lump Sum)

Triple S Electric, Alameda, CA	\$107,300.00
B-Side, Inc, Oakland, CA	\$140,905.00
JDI Electric Services, Inc. Manteca, CA	\$141,472.92
Harris Electric, Dublin, CA	\$143,480.00
Dal Technology, Inc. Alameda, CA	\$145,702.00
Ray's Electric, Oakland, CA	\$169,500.00

Engineer's Estimate

\$155,000.00

The apparent low Bidder, Triple S Electric, failed to attach the required Bidder's Bond rendering the Bid non-responsive. The apparent second low Bidder, B-Side, Inc., signed two mutually exclusive signature blocks on the Buy America Certificate rendering its Bid non-responsive.

Staff has determined that, the apparent third low Bidder, JDI Electric Services, Inc. submitted a responsive Bid. Staff has also determined, upon review of the Bidder's business experience and financial capabilities, that the Bidder is responsible and that the Bid price is fair and reasonable based on bid competition.

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 of \$141,473 for the award of Contract 93GB-111 is included in the total project budget for FMS# 93GB – SMP Rolling Stock & Shops. 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 54G - CA-90-Y604 FY08 Capital Assistance Program \$141,473

As of month ending August 29, 2010, \$6,493,470 is available for commitment from this fund source for this project and BART has committed \$6,231,482 to date. There are pending commitments of \$7,217 in BART's financial management system. This action will commit \$141,473 leaving an uncommitted balance of \$113,298 in this fund source.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES:

Not to upgrade the power distribution system at the Hayward Shop for the auxiliary power supply equipment (APSE) tester. However, without an upgrade, the APSE tester cannot be operated and the auxiliary systems and subsystems in the revenue vehicles cannot be tested safely.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to award Contract No. 93GB-111, POWER DISTRIBUTION UPGRADE FOR AUXILIARY POWER SUPPLY EQUIPMENT (APSE) TESTER, HAYWARD SHOP to JDI Electric Services, Inc. for the total Bid price of \$141,472.92, pursuant to notification issued by the General Manager, and subject to compliance with the District's - protest procedures and FTA's requirements related to protest procedures.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: October 7, 2010

FROM: Dorothy Dugger

SUBJECT: Earthquake Safety Program Citizen's Oversight Committee Re-Appointments

The term for the current Earthquake Safety Program Citizen's Oversight Committee has come to an end (mid-2008 to mid-2010), and it is time to appoint the 2010 – 2012 committee. Earlier this year, you were sent a memo to advise you that five current members or alternates who are eligible for re-appointment have applied to continue serving on the Committee, and that no new applications were received during the Call for Applications. The recommendation is to re-appoint the five returning applicants.

To review, the application period was noticed to the public using a range of methods, including the BART website, Passenger Bulletins, DSS signs in stations and the BART newsletter. Notices were sent to organizations, societies and associations with membership in the relevant specialties required for committee membership (i.e. engineering, seismic, management, auditing). Notices were sent to relevant organizations and community resources (i.e. libraries, MTC, ABAG, etc.) Notices were sent to the project's database of interested parties; to individuals signed up via the web for online for announcements about the ESP and to those who previously expressed interest in the Committee. The application period was extended to ensure sufficient opportunity for those interested.

The five individuals who have applied to be re-appointed to the Committee are:

Andy Franklin	Seismic Seat
Elmo Wedderburn	Audit Seat
Guy Miller	Citizen at Large Seat
Larry Donovan	Management Seat
William Kaplan	Engineering Seat

The re-appointment of these five Committee members will be placed on the consent calendar for the October 14th Board meeting.

If you have questions regarding the Committee, contact Molly McArthur at 510-464-6176.

cc: Board Appointed Officers
Deputy General Manager

October 2010

Earthquake Safety Program Citizen's Oversight Committee Re-Appointments



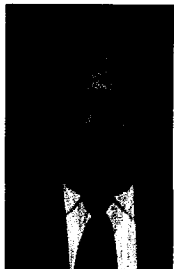
H. Andy Franklin, Seismic Retrofitting Expertise Seat

Dr. Andy Franklin is a retired civil engineer with a background in structural mechanics. Mr Franklin resides in Contra Costa County.



