



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

300 Lakeside Drive, P.O. Box 12688  
Oakland, CA 94604-2688  
(510) 464-6000

2013

August 7, 2013

Tom Radulovich  
PRESIDENT

Joel Keller  
VICE PRESIDENT

Grace Crunican  
GENERAL MANAGER

The Honorable Jacob Applesmith, Chair  
Office of Edmond G. Brown Jr.  
State Capitol, Suite 1173  
Sacramento, CA 95814

The Honorable Robert Balgenorth  
State Building and Construction Trades Council of California  
1225 8<sup>th</sup> St., Suite 375  
Sacramento, CA 95814

**DIRECTORS**

Gail Murray  
1ST DISTRICT

Joel Keller  
2ND DISTRICT

Rebecca Saltzman  
3RD DISTRICT

Robert Raburn  
4TH DISTRICT

John McPartland  
5TH DISTRICT

Thomas M. Blalock, P.E.  
6TH DISTRICT

Zakhary Mallett  
7TH DISTRICT

James Fang  
8TH DISTRICT

Tom Radulovich  
9TH DISTRICT

The Honorable Micki Callahan  
City and County of San Francisco  
Department of Human Resources  
1 South Van Ness Ave, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Board Members:

The San Francisco Bay Area Rapid Transit District hereby submits the attached documents for your consideration in the matter of the Board of Investigation Hearing on Wednesday, August 07, 2013, called pursuant to Labor Code Section 1137.2 by Governor Edmond G. Brown Jr.

Sincerely,

Grace Crunican  
General Manager

Attachments



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**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**2013 BOARD OF INVESTIGATION**

**WEDNESDAY, AUGUST 07, 2013**

**Remarks of Grace Crunican, General Manager  
San Francisco Bay Area Transit District  
Governor's Board of Investigation  
August 7, 2013**

We appreciate the opportunity to make a statement this morning. I would like to thank the Governor and the Board for their efforts on behalf of BART and the Bay Area.

Our overarching goal in the 2013 contract negotiations has been to find a balance between reinvesting in our vital aging infrastructure, providing fair and reasonable compensation for our workers, while ensuring the long-term financial health and sustainability of our transit system.

Today I'm going to give a quick overview of BART, our recent successes, the challenges we face, and our contract negotiations with the unions that represent our workers.

BART is the backbone of the Bay Area's regional transit system. The District is proud of its 95% on-time performance rate, and is defined by its reliability. We carry 400,000 riders each day, and dramatically reduce car congestion and air pollution throughout the region.

Each weekday, BART riders collectively save over 20,000 gallons of gasoline, and the Federal Transit Administration (FTA) calls BART the environmentally cleanest system in the country. People depend upon BART to get to work, to school, to medical appointments, to attend sporting and cultural events, and to get back home.

Over the past two years, BART has seen record breaking ridership increases. Today, BART carries 200,000 passengers through the Transbay Tube. The four and a half day strike by BART unions in July demonstrated that the extra service provided by our transit partners and the additional busses we secured were unable to carry even a fraction of the region's BART riders. Transportation leaders unanimously concluded that it is simply not possible to replace BART should another strike occur.

According to an estimate by the Bay Area Council, the daily cost of a BART strike is \$73 million in lost productivity to the Bay Area. The Council concludes that an

already fragile economic recovery would be demonstrably damaged by a prolonged strike.

Since the July strike, our riders have provided multiple testimonials about its impact on their lives. Regular commutes of 30 minutes took as long as three hours during the strike. Waitresses, hotel workers, and other service employees lost wages because they were simply unable to get to work. Some Bay Area workers were able to work from home for one or two days, but that option may not be available should a long strike occur.

### **Negotiations Overview – The Need for Reinvestment**

BART is at a critical juncture in its 40 year history. While enjoying record ridership and maintaining on-time performance goals, the District faces significant reinvestment needs that will define whether it thrives or deteriorates as has happened in other aging systems such as New York City Transit in the 1970's.

The UC Berkeley Transportation Institute conducted a detailed analysis of the impact to the Bay Area should BART fail to replace its oldest-in-the-country fleet of train cars, invest in its stations, and keep other critical systems in good working condition. In 2012, the Institute concluded that BART needs about \$16 billion over the next 25 years to maintain the system and prepare for future growth. That equates to an investment of \$500 million annually to make the repairs and replace the necessary equipment required to ensure that trains run reliably and safely.

This reinvestment requires a shared responsibility from all BART stakeholders. BART's goal is to have new contracts in place which will balance the long-term interests of our employees, riders, and other stakeholders.

### **Pension/Health Care Costs: Employees Must Share**

BART is currently struggling with a challenge common to every employer in the nation - how best to control the rising cost of its benefit packages. The average BART employee makes \$79,500 in salary. Our benefit package, which is considered one of the richest in the industry – costs an average of \$50,800 per employee per year. The costs of the benefit package have risen nearly 200% in 10 years and the escalation continues.

BART is asking its employees to play a larger role in sharing the costs of their generous pension and medical plans.

A recent survey of employer-sponsored health benefits done by the Kaiser Family Foundation/Health Research & Educational Trust found that workers in both the private and public sector on average are paying \$4,316 a year toward the cost of their health care premiums. This is nearly four times more than the \$92 per month that BART employees pay.

Unlike many other transit districts and government agencies, BART employees do not contribute to their pension plans. BART's unfunded liability for these pensions topped \$158 million last year.

If BART doesn't normalize its benefit packages, the public will feel the consequences in reduced train service and less reliability.

### **Big Three Major Reinvestment Projects:**

#### **1. Replacing the Oldest Fleet in the Nation**

BART's purchase of new high-tech, reliable and environmentally-friendly train cars is a critical investment that will help to carry more riders and protect the region's economic future.

Last year, the BART Board approved a contract for 410 new cars (of a 775 total order). At an average cost of about \$2.2 million per car, BART customers can expect new train cars as early as 2017. BART is paying about 25% of the cost of the new cars and the additional 75% will be federally funded through the Metropolitan Transportation Commission (MTC).

BART's new trains will be more efficient to operate and will include:

- 50% more doors to make getting on and off faster and easier;
- More priority seating for seniors and people with disabilities;
- Bike racks to better accommodate bicyclists;
- Energy efficiency LED lighting and state-of-the-art propulsion;
- Interior digital displays showing the next stop and other passenger information in multiple languages;
- Exterior digital displays showing route color and the train's destination;
- An improved public address system, including automated announcements;
- Improved on-board security cameras.

## **2. Hayward Maintenance Complex**

Over the next 30 years, BART will expand the system into Silicon Valley and also gain additional riders from the Oakland Airport Connector, and the East Contra Costa (eBART) extension.

Accordingly, this will require an expanded maintenance and storage facility to serve the expanded fleet. The proposed Hayward Maintenance Complex project will include the purchase of additional property and the construction of additional storage tracks, and a new two-story facility to house our truck bay and our secondary repair equipment.

## **3. New Train Control System**

Our train control system is four decades old and is quickly becoming the number one source of equipment caused delays. A new system is needed to ensure reliability and to meet the demands from growing ridership. A new system will allow us to increase capacity and run 30 instead of the current 23 trains an hour through the Transbay Tube. It will mean fewer failures and delays. It will be easier to repair because of better parts availability and it will allow for more remote diagnostics which we can address without having to send staff out to the scene.