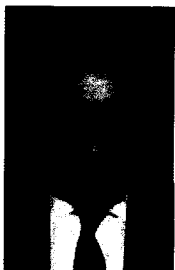
Elmo Wedderburn, Auditing Expertise

Elmo Wedderburn is a Senior Manager in the Control Audit and Oversight division of a public financial brokerage firm, and resides in San Francisco.



Lawrence Donovan, Management Expertise

Larry Donovan is a retired civil engineer but remains active as a management and financial consultant to several firms. Mr Donovan resides in Walnut Creek.



William Kaplan, Engineering Expertise

William S. Kaplan was a consulting structural engineer in San Francisco from 1959 until his retirement in 1997. He resides in San Francisco.



Guy Miller, Community At Large

Guy Miller is a Registered Nurse at Children's Hospital in Oakland, and resides in San Lorenzo.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Inter-Office Communication

To: Board of Directors

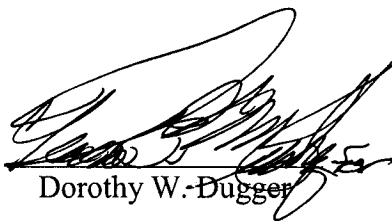
Date: October 6, 2010

From: General Manager

Subject: Audit of Directors' Use of District Property

Attached is the Internal Audit Department's final audit report – *Audit of Directors' Use of District Property*. The audit will appear on the October 14, 2010 Board Consent Calendar.

If you have any questions regarding the audit, please contact Darlene Cummins at (510) 464-7514.



Dorothy W. Dugger

Attachment

cc: Board Appointed Officers
Deputy General Manager

*Audit of Directors' Use of District Property
for Fiscal Year 2010*

BACKGROUND

The Internal Audit Department has audited the District's compliance with the requirements of the San Francisco Bay Area Rapid Transit District's *Rules of the Board of Directors* Board Rule 5-3.5, Use of District Property Other than Automobiles. The Rules require that the Internal Audit Department shall complete an annual audit for the previous fiscal year for compliance with the requirements of Board Rule 5-3.5, and shall submit the audit report, including a list of property issued to each Director, to the next Administration Committee following September 15 for review and forwarding to the full Board.

Board Rule 5-3.5 requires that:

- Directors may have use and possession of specifically identified District property that is comparable in cost and function to equipment available to District employees;
- The property shall be returned when a Director leaves office;
- Directors request the property through the District Secretary's Office;
- The District Secretary request quarterly that the Directors review their cellular phone and calling card charges;
- Directors reimburse within 30 days of the quarterly request the costs that are not for District business; and
- The District Secretary report to the Board President or Vice President if the quarterly requests are not responded to or reimbursements not made within 30 days.

The purpose of our audit was to determine whether the District complied with the requirements of Board Rule 5-3.5 for the fiscal year ended June 30, 2010. To accomplish our purpose, we reviewed the requirements of the Board Rule, reviewed the report for the audit of compliance with the Board Rule completed for the previous year, examined records maintained by the District Secretary, notified Directors of the property recorded in the District's records as issued to each Director, and conducted discussions with the staff of the District Secretary's Office.

We performed the audit in accordance with generally accepted government auditing standards and included such tests as we considered necessary in the



*Audit of Directors' Use of District Property
for Fiscal Year 2010*

**BACKGROUND
(Con'd)**

circumstances. We used the *Rules of the Board of Directors* Board Rule 5-3.5 as criteria for the audit.

We provided Kenneth A. Duron, District Secretary, with a draft copy of our audit report on September 3, 2010. We discussed the draft audit report with him on September 8, 2010, and he had no additional comments.

**SUMMARY OF
AUDIT RESULTS**

We found that in fiscal year 2010 the District complied in all material respects with the requirements of Board Rule 5-3.5. A list of property issued to each Director as recorded in the District's records is shown in Exhibit A.

Darlene Cummins, Department Manager
Internal Audit Department



*Audit of Directors' Use of District Property
for Fiscal Year 2010*

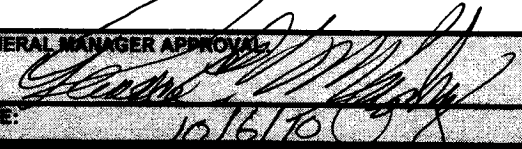
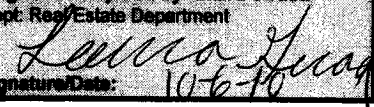
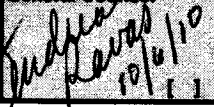
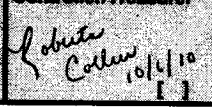
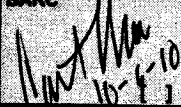
Exhibit A

Schedule of District Property in Directors' Custody
As of June 30, 2010

DIRECTOR	PROPERTY DESCRIPTION
Gail Murray 1st District	Blackberry Tour Wireless Handheld
Joel Keller 2nd District	LCD Monitor Motorola Razor Cellular Telephone
Bob Franklin 3rd District	Blackberry Tour Wireless Handheld HP Photosmart Printer iMAC Personal Computer
Carole Ward Allen 4th District	Dell Computer HP All-In-One Printer Blackberry Wireless Handheld
John McPartland 5th District	Blackberry Curve Wireless Handheld Dell XPS Laptop Business Card Scanner
Thomas M. Blalock 6th District	Motorola Cellular Telephone HP Fax Machine
Lynette Sweet 7th District	Blackberry Tour Wireless Handheld Dell Vistro Laptop Computer HP Officejet Printer
James Fang 8th District	Apple Macbook Laptop Computer with Verizon Aircard Modem HP Color Laserjet Printer
Tom Radulovich 9th District	Apple Macbook Laptop Computer HP Deskjet Printer HTC Droid Cellular Telephone



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 10/6/10		BOARD INITIATED ITEM: No		
Originator/Prepared by: Laura Giraud Dept: Real Estate Department Signature:  Date: 10-6-10	General Counsel:  10/6/10	Controller/Treasurer:  10/6/10	District Secretary: 11	BARC:  10-6-10
Status: Routed		Date Created: 10/04/2010		

TITLE:

AMENDMENT NO. 5 TO LEASE FOR 300 LAKESIDE DRIVE, OAKLAND

NARRATIVE:

PURPOSE:

To authorize the General Manager or her designee to execute Amendment No. 5 to the Lease for 300 Lakeside Drive in Oakland with SIC- Lakeside Drive LLC, resulting in a 7-year extension to the existing ten-year base term.

DISCUSSION:

In July 2004, BART entered into a lease with Summit Commercial Partners for 317,222 square feet of office space at 300 Lakeside Drive in Oakland (the "Lease"). The Lease includes a ten-year base term with two 5-year options. The Lease was amended on June 18, 2004; September 23, 2004; January 25, 2005; and October 6, 2006 by Amendment Nos. 1 through 4, respectively.

The Lease allowed BART to consolidate various satellite offices in order to centralize administrative, engineering and operational activities. It also increased staff productivity and efficiencies, decreased lease costs, and provided for a new Board room. Currently, all administrative, engineering, and operational staff report to the Lakeside building.

In the fall of 2009, staff began discussions with SIC-Lakeside Drive LLC ("SIC"), the current owner of 300 Lakeside, to determine if any cost savings could be achieved by re-negotiating the Lease. Staff was successful in negotiating new terms and hired an independent, third party real estate consultant to evaluate SIC's resulting proposal dated September 22, 2010. The consultant reviewed SIC's proposal in relation to the market and other potential leasing opportunities, including an evaluation of an unsolicited proposal to lease a building which would need to be built to suit. The proposed Lease amendment from SIC was determined to be the most favorable option.

The SIC proposal includes the following terms:

- The current Base Lease Term will be extended from July 2014 to July 2021, with two

five-year renewal options at 90% of fair market value.