### **Modern Work Rules: Absenteeism/Overtime Costs**

BART must find ways to modernize and operate more efficiently to help keep costs down. Labor contract limitations have tied our hands to the point where we can't manage our workforce in the current age of technology. Arcane and outdated work rules prevent us from taking advantage of modern work practices. As Silicon Valley neighbors, we should be leading the industry in technological advancement, yet we are out of sync with other transit agencies.

One of the goals in this year's contract bargaining talks is to require that employees must actually work 40 hours before they collect overtime in any given week. This common sense fix may interrupt the absence/overtime cycle, and will not only improve the overall financial health of the system but will allow for more efficiency and increased customer service.

The average station agent and BART train operator takes 40 unscheduled absences per year out of their 248 working days. As absences rise, so do overtime costs – and those costs are increasing at an alarming rate.

BART is hard at work on accident prevention and “return to work” solutions that should slow down the increase in absences. Staffing levels, which lagged during the recession, have returned to pre-2009 levels. Despite these steps, BART work rules have evolved to give a financial advantage to employees who work overtime, without working 40 hours in a week.

### **Conclusion**

The District has succeeded in providing safe, reliable and convenient transportation to the Bay Area through the valuable combination of our riders, employees, and stakeholders.

We remain far apart on the major issues of this contract. That’s why we are here today. I’d like to restate the District’s commitment that whatever package that we ultimately agree to must be good for the long-term sustainability of the system. I strongly believe that we can agree to a wage and benefit package that both fairly compensates our workers and ensures a sustainable the system. It is in everyone’s interest to settle this dispute swiftly.



OFFICE OF THE GOVERNOR

August 5, 2013

Grace Crunican, General Manager  
San Francisco Bay Area Rapid Transit District  
P.O. Box 12688  
Oakland, CA 94604

Antonette Bryant, President  
Amalgamated Transit Union, Local 1555  
132 Ninth Street, Suite 100  
Oakland, CA 94607

Roxanne Sanchez, President  
Service Employees International Union, Local 1021  
100 Oak Street  
Oakland, CA 94607

Pat Schuchardt, Vice President  
AFSCME Local 3993  
300 Lakeside Drive, Suite 102  
Oakland, CA 94612

Dear Ms. Crunican, Ms. Bryant, Ms. Sanchez, and Ms. Schuchardt:

I write to you in my capacity as Chairman of the Board of Investigation that Governor Edmund G. Brown Jr. has empanelled to investigate the labor dispute between Bay Area Rapid Transit and its three unions: AFSCME Local 3993, SEIU Local 1021, and ATU Local 1555.

As authorized by Government Code section 3612, the Board will conduct a hearing into the issues involved in the dispute on Wednesday, August 7, 2013, at 10:30 a.m., at the State of California building, 1515 Clay St., Oakland, California, 2nd Floor, Room 1. The hearing will be recorded and will be open to the public. Testimony and documentary evidence will be received at the hearing to form the basis for the report we will prepare and submit to the Governor.

Accordingly, please prepare a summary of the issues in dispute and your position on whether a strike or lockout would significantly disrupt public transportation services and endanger the

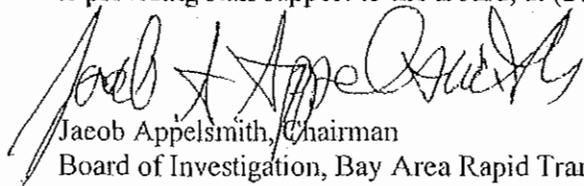
Grace Crunican, Antonette Bryant, Roxanne Sanchez, Pat Schuchardt  
August 5, 2013  
Page 2

public's health, safety, or welfare. Please include your organization's position on each of these issues, with any relevant supporting documentation you wish to include, such as the estimated costs of the proposals. We hope that you will attend the hearing to present your information, but if you wish you may instead submit it to me directly by noon on August 6, 2013. Please bring seven copies of any submissions to be presented at the hearing for the Board members and other parties.

Please note that the Board's charge is to prepare a report including a statement of the facts with respect to the dispute, with the positions of the parties. The report will not include recommendations.

Finally, I join the Governor in urging all parties to continue with the negotiations process, even as the Board conducts its business. The convening of the Board should not delay negotiations in any way.

Thank you for your cooperation. If you have any questions, you may call Harold Jackson, who is providing staff support to the Board, at (213) 576-7714.



Jacob Appelsmith, Chairman  
Board of Investigation, Bay Area Rapid Transit Labor Dispute

cc: Micki Callahan  
Robert Balgenorth

OFFICE OF THE GOVERNOR

August 4, 2013

Ms. Grace Crunican  
General Manager, San Francisco Bay Area Rapid Transit District  
P.O. Box 12688  
Oakland, CA 94604

Ms. Antonette Bryant  
President, ATU Local 1555  
132 Ninth Street, Suite 100  
Oakland, CA 94607

Ms. Roxanne Sanchez  
President, SEIU 1021  
100 Oak Street  
Oakland, CA 94607

Ms. Jean Hamilton  
President  
AFSCME, Local 3993  
80 Swan Way, Suite 110  
Oakland, CA 94621

Dear Ms. Crunican, Ms. Bryant, Ms. Sanchez, and Ms. Hamilton:

At the request of the Bay Area Rapid Transit District, I am appointing a board to investigate the threatened strike that would disrupt public transportation services in the Bay Area. This board is appointed under the authority of Government Code, § 3612, subdivision (a), because the strike will significantly disrupt public transportation services and endanger the public's health, safety, and welfare.

The three individuals appointed to the board of investigation are:

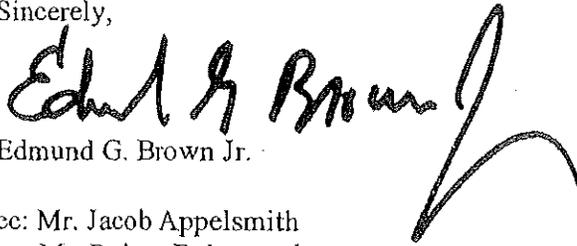
Mr. Jacob Appelsmith, Chairman  
Mr. Robert Balgenorth  
Ms. Micki Callahan

Grace Crunican, Antonette Bryant, Roxanne Sanchez, and Jean Hamilton  
August 4, 2013  
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The Government Code prohibits any strike or lockout while the board completes its investigation. (Gov. Code, § 3612, subd. (b).)

The board is directed to provide me with a written report within the next seven days. For the sake of the people of the Bay Area, I urge – in the strongest terms possible – the parties to meet quickly and as long as necessary to get this dispute resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Edmund G. Brown Jr.", with a large, sweeping flourish at the end.

Edmund G. Brown Jr.

cc: Mr. Jacob Appelsmith  
Mr. Robert Balgenorth  
Ms. Micki Callahan  
Mr. Marty Morgenstern, Secretary of the Labor and Workforce Development Agency



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7TH DISTRICT

James Fang  
8TH DISTRICT

Tom Radulovich  
9TH DISTRICT

The Honorable Edmund G. Brown, Jr.  
State Capitol, Suite 1173  
Sacramento, CA 94814

Dear Governor Brown,

As you are aware, BART and its unions (AFSCME 3993, SEUI 1021, ATU 1555) have been at the bargaining table for months trying to reach a deal on the terms of a new contract. Throughout this process, the District has necessarily prioritized the long-term health and sustainability of the BART system, and its ability to meet the future needs of our Bay Area residents. The BART system is aging, and needs considerable reinvestment to meet the mobility needs of the Bay Area while state and federal support for transit dwindle. Meanwhile, the cost of maintaining benefits continues to grow faster than our revenues. Our labor agreements must reflect these financial realities.