- Base Rent will be \$24.75 per rentable square foot through 2014, \$25.75 per rentable square foot in 2015, and will increase \$1.00 per rentable square foot per year through 2021.
- Operating Costs per rentable square foot is \$1.54 (2011); with annual increases above the 2004 Base Year. A new Base Year for Operating Costs will be reset in 2014.
- Total Costs (including parking) will be \$26.43 per rentable square foot in 2011 and \$26.49 per rentable square foot in 2015. (This includes \$1.00/year base rent increase plus operating costs above Base Year).

In exchange for accepting this proposal that extends the original Lease term from July 2014 to July 2021, the District will receive the following benefits which are not available under the current Lease. These incentives include:

- \$7,851,244 in rent savings (6 months of free rent starting in July 2011, 2.6 months of free rent starting in July 2017 and 2.5 months of free rent starting in July 2018).
- \$1,000,000 in Tenant Improvements in 2014 (not to be repaid).
- \$500,000 in Tenant Improvements in 2015 (not to be repaid).
- \$1,000,000 in Tenant Improvements in 2012 at 200 basis points over the 10 year U.S. Treasury, to be amortized over the remainder of the Extended Lease Term (repaid through rent).
- \$1,500,000 in Tenant Improvements in 2016/18 at 200 basis points over the 10 year U.S. Treasury, to be amortized over the remainder of the Extended Lease Term (repaid through rent).
- An option to terminate 26,326 square feet (15th floor) before July 2014.
- Parking Costs fixed at \$125 per space for 157 stalls until 2014 and \$125 for 100 stalls until 2021.

As part of the analysis of the SIC proposal, The CAC Group ("CAC"), acting as broker for BART, identified 13 other properties that are currently on the market and have adequate square footage to accommodate BART's space requirements. Seven of the properties are in the greater Bay Area and six are in the city of San Francisco. CAC used the following criteria to evaluate the other available properties: Tenant Improvements that would be needed, the build-out costs of a new Board room, Information Technology needs, Furniture, Fixtures and Equipment that would be needed, Space Planning and Moving costs, as well as the asking rent, rent escalations, free rent, plus a contingency factor and the distance to a BART station. All of these factors were taken into account to complete a financial analysis for each relocation option. The one factor that was not easily quantifiable is the cost of the loss of productivity during a relocation of approximately 700 staff members; while this factor was not included in the financial calculations, it was considered in the qualitative comparison.

Based on the criteria listed above, and estimating the costs at a Net Present Value of 15 years and a 5% discount rate, the overall costs for the Bay Area property leases ranged from \$102,900,000 to \$168,400,000 and the San Francisco properties costs ranged from \$120,500,000 to \$140,000,000.

Based on the terms and conditions of the SIC proposal, the Net Present Value for a 15- year lease term at the 300 Lakeside building is \$97,500,000. Staff has therefore concluded that entering into the proposed Lease amendment will provide the most value to the District. The Office of the General Counsel will approve Amendment No. 5 to the Lease as to form.

FISCAL IMPACT:

Sufficient funds are in the Real Estate Department operating budget. Funding for the extended lease term will be allocated in each successive fiscal year. The rent savings of \$7,851,244 will be amortized over the new extended base term.

ALTERNATIVES:

1. Continue the existing lease at 300 Lakeside and exercise the first 5-year option in 2014, subject to then existing market terms and conditions.
2. Continue the search for other locations.

RECOMMENDATION:

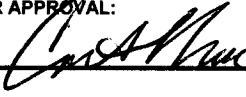
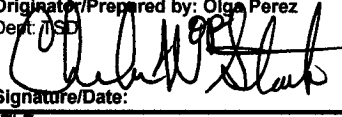
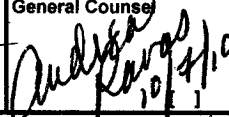
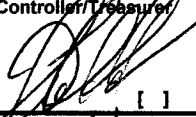
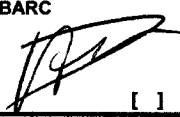
Adoption of the following motion.

MOTION:

The General Manager or her designee is authorized to execute Amendment No. 5 to the Lease for 300 Lakeside Drive in Oakland with SIC-Lakeside Drive LLC, consistent with the terms contained in SIC's proposal dated September 22, 2010.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept: MSD  Signature/Date:	General Counsel  10/2/10	Controller/Treasurer  10/2/10	District Secretary []	BARC  []

TITLE:

AWARD CONTRACT NO. 04SF-110-A FOR CONSTRUCTION OF EAST CONTRA COSTA BART EXTENSION TRANSFER PLATFORM AND GUIDEWAY IMPROVEMENTS

NARRATIVE:

PURPOSE

To obtain Board authorization for the General Manager to award Contract No. 04SF-110-A Construction of East Contra Costa BART Extension Transfer Platform and Guideway Improvements.

DISCUSSION

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

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

On August 26, 2010, the Board rejected all bids for Contract No. 04SF-110 for the Construction of East Contra Costa County (eBART) Transfer Platform and Guideway Improvements. The first and second apparent low Bids were deemed nonresponsive. The third low Bid was rejected because Staff believed a readvertisement of the Contract would result in a lower responsive bid price.

An Advance Notice to Bidders for Contract No. 04SF-110-A was mailed on August 26, 2010 to 81 firms and Bid Documents were sent to 22 plan rooms. The Contract was advertised on September 7, 2010 in various publications and newspapers. A total of 16 firms purchased copies of the Contract Documents. The pre-Bid meeting was held on September 9, 2010 with a total of

42 interested Bidders in attendance. In addition, the Office of Civil Rights conducted a Pre-Bid Matchmaking Session on September 13, 2010 with 18 participants in attendance.

A total of seven (7) Bids were received on September 21, 2010. A tabulation of the Bids, including the Engineer's Estimate, is as follows:

BIDDER	LOCATION	BID PRICE
1. O.C. Jones & Sons, Inc.	Berkeley, CA	\$25,255,000
2. West Bay Builders, Inc.	Novato, CA	\$26,097,000
3. William P. Young Construction, Inc.	San Leandro, CA	\$27,077,250
4. Stacy and Witbeck/Steiny and Company, A Joint Venture	Fairfield, CA	\$28,008,000
5. Diablo Contractors, Inc.	San Ramon, CA	\$28,030,000
6. BBII/BBRI, JV	Fairfield, CA	\$28,080,000
7. Shimmick Construction Co., Inc.	Oakland, CA	\$28,230,000

Engineer's Estimate

\$31,129,000

The apparent low Bid submitted by O.C. Jones & Sons, Inc. was determined to be nonresponsive to the solicitation due to its failure to comply with the Contract requirement to perform with its own organization Contract work amounting to 25 percent of the total Bid Price, excluding any Allowance items.

The apparent second low Bid submitted by West Bay Builders, Inc. is 16.2% below the Engineer's Estimate. Bids were evaluated, as stated in the Contract Documents, without the Option Price and Staff determined that the Bid Price of \$26,097,000 submitted by West Bay Builders, Inc., is fair and reasonable based upon adequate price competition and is responsive to the solicitation. A review of the business experience and financial capabilities resulted in a determination that West Bay Builders, Inc. is responsible.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for MBEs and 12% for WBEs. The Bidder committed to 17.51% for MBEs and 12.62% for WBEs. West Bay Builders, Inc. did not meet the MBE availability percentages, therefore the Bidder was requested to provide the District with information to determine if it had discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT

AWARD CONTRACT NO. 04SF-110-A - TRANSFER PLATFORM AND GUIDEWAY IMPROVEMENTS

Funding of \$26,097,000 for the award of Contract No. 04SF-110-A is included in the total project budget for the FMS #04SF eBART Construction. 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 63L - Contra Costa Transportation Authority (Measure J) - eBART \$20,000,000

As of the month ending 8/29/2010, \$20,000,000 is available for commitment from this fund source for this project and BART has committed \$0 to date. There are no pending commitments in BART's financial management system. This action will commit \$20,000,000 leaving an uncommitted balance of \$0 in this fund source.