We will continue to focus our efforts on the table and remain committed to reaching an agreement. We believe that the best agreement is one arrived at between the parties themselves, without intervention by outside forces.

Despite these efforts, we may reach tonight's midnight deadline without an agreement. If this is the case, the District is willing to extend the contracts and will make that offer to the unions. If they decline to extend the contracts, they may choose to strike and shut down BART service. As we saw in early July, the effect of a public transit strike is a complete disruption of the Bay Area economy.

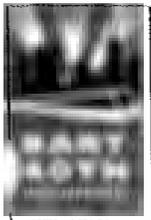
If the unions do decide to strike, we are requesting that you seek a cooling off period for these three unions, as provided for in California Government Code Section 3612 (the Public Transportation Labor Disputes Act). This would allow us to continue negotiating while assuring the public that it will have transit service tomorrow and for another 60 days as we continue to bargain. We believe the public should not be deprived of this essential public service unless all alternatives to avoid a work stoppage have been utilized.

We appreciate your vigilance in monitoring this process and trust we may continue to rely on your help as we continue to work out this complex dispute.

Sincerely,

Tom Radulovich  
President

cc: Board of Directors  
General Manager



### BART System Overview:

BART is a 104-mile regional rail rapid transit system that serves the premiere employment and activity centers in the Bay Area, including downtown Oakland, San Francisco and the San Francisco International Airport. Extensions to San Jose, Antioch and Oakland International Airport are under construction right now. Since the 1997 work stoppage, BART ridership has increased by over 125,000 or to about 400,000 weekday riders today. With over 500,000 additional riders in our foreseeable and near-term future, systematic renovations and other mission critical preparations must be addressed.

First and foremost, the rapidly aging system is a vast and complex network of concrete structures, electrical wiring, circuitry and steel. Many of these aging items that make BART work today were once ahead of their time and also proprietary. Compounding these complexities is the fact that, like many other transportation agencies in the state, BART must renovate this aging physical plant while maintaining service at record levels.

Train service is carefully scheduled due to all the merging and diverging service routes on both sides of the Bay. The integrity of the system's reliability must be maintained to the highest standards as delays ripple through the whole system and important transfers and other connections are delayed or skipped. It is a delicate dance and it does not take very much in the way of small system perturbations to create problems on a large scale that negatively impact thousands of riders. Decaying infrastructure makes this balancing act even more difficult and increasingly unpredictable.

The fact is that there is less money coming out of Washington DC and Sacramento for our critical system renovation needs. The gas tax has been losing more of its purchasing power every year and there are more demands on the same shrinking pot of money. BART must help itself more every year or run the severe risk of losing our brand identity which is service frequency, speed and reliability. As the transit operators in the Northeast have learned the hard way, once you infrastructure decline accelerates, it can take decades to get service reliability back. BART's current customer base of 400,000 weekday riders, future service extensions and our integral role in the Bay Area's land use plans do not provide flexibility to gamble with these very real needs.

## **Financial Status and Service Delivery**

The District's Interim Budget for FY14, which began on July 1, 2013, totals \$1.5 billion, of which \$737 million is directed to BART's capital program, including system reinvestment, and \$797 million supports BART's operating budget. The largest component of BART's operating costs is labor and benefits, which is budgeted at \$402 million in FY14. In FY14, BART also budgeted \$46 million towards the purchase of 410 new rail cars and will direct \$58 million towards debt payments for prior renovation and capital projects.

As BART enters its fifth decade of service, the District recognizes that vital system reinvestment needs are severely underfunded. As the same time, BART has experienced unprecedented ridership growth, with trips increasing to nearly 400,000 on a daily basis. Currently, 62 trains and 534 cars provide daily peak service, with an average of 95% passenger on-time performance. Maintaining this high performance is critical to keeping ridership and the Bay Area moving and becomes more challenging each year as the system ages. BART has made responsible funding of infrastructure and system reinvestment a top priority in budget and funding decisions. A key action taken by the BART Board includes renewal of BART's inflation-based fare increase program, which regularly increases fares at a rate slightly less than inflation. Fare revenue currently covers over 70% of BART's operating expenses and the additional revenue from future increases will be directed to system reinvestment and State of Good Repair projects.

Labor Negotiations:

On April 1, 2013 BART exchanged proposals with Service Employees International Union (SEIU) Local 1021 and Amalgamated Transit Union (ATU) Local 1555. Prior to that time BART had entered into agreements with American Federation of State County and Municipal Employees (AFSCME) Local 3993 and its two police unions, BART Police Manager's Association (BPMA) and BART Police Officers Association (BPOA) to engage in "Interest Based" bargaining. On or about April 1, 2013, those parties exchanged lists of issues to be addressed through that process which does not contemplate the formal exchange of written proposals.

Based on the initial, 1973, unit determination, BART negotiates the "general" provisions of the SEIU and ATU contracts with those unions jointly. Those general provisions (contained in sections 1-10 of both collective bargaining agreements) address those matters related to mutual rights and responsibilities, union security, employee affairs, vacations and leave of absences, medical and retirement benefits, sick leave and disabilities, and pay procedures. BART also generally negotiates wages jointly with ATU and SEIU. In addition both SEIU and ATU have a number of individual supplemental contract provisions which address issues specific to the classifications represented by those Unions.

SEIU currently has a total of 1,423 members and represents the maintenance and clerical units and a professional sub unit. ATU has 927 members and represents the train operators, station agents and related staff. AFSCME represents 220 supervisory and profession personnel. BART has a total of 3425 employees.

## ***Introduction and Overview***

### **Wage and Benefit Package Highly Competitive in Transit Industry**

BART's wage and benefits package is highly competitive in the transit industry, and in the local labor market generally. Recent wage rate surveys show that, in general, BART employees are paid at or above the average for their respective labor markets. With respect to jobs represented by ATU and SEIU, BART base wage rates rank number two nationally among comparable transit systems in the occupations of Train Operator, Station Agent, and Maintenance Worker, and third nationally for Track Workers. BART collective bargaining agreements provide liberal differentials and overtime pay, which substantially elevate take home pay amounts above the base pay levels. For example, the average per capita overtime earnings for an ATU employee in FY12 were \$17,613; the comparable SEIU figure is \$7,273.

For positions represented by AFSCME, BART's most recent survey ( August 1, 2012) compares BART pay rates to other regional agencies, and to other national agencies using rates adjusted to reflect the cost of living in the Bay Area. Overall, the 2012 study indicates that BART actual pay is right at the marketplace.

In addition, all BART employees enjoy the benefit of the CalPERS medical plans at a flat monthly rate that is currently \$92.24. The CalPERS defined benefit pension of 2% at age 55 is currently fully paid by the District. Vision and dental coverage are likewise provided at no cost to employees. The District also funds a Money Purchase Pension Plan, and provides a Deferred Compensation vehicle for employees' contributions to post-employment income through defined contributions. BART's review of benefits cost-sharing in other regional agencies indicates that most make contributions to pension, ranging from two to ten per cent, and many contribute to medical coverage at higher rates than BART employees. Low levels of employee financial participation create a long term sustainability problem for BART, as the cost of benefits continues to rise. Over the past four fiscal years alone, the District's total expense for pension and medical has increased by \$35.7 million.