F/G 69B - AB1171 Allocation #09391402 - eBART \$6,097,000

As of the month ending 8/29/2010, \$13,890,000 is available for commitment from this fund source for this project and BART has committed \$3,616,780 to date. There are no pending commitments in BART's financial management system. This action will commit \$6,097,000 leaving an uncommitted balance of \$4,176,220 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 construct the eBART Project extension at this time.

RECOMMENDATION

The General Manager is authorized to award Contract No. 04SF-110-A, for the Construction of East Contra Costa BART Extension Project Transfer Platform and Guideway Improvements to West Bay Builders, Inc., in the Bid amount of \$26,097,000, 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 Board of Directors		
DATE:		BOARD INITIATED ITEM: No		
Originator/Prepared by: Larry Fisher Dept: Maintenance and Engineering 	General Counsel 	Controller/Treasurer 	District Secretary 	BARC
Signature/Date: 10/4/10	Signature/Date: 10/4/10	Signature/Date: 10/4/10 []	Signature/Date: []	Signature/Date: []
Status: Approved		Date Created: 09/22/2010		

TITLE:

Invitation for Bid No. 8880, Purchase of Gasoline and Diesel Fuel

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to award Invitation for Bid (IFB) No. 8880 to All Points Petroleum, Benicia, CA, for the purchase of gasoline and diesel fuel for the District's non-revenue vehicle fleet.

DISCUSSION:

Gasoline and diesel fuel are used to power the District's non-revenue vehicle fleet and engine driven equipment. Approximately two hundred and eight thousand (208,000) gallons of gasoline and one hundred and four thousand (104,000) gallons of diesel are used annually for this purpose. Deliveries are made in bulk quantities into storage tanks at the District's Oakland Shop upon request. To achieve the greatest economic value for the District, an IFB for a multi-year contract was developed and advertised, requesting Bids for both gasoline and diesel fuel.

This is a three (3) year 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 50 percent of the total dollar value of the Contract. Upon Board approval of this Contract, the General Manager will also have the authority to purchase up to 150 percent of the total dollar value of the Contract, subject to availability of funding.

A Notice Requesting Bids was published on July 23, 2010 and Bid Requests were mailed to sixteen (16) prospective Bidders. On August 10, 2010, three (3) Bids were received. Two of the Bids were deemed non-responsive. This solicitation contains two (2) items that are being awarded as an aggregate (class) contract. All Bids are detailed in Appendix "A", and a summary is below:

<u>Bidder</u>	Total for item 1, including all app taxes, except sales tax Reg. Unleaded Gasoline <u>Est. 624,000 gallons</u>	Total for item 2, including all app taxes, except sales tax Diesel fuel no.2 <u>Est. 312,000 gallons</u>	Grand Total incl sales tax <u>Items 1 & 2</u>
All Points Petroleum Benicia, CA	\$1,619,592.00	\$747,084.00	\$2,597,426.91
* Valley Oil Company Mountain View, CA	\$1,612,728.00	\$723,648.00	\$2,564,212.17

* Ramos Oil Co.
West Sacramento, CA

Unable to determine bid price, Non-Responsive submittal

* Non-Responsive Bid

Engineer's Estimate

\$2,568,750.00

The Bid prices in the above table, as well as the actual price of delivered fuel, were/will be based in part on the prices established by the Oil Price Information Services (OPIS). The OPIS is a comprehensive source for pricing information on petroleum products. The OPIS benchmark is relied on by federal, state, municipal and county governments, major metropolitan transit authorities and railroad systems to verify fair wholesale purchase prices for local petroleum products.

During the Contract performance period, delivery price will be established by the weekly OPIS net average prices for San Francisco in effect on the date of delivery, together with the unit price adjustment offered by the low Bidder and applicable state and local taxes.

In accordance with the evaluation procedures contained in the IFB, the unit prices evaluated for award consist of the net average price established in the August 10, 2010 OPIS report for San Francisco adjusted by "mark-downs" or "mark-ups" as submitted by each Bidder. The price per gallon for both gasoline and diesel fuel, excluding sales tax, based upon the OPIS net average price in effect for San Francisco on August 10, 2010, along with each Bidder's adjustments, is detailed in Appendix "B".