## Issues Involved in this Negotiation - "What's on the Table"

During the last contract duration, BART celebrated 40 years of service. Given the age of the system BART is now faced with major maintenance and upgrading projects. The BART board has recently established a priority for three major capital projects: purchase of new railcars, the Hayward Maintenance Complex, and the automated train control system. While the capital requirements for these much needed changes are not yet established, preliminary studies tell us with certainty that the amounts will be in the billions of dollars over the next several decades. At the initial exchange of proposals, BART provided an outline of the primary issues and concerns to be addressed and which formed the basis for its proposal. The District's proposals reflected that priority which addresses the long term sustainability of the service and the system.

In addressing its overall budget concerns related to sustainability of the system, BART also evaluated the sustainability of the employee benefits going forward. The current contract provisions relating to benefits incorporated leave virtually the entire risk of benefits cost increases with BART. Both pension and medical benefits costs have increased steadily in recent years, with the result that the District's cost for benefits has reached 60% of each employee's pay. BART's initial and continuing proposals ask that the employees share the risk and participate in the cost increases. The District initially proposed that rather than pay a set medical premium amount that the employees contribute a percentage of the total premium which requires the employee to share equally in the risk of increased medical premium cost. That initial proposal has been significantly revised and modified now BART asks the employee to share in the risk of existing medical costs by capping its contribution to the medical premium. BART has also proposed that all employees contribute to their pension. Currently, employee's hired before January 1, 2013 contribute nothing to this pension plan. The current proposals provide for an initial 2% contribution by employees hired before January 1, 2013, escalating to 5% over four years.

Another significant issue to be addressed through these negotiations is related to employee availability. BART's costs in overtime have continued to escalate while its employee availability decreases. In order to address the attendance issue BART provided a series of attendance related proposals, the most important of which is the "40 hour work week" proposals which requires that an employee actually work 40 hours during the work week before earning overtime.

In conjunction with the supplemental provisions of the SEIU and ATU contract, there are a number of efficiency related issues that address BART's ability to schedule its work, to update and integrate new technology into the various classifications, and to otherwise manage the system. These proposals which were designated as efficiency proposals address a number of specific and problematic work rules or practices and all relate generally to BART's ability to manage its workforce.

BART has met with ATU and SEIU The parties have met and bargained all of these issues since May and have through the course of those negotiations reached a number of tentative agreements. The primary issues which remain in dispute concern: (1) the term of the contract; (2) medical contributions;

(3) pension contributions; (4) wages; (5) the 40 hour work week; (6) BART's right to schedule and direct its work force; and (7) the ability to determine the nature and scope of work to be performed by each classification. Concurrently BART continued to meet with AFSCME using a modified interest based bargaining process. BART's proposals to AFSCME generally reflect the same issues as presented in its negotiations with ATU and SEIU; however, an additional issue with AFSCME relates to a class and compensation study and adjustment proposal which remains unresolved between the parties.

ATU/SEIU have proposed a 3 year contract and are currently seeking wage increases of 5% (inclusive of a COLA) each year for a total wage increase of 15% over 3 years. BART has offered ATU/SEIU a wage increase of 2%, 2%, 2.5% and 2.5%, for a total of 9% over 4 years. ATU /SEIU have proposed pension contributions of 7% but demand a "swap" for a 6.5% wage increase for that contribution. BART proposes contributions of 2%, 3%, 4% and 5%. BART's current medical proposal to ATU/SEIU is that BART's medical premium payment be capped at the lower of the employee plus 2 dependents premium of either Kaiser or Blue Shield Access +, less modest monthly employee premium contribution, the result of which would only require those employees who remain in the higher of the two medical plans to pay the difference or alternatively to change their coverage to the lower rate plan. In response ATU /SEIU have offered a small increase to the previously agreed upon employee premium contributions.

In response to the 40 hour work week SEIU and ATU have each offered to include a contract provision that would exempt an employee from the right to work on his or her day off if that employee was in an unpaid and unprotected leave status for one or more days during the work week. The District has modified its initial 40 hour work week proposal to allow employees to earn overtime pay for working in excess of 8 hours in a day but still requires 40 hours actually worked to earn overtime premiums when working on a regular day off.

On July 1, 2013 ATU and SEIU went on strike upon expiration of their current contract. AFSCME had previously agreed to a contract extension and did not strike but many members did honor the SEIU and ATU work stoppage. On July 5 SEIU and ATU returned to work pursuant to a mediated agreement pursuant to which the parties agreed to a 30 day contract extension. During that extension the parties met and BART made significant changes and modifications to its proposals related to the medical, wage and pension contributions. During that extension AFSCME revoked its agreement to extend the contract and further advised BART that it was no longer willing to participate in interest based bargaining. As a result, AFSCME and BART have recently exchanged proposals. The economic proposals to AFSCME are the same as those proposals to SEIU and ATU.

BART is prepared to continue to work with the Unions in the development of a fair and equitable package which provides employees with a net wage increase. In exchange BART asks the employees to share in increased benefits costs going forward. Without that shared risk, BART will be unable to continue to provide the rich benefits package its employees currently enjoy. In addition BART's employees must be prepared to address employee availability and allow more efficiency and flexibility to management so that BART can continue to provide the current level performance of the BART system enjoyed by the Bay Area.

## Impacts of BART Work Stoppage

### Effects on Public Health and Safety

The direct, negative impact on public health and safety of a BART strike is irrefutable. Substantially increased traffic congestion leads to more traffic accidents. Emergency response vehicles (fire, police, ambulance, paramedic) responding to these additional accidents, as well as to their regular calls, would be hindered, in some cases severely. The result of these traffic congestion caused delays could be life threatening under many circumstances.

Caregivers, charged with providing essential aid to those in need, would be challenged to get to their patients and clients. People without automobiles who rely on BART might not be able to get to their pharmacy to fill their prescriptions or to important doctor's appointments. Even children could be exposed to danger as they waited for parents, delayed in traffic, to pick them up from school or camp, even more so if they chose to walk home on their own.

The public health and safety consequences of shutting down the region's largest public transit provider are serious. These serious consequences warrant appropriate emergency measures to prevent the shutdown. The lack of BART service represents a clear increased risk to public health and safety.

### Economic Impacts:

The Bay Area Council has estimated that the direct cost of a BART strike to the region is \$73 million per day. Let's wrap our heads around what this figure means.

This figure is conservative as it only counts the increased travel time people endured after being forced off BART and into their cars or other forms of transit. Yet it is still a very big number in the sense that it represents a loss of about \$45 a day to the average household and an 8% loss in the Gross Domestic Product of the San Francisco/Oakland Metropolitan Area.<sup>1</sup>

To put an 8% loss GDP in perspective, this drop would be even greater than the single biggest downturn in US GDP that was witnessed during the 2008—2009 Global Financial Crisis.

The true economic loss is probably much higher, the above figures do not include the indirect economic impacts that a BART strike has. These include empty tables at San Francisco and Eastbay restaurants, lower attendance at concerts and sporting events, freight not moving

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<sup>1</sup> Note that \$73 million per day equals \$26.6 billion per year, which is 8% of the latest Regional GDP estimate of \$347 billion.

along the Bay Area's highways, trips cancelled by potential visitors, higher day care expenses for working parents, increased greenhouse gas emissions, increased accidents on roadways, and an overall increase in personal stress levels.

#### Transportation Impacts:

We do have some solid information to back up the Bay Area Council's findings on a BART strike's highway travel time and transit capacity impacts. We know that of the 400,000 daily trips taken on BART, only 83,000 or 21% were diverted to other forms of alternative transit. The remaining 79% either stayed home or were stuck in some very heavy traffic. Of our nearly 200,000 weekday Transbay trips, only about 15% of them were absorbed by regional express buses and ferries.

Luckily it was the July 4th Holiday week so many people were not working, schools were not in session and employers were more flexible. It is anticipated that the impacts would be worse next time.

#### *Traffic Impacts*

Despite it being a lighter than usual traffic week, traffic delays on Tuesday, July 2<sup>nd</sup> in several travel corridors more than doubled. That can equate to hours out of many people's day. According to the Bay Area Council, increased traffic congestion generated almost 16 million pounds of carbon, and wasted almost 800,000 gallons of gas at a cost of almost \$3.3 million every day.

Specifically, traffic delays on day two of the recent BART strike were most greatly felt in the Bay Bridge corridor between West Oakland and San Francisco and the SR-24 corridor between Walnut Creek and West Oakland:

- AM peak hour driving times increased 25 minutes to just over 60 minutes or about 140% on the route between Walnut Creek and West Oakland, the corridor where BART is the only transit alternative.
- In the Bay Bridge corridor where BART carries nearly 21,000 riders in the AM peak hour/direction, driving times during that same time period increased from 10 minutes to 30 minutes or about 200%.
- Traffic delays and travel times were very unstable and unpredictable in most corridors normally served by BART.

Telecommuting is an option for some of our riders. This option has become less attractive as many companies have reduced telecommuting from two days a week to one or eliminated it all together (e.g. Yahoo). For many of those who do have telecommuting as an option, after a few days of telecommuting they must eventually return full-time to their place of business or office.

Those who work in retail, hospitality, restaurants, health care and other service industries must show up in person do their jobs every day. Many of these service workers do not have access to an automobile and are in fact transit dependent.

Ridesharing and carpooling work really well during the AM peak period but there are always fewer drivers that are willing to take riders back home during the PM peak period in San Francisco due to lack of travel time savings and economic incentives. Consequently, the regional transit operators must pick up the slack in the afternoon and evening.

### *Transit Impacts*

The Water Emergency Transportation Authority (ferry operator) saw ridership increase by 200% and AC Transit (Transbay bus) saw ridership increase by 150%. Lines for buses and ferries were very significant and multiple "pass-ups" were a regular occurrence.

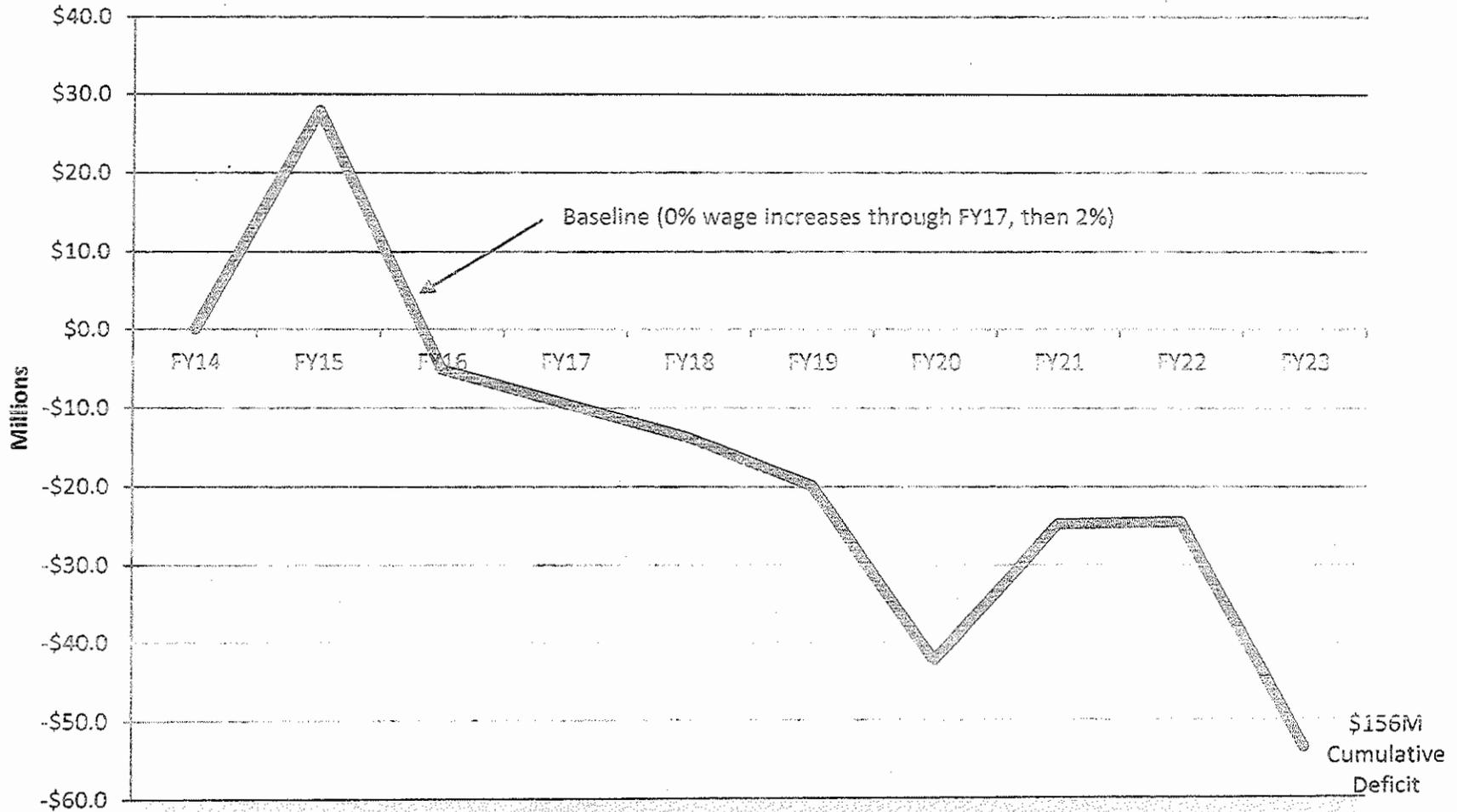
This network of Transbay express buses and ferries has seen considerable investment in the last 10 years. Still this system does not even come close to substituting for BART's peak period capacity:

- One express bus or ferry boat only carries 50-200 people and matches the approximate crush load carrying capacity of just one BART car in a multi-car train.
- On weekdays we deploy 62 trains during the peak period with an average train length of 9 cars; this works out to be about 570 total BART cars circling the Bay.
- The customer service feedback we receive on a typical weekday today and future ridership projections strongly suggests we should be running longer trains and more of them during the peak period.
- The ferries and regional bus network currently lack high capacity passenger terminals in Oakland and San Francisco: existing facilities are medium capacity at best and were overwhelmed during the strike with lines stretching for blocks.
- Multiple public agencies must redeploy staff to assist with increased crowding, vending of fares and traffic congestion at bus and ferry terminals. The reallocation of already constrained resources results in significant staff overtime and reduced ability to address other priorities.
- The productivity of the regional express bus system, including BART's charter buses during the recent July BART work stoppage, is greatly impacted by freeway traffic conditions. The worse traffic gets, the less productive the bus system gets and more resources must be deployed to provide the required capacity and service frequency.