The Bid submitted by Ramos Oil Company was determined to be non-responsive since Staff was unable to determine the Bid price from the information submitted. The apparent low Bid, submitted by Valley Oil Company, was also determined to be non-responsive due to its alteration of a material payment term.

Staff has determined that the Bid submitted by the second apparent low Bidder, All Points Petroleum, is responsive and that the Bid pricing is fair and reasonable based on Bid competition and prior purchases.

The District will order the fuel by telephone prior to the required date of delivery. Delivery is usually made within twenty-four (24) hours of any telephone order.

The District's Non-Discrimination in Subcontracting Program does not apply to emergency contracts, sole source contracts under \$50,000 or any Invitation for Bids. Pursuant to the Program the Office of Civil Rights did not set any availability percentages.

FISCAL IMPACT:

Funding for this Contract will be provided from the FY11 through FY14 Operating Budgets for Cost Center 642, Non-revenue Vehicle Maintenance. Funding is currently in place for FY11 expenditures. Funding for the subsequent years FY12 - FY14 will be requested in future operating budget cycles.

FY11	\$577,205.98
FY12	\$865,808.97
FY13	\$865,808.97

FY14 \$288,602.99

ALTERNATIVE:

Gasoline and diesel fuel are essential to the operation of District automotive and engine driven equipment and must be available on an ongoing basis. The only alternative to this purchase would be to buy as-required from retail outlets at higher cost and less convenience. This fuel will be used by District staff to operate autos, trucks, and equipment in the context of District operations.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager is authorized to award IFB No. 8880, an estimated quantity contract for gasoline and diesel fuel to All Points Petroleum of Benicia, CA, for the Bid price of \$2,597,426.91, including all applicable sales and other taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.

Attachments

EDD: PURCHASE OF GASOLINE AND DIESEL FUEL FOR NON-REVENUE VEHICLE FLEET

IFB 8880 Appendix "A"

Supplier	Item 1 Regular Unleaded Gasoline Estimated 624,000 gal, Including all applicable taxes, except sales tax	Item 2 Diesel No. 2 Fuel Estimated 312,000 gal, Including all applicable taxes, except sales tax	Totals, Items 1 & 2, Including all applicable taxes, except sales tax	9.75% Sales Tax	Grand Total
All Points Petroleum Benicia, CA	\$1,619,592.00	\$747,084.00	\$2,366,676.00	\$230,750.91	\$2,597,426.91
Valley Oil Co. Mountain View, CA	\$1,612,728.00	\$723,648.00	\$2,236,412.00	\$227,800.17	\$2,564,212.17
Ramos Oil Co. West Sacramento, CA	Unable to determine Bid Unit Prices				

The following taxes apply to fuel purchased by the District: (cents per gallon, except sales tax):

Regular Unleaded Gasoline

Diesel No. 2 Fuel

Federal Excise Tax	N/A	California State Road Tax	N/A
California State Road Tax (use)	.1800	California Oil Spill Prevention Surcharge	N/A
California Oil Spill Prevention Surcharge	N/A		
California Lead Poison	N/A		

Note: The District is exempt from Federal Tax on Diesel for only that portion of Diesel used for "off road purposes", and may file for a refund on that portion after tax.

EDD: PURCHASE OF GASOLINE AND DIESEL FUEL FOR NON-REVENUE VEHICLE FLEET

IFB 8880

Appendix "B"

PRICE BUILD-UP OPIS AVE. (EXCLUDING SALES TAX)

SUPPLIER	GASOLINE-UNIT PRICES	DIESEL-UNIT PRICES
All Points Petroleum	2.3855 OPIS AVE +.03 MARK-UP 2.4155 +.18 TAXES 2.5955	2.2945 OPIS AVE +.10 MARK-UP 2.3945
Valley Oil Co *	2.3855 OPIS AVE +.019 MARK-UP 2.4045 +.18 TAXES 2.5845	2.2945 OPIS AVE +.025 MARK-UP 2.3195
Ramos Oil Co *	Staff is unable to determine unit prices	
* Non-Responsive Bids		

TAXES:

CA ROAD TAX (use) .1800