**FINANCIAL**

**INFORMATION**

## 10-Year Financial Outlook Net Annual Result



Includes: OAC, WSX, & eBART; HMC O&M; PERS Amortization Impacts  
 Other State of Good Repair contribution \$25M FY19 -->  
 Annual Avg Growth: Ridership 3.5% FY14, 2% FY15 -->; Sales Tax 4% FY14, 3% FY15 -->



**S RTP Financial Model**  
Annual Financial Results

Includes CalPERS Amortization and Smoothing Methods impacts

**DRAFT**

(millions \$)	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23
<b>SOURCES</b>										
<b>Revenue</b>										
Net Rail Passenger Revenue	415.0	431.0	442.8	466.1	485.8	515.9	530.4	561.8	572.5	601.0
ADA Passenger Revenue	0.9	0.9	0.9	1.0	1.0	1.0	1.0	1.1	1.1	1.1
Oakland Airport Connector Revenue	0.0	4.9	6.7	7.7	8.2	8.6	8.9	9.4	9.6	10.1
Subtotal Net Passenger Revenue	415.9	436.8	450.4	474.8	495.0	525.5	540.3	572.2	583.2	612.2
Non-Fare Revenue	39.3	41.2	44.1	46.6	49.1	51.0	52.8	54.6	56.4	58.1
Total Operating Revenue	455.2	478.0	494.5	521.4	544.1	576.5	593.2	626.8	639.5	670.3
<b>Financial Assistance</b>										
Sales Tax Proceeds	215.7	222.2	228.9	235.8	242.8	250.1	257.6	265.3	273.3	281.5
Property Tax Proceeds	30.9	31.8	32.8	33.8	34.8	35.8	36.9	38.0	39.1	40.3
STA/TDA	18.8	15.9	17.8	20.1	22.6	25.3	28.3	29.4	30.5	31.7
Other Operating Assistance	2.7	9.4	11.0	6.4	4.1	4.2	4.3	2.4	2.4	2.5
5307 Urbanized Area (Federal)	72.0	77.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Financial Assistance	340.1	356.4	290.5	296.0	304.2	315.4	327.0	335.1	345.4	356.0
<b>Total Sources</b>	<b>795.3</b>	<b>834.4</b>	<b>785.0</b>	<b>817.4</b>	<b>848.3</b>	<b>891.9</b>	<b>920.2</b>	<b>961.9</b>	<b>984.9</b>	<b>1,026.3</b>
<b>USES</b>										
<b>Expense</b>										
Net Labor	393.4	401.9	413.5	421.9	438.2	454.8	473.2	484.3	497.4	510.7
Traction/Station Power	41.7	41.6	42.7	45.5	47.7	49.5	51.7	53.6	55.9	58.4
Other Non-Labor & Clipper Fees	103.7	104.3	105.2	107.7	108.6	111.2	112.2	114.8	115.9	118.6
Future Service Changes	0.0	0.3	10.1	22.1	42.5	45.0	49.2	52.0	55.0	58.3
Alternate Mode Extensions (OAC, eBART)	0.0	6.9	8.4	14.5	20.9	21.5	22.1	23.4	24.0	24.7
Hayward Maintenance Complex (HMC)	0.0	0.0	0.0	0.0	13.1	32.0	29.0	22.6	24.8	27.4
Additional Operating & Station Initiatives	12.2	14.6	14.6	14.9	15.3	15.9	16.6	17.4	18.2	19.2
Subtotal Rail Operating Expense	550.9	569.6	594.5	626.5	686.3	729.9	754.0	768.2	791.2	817.3
Purchased Transportation (Muni, ADA, AirBART)	16.7	16.8	17.2	17.7	18.2	18.7	19.2	19.7	20.3	20.8
5307 Rail Car Fund Swap (Federal)	72.0	77.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal Non-Rail Expense	88.7	93.8	17.2	17.7	18.2	18.7	19.2	19.7	20.3	20.8
Total Operating Expense	639.6	663.4	611.7	644.2	704.4	748.6	773.2	787.9	811.4	838.1
<b>Debt Service and Allocations</b>										
Bond Debt Service & MTC \$60M Loan Payback	58.3	56.0	56.3	56.5	56.8	56.9	57.1	57.2	57.4	57.6
Priority Capital Programs/State of Good Repair	53.5	51.1	87.0	92.2	67.2	79.4	105.8	115.2	113.6	156.9
Allocations - Capital	32.9	26.3	26.8	22.7	23.2	23.7	24.2	24.8	25.3	25.9
Allocations - To WSX from SFO Ext Profits	7.2	8.6	8.9	10.1	6.4	0.0	0.0	0.0	0.0	0.0
Allocation to Stations, Ops Reserve & Other	5.1	2.1	0.6	2.1	4.8	4.0	3.1	2.6	3.1	3.3
Total Debt Service & Allocations	156.9	144.1	179.5	183.6	158.4	164.0	190.2	199.8	199.4	243.6
<b>Total Uses</b>	<b>796.6</b>	<b>807.5</b>	<b>791.3</b>	<b>827.8</b>	<b>862.9</b>	<b>912.6</b>	<b>963.3</b>	<b>987.7</b>	<b>1,010.9</b>	<b>1,081.7</b>
OPEB Unfunded Liability	1.4	1.5	1.6	1.8	1.9	2.1	2.3	2.6	2.8	3.2
<b>Annual Financial Result</b>	<b>0.1</b>	<b>28.4</b>	<b>(4.6)</b>	<b>(8.6)</b>	<b>(12.6)</b>	<b>(18.6)</b>	<b>(40.8)</b>	<b>(23.3)</b>	<b>(23.1)</b>	<b>(52.2)</b>

## Cost Comparison - District and ATU/SEIU Proposals

Costs or Savings ( ) vs. Current Baseline (\$M)

District	4-Year	ATU/SEIU	4-Year <sup>(1)</sup>
Wages 2% - 2% - 2.5% - 2.5%	\$ 45.5	Wages 11.5% - 5% - 5%	\$ 165.7
Pension (Employee Contribution) 2% - 3% - 4% - 5%	\$ (22.1)	Pension (Employee Contribution) 7% - 7% - 7%	\$ (47.3)
Medical CAP - Lower of Kaiser, Blue Shield +2	\$ (4.9)	Medical 5% Co Pay Incr.	\$ (0.6)
<b>Total</b>	<b>\$ 18.5</b>	<b>Total</b>	<b>\$ 117.8</b>

<sup>(1)</sup> Assumes 5% wage increase and continuation of pension and medical contributions for the 4th year of Union 3-year proposal.

## Operating Budget Summary

The FY14 Interim Budget includes a \$567.6M operating budget comprised primarily of \$402.0M in wages and benefits, as outlined in Table 2 below.

**Table 2**

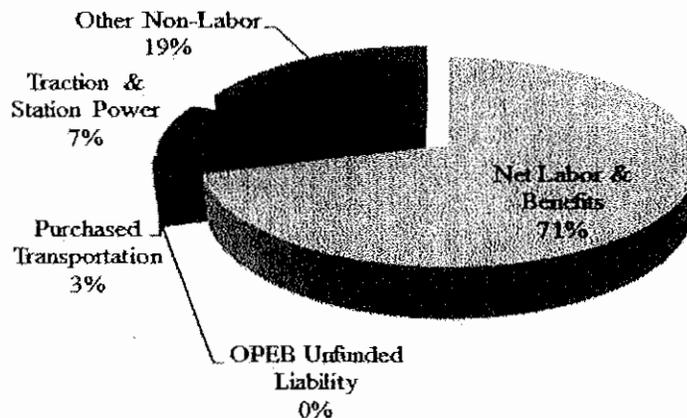
OPERATING EXPENSES (\$ millions)	Budget		Change	
	FY13 Adopted	FY14 Adopted	\$	%
Labor	\$ 381.2	\$ 400.6	\$ 19.4	5%
OPEB Unfunded Liability	0.9	1.4	0.5	61%
Subtotal Labor	\$ 382.1	\$ 402.0	\$ 20.0	5%
Traction/Station Power	38.1	41.7	3.6	9%
Other Non-Labor	96.5	107.7	11.2	12%
Purchased Transportation	16.0	16.3	0.2	1%
Subtotal Non-Labor	\$ 150.6	\$ 165.6	\$ 15.0	10%
<b>OPERATING EXPENSES TOTAL**</b>	<b>\$ 532.7</b>	<b>\$ 567.6</b>	<b>\$ 35.0</b>	<b>7%</b>

\*\*OPEB: Other Post Employment Benefits, including retiree medical, life insurance, survivor benefit, etc. The OPEB unfunded liability is a non-cash accounting entry to record the difference between the Annual Required Contribution and the total of the Retiree Health Benefits Trust payments per the ramp-up schedule plus the "pay-as-you-go" retiree premium payments.

As shown in Table 2, BART's operating expenses are projected to increase by 7 percent from FY13 to FY14, from \$532.7M last fiscal year to \$567.6M in FY14. These increases are driven by the costs of additional positions in addition to the increased costs of benefits, power, and other costs listed in Table 2 above and as discussed in subsequent sections of this document.

Figure 1 below represents the composition of BART's interim FY14 operating budget. As shown, 71 percent of operating costs in FY14 are budgeted for labor.

**Figure 1**  
**FY14 Operating Expenses**



Labor, power, purchased transportation, and other costs are detailed in the following sections.

policies will be implemented in FY16 and will be phased in over five years.

In addition to the PERS pension, the District contributes to a supplemental qualified retirement pension contribution, the Money Purchase Pension Plan (MPPP), which is a 401(a) type plan. The District contribution consists of 6.65 percent of base wages, but is capped at an annual amount of \$1,869 per employee. The MPPP expense totals \$6.4M in the FY14 Interim Budget. An additional 1.627 percent contribution was suspended as part of the last labor contracts, but returned to all employees (other than sworn police) at the beginning of FY14, at a value of \$4.2M in the FY14 Interim Budget.

**Active Employee Medical Insurance (\$57.2M)**

The District pays for a large portion of the active employees' medical benefits. Currently, employees contribute \$92.24 per month. On January 1, 2014, employee contributions will be subject a scheduled 3 percent annual increase. The District's cost of medical insurance plans for active employees increased by 12.5 percent from FY13, to \$57.2M in the FY14 interim budget. The employee portion of medical insurance plans is \$3.6M in the FY14 interim budget.

**PERS Retiree Medical Insurance (\$29.9M)**

As part of the District's medical benefits package, an employee is eligible to receive retiree medical benefits once they retire if they have worked for the District for more than five years and are over the age of 50.

Actuary forecasts show that retiree medical insurance costs will steadily increase in future years. Overall, costs have increased over the past eleven years due to the increase in the number of retirees from 802 in FY03 to 1,797 in FY13, along with escalating premium costs.

**Workers' Compensation (\$12.4M)**

The FY14 Interim Budget includes an estimated \$12.4M to fund worker's compensation claims.

The workers' compensation actuarial forecast received in May 2012 projected an increase in outstanding past liabilities as well as an increase in projected claims in FY13. The forecast recognized the continuing trend in increasing (a) frequency and (b) cost of claims. The FY13 budgeted annual funding for workers' compensation claims was increased from \$8.8M in FY12 to \$12.1M, and the claim reserve account was also supplemented by \$9M at FY12 year end.

## **I. Big 3 Priority Capital Projects**

### **New Vehicle Procurement Program: Fleet of the Future**

BART began service over 40 years ago and is currently running the oldest fleet in the United States. The technology in these old cars has become outdated as significant improvements in propulsion, communications, failure monitoring, and energy efficiencies have since been developed. Weekday ridership is projected to increase to 500,000 within the next 5 years, and 1 million in the next 40 years. The current fleet is simply not capable of handling this demand. It will necessitate an expanded fleet, new and expanded maintenance facilities to support the fleet, and an updated train control system to increase vehicle throughput in the Transbay Tube.

In June, 2012 a Notice to Proceed was issued for 410 new cars, out of a 775 car order. Of the first order of 410 cars, \$298 million was committed in BART funding, \$871 million by MTC and \$215 million from VTA as per agreement associated with the construction of the Silicon Valley Rapid Transit (SVRT) extension project. In order to meet this commitment, BART must continue to set aside funding from the operating budget. At the current rate, it would take another 5 years, to FY2018, for BART just to meet the funding commitment in the first 410 car order. However, due to the favorable per-unit bid received for the cars, BART wishes to ultimately order a total of 1000 cars to meet capacity needs in the coming years. We are presently negotiating with MTC to secure a share proportional to their commitment to the current order, with BART providing the balance.

The new configuration of seats will allow for roughly 10% more standing room in each train car compared with today's train cars, while reducing seats per car by less than 3%. Extra standing room will help alleviate crowded commutes and provide a comfortable trip for passengers who are only traveling a few stops. Delivery of 10 Pilot Vehicles will be completed in September 2015. Delivery of Production Vehicles will commence in December of 2016 at a rate of 10 vehicles per month.

### **Hayward Maintenance Complex Project**

The HMC Project is a project to upgrade and expand the existing Hayward Shop and Hayward Maintenance Yard to accommodate the maintenance needs of the SVRT project and BART's future railcar fleet and system maintenance demands. The scope of the HMC Project includes:

- Modifications to the existing primary shop and equipment therein;
- New component repair shop;
- New Maintenance & Engineering (M&E) shop;
- New material storage yard;
- New vehicle level overhaul shop; and

## **II. Beyond the Big 3 – State of Good Repair**

### **BART Assets Reaching End of Useful Life**

In order to provide safe and reliable passenger rail service over the long term, systems like BART must be in good working order. For a public transit system being in a “State of Good Repair” (SOGR) means keeping up with costly maintenance processes which improve or expand the lifecycle of their physical “assets.” But many of BART’s assets are at or beyond the end of their useful life. Power substations, lighting, cable distribution systems, elevators and escalators, third rail and coverboards, fire alarm systems, communications systems and miles and miles of track are in need of attention.

Over the last several years, BART has prioritized the development of a comprehensive full inventory of its assets, including a list of capital reinvestment projects to determine rehabilitation needs. From this data, BART has also been assessing an annualized roster of the most critical reinvestment needs based on impacts to safety and service reliability which is included in this report.

If BART cannot keep up with SOGR needs to provide safe dependable transit service for our citizen, riders in the Bay Area will experience added travel costs because many BART riders will switch back to autos, increasing delays, congestion and environmental costs – which will certainly result in a regional economic hit to the Bay Area. This has been confirmed by prior independent studies, the most recent of which was performed in 2011 by a consortium including UC Berkeley, the Bay Area Council, and other interests. One of the key conclusions of that particular study was that by failing to adequately invest in BART SOGR needs, the San Francisco Bay Area could experience between \$21 billion and \$32 billion in ancillary economic losses over the next thirty years.

The attached table depicts our most recent assessment of SOGR Unfunded Shortfall by Program in various time increments, including existing backlog, and in four, ten and thirty year horizons.

### **III. Capacity Related Capital Projects**

BART expects ridership to increase by about 50 percent over the next 12 years, driven by population and employment increases in the BART service area. Just within Priority Development Areas adjacent to BART, more than 235,000 new jobs are forecast. To provide enough service and capacity to meet these challenges, BART will need to focus on these essential priorities:

- Deploy a modern 1,000 car fleet (Big 3 project)
- Develop larger and more efficient maintenance facilities (Big 3)
- Procure and deploy a modernized train control system that allows more trains to operate on the system during peak periods (Big 3 project)
- Adjust routes and provide more frequent service within the region's core
- Preserve BART's current policy headways and on-time reliability
- Bring its infrastructure to a state-of-good-repair with an emphasis on power and communication systems renewal
- Rehabilitate stations and deliver strategic trackway improvements that allow for a more efficient use of trains, cars and train operators.

The priorities will save BART money, reduce crowding in the peak periods, but fill empty seats in the off-peak, and create a highly frequent service in the region's core.

Again, it is important to note that, with the exception of Train Control Modernization and Phase 1 of the Hayward Maintenance Complex, there is virtually no identified funding for needed capacity related capital investments.

### **IV. System Safety and Security Projects**

System safety and security has been a capital focus in recent budgets, particularly in FY14. In addition to the hardening, communications, grilles, fencing, closed circuit TV and other projects identified in the Safety and Security category of the capital budget, there is approximately \$25 million of safety related projects contained in the System Renovation category as well. These include trackway fall protection, third-rail coverboard replacement, emergency power and fire safety system renovation or replacement, emergency communications, vertical circulation safety improvements, and sidewalk repairs.

**COMPENSATION**

**INFORMATION**

**RELEVANT RECENT  
LABOR SETTLEMENTS**

7/18/2013

Recent Bay Area Labor Settlements

Employer/ Agency	Union(s)	Date of Agreement	Term of Agreement	Wages	Pension	Medical	Net of Wages Pension Medical	Other
Port of Oakland	SEIU, IFPTE, IBEW	spring 2013	two years	13%(2.5% x 2 + plus offset pension 8%)		20 year vesting for retiree 8% medical	5%	\$3500 lump sum in year one
City of Oakland		summer 2013	two years (?)	3%(2% +1%)	no change -- (8% ee contribution misc; 13% safety	no change (er pays full cost of Kaiser and ee pays any excess for other plans)	3%	tried to get more medical co pay, lower maximum vacation and sick leave accruals, but failed
East Bay Regional Park District	AFSCME	Ratification by union 7- 17-13; Dist will consider in August, 2013	4 years - retro to 4- 1-13	2% + 2% +CPI- based 2 - 2.75% x 2; assumed 9.5% for budgeting purposes	4% in addition to pre-existing 4%	no change -- 100% er paid	5.50%	eliminated AARP post-retirement medical for employees 65+



**San Francisco Bay Area Rapid Transit District  
FY14 Average Annual Cost per Employee**

	SEIU MWIII* (FT)		ATU Train Operator (FT)		ATU Station Agent (FT)	
	Employee Cost	BART Cost	Employee Cost	BART Cost	Employee Cost	BART Cost
Wages for Regular Hours		59,341		50,911		52,241
Vacation, Sick and Holiday		12,303		11,837		11,937
<i>Annual Base Salary</i>	-	<b>71,644</b>	-	<b>62,748</b>	-	<b>64,178</b>
Medical	1,124	16,544	1,124	16,544	1,124	16,544
Retiree Medical		8,121		7,148		7,298
Long Term and Short Term Dis.		534		534		534
PERS		13,680		12,243		12,846
Dental		2,098		2,098		2,098
Money Purchase Plan (inc. addt. MPP)		3,083		2,938		2,960
Medicare**	998	998	879	879	897	897
Other Benefits***		3,733		3,309		3,375
<i>Total Fringe Benefits</i>	<b>2,122</b>	<b>48,791</b>	<b>2,002</b>	<b>45,692</b>	<b>2,021</b>	<b>46,552</b>
<b>Total Salaries and Benefits</b>	<b>2,122</b>	<b>120,435</b>	<b>2,002</b>	<b>108,440</b>	<b>2,021</b>	<b>110,730</b>
<b>Fringe Load</b>		<b>68.1%</b>		<b>72.8%</b>		<b>72.5%</b>

\* SEIU MWIII includes the following classifications as listed in the SEIU 2009-2013 labor contract: Auto & Equip Mechanic, Buildings Worker, Cash Handling Electronic Tech, Comm Electronic Tech, Dump Truck/Equipment Operator, Electrician, Elevator/Escalator Worker, ERS Tech, Fire Protection Worker, Fire Service Worker, Grounds Worker/Applicator, Irrigation/Grounds Worker, Locksmith, Material Coordinator, Painter, Power & Mechanical Worker, Shop Machinist, Structures Equipment Operator, Structures Welder, Track Equipment Operator, Track Welder, Train Control Electronic Tech, Transit Vehicle Electronic Tech, and Transit Vehicle Mechanic.

\*\* Medicare insurance coverage (1.45% of salary) is required by law, and impacts only employees hired after 3/31/86. Medicare is budgeted at the blended rate of 1.344% since BART has employees hired both before and after that date.

\*\*\* Other Benefits include Additional Life Insurance, Basic Life Insurance One, State Unemployment Insurance, Vision Care Plan, and Workers' Compensation.

# **2013 NEGOTIATIONS**

## **CHRONOLOGIES**

## 2013 Negotiations Chronology

### March 2013:

The District began discussions on ground rules and release time with ATU Local 1555 and SEIU Local 1021 on March 1, 2013. After several meetings the parties were unable to agree to ground rules.

### April 2013:

Without ground rules in place the parties met on April 1, 2013 to exchange initial proposals as required by statute.

On April 18, 2013 SEIU and the District reached a mediated decision regarding the ground rules and release time for the 2013 negotiations. The agreement allowed for full release of the SEIU bargaining team effective May 13, 2013.

### May 2013:

The three parties began meeting on May 13, 2013 and negotiating on Generals and Supplemental contract provisions.

### June 2013:

On June 14, 2013 the District's Chief negotiator requested mediation from the State Mediation and Conciliation Service. Mediation began on June 17, 2013.

Throughout the month of June the parties continued negotiations on the Supplemental and General provisions. The SEIU refused to negotiate on Supplemental provisions during the weeks in which the parties were also negotiating the General provisions.

On June 27, 2013 ATU and SEIU gave the District a 72 hour notice of the bargaining units' intent to strike.

### July 2013:

July 1, SEIU and ATU went out on strike. A new mediator was assigned by SMCS to work with the parties. After a four (4) day strike the parties reached a mediated agreement to extend the contract for 30 days; prohibiting a strike, lockout or "Last, Best, and Final Offer" until August 4, 2013.

The District continued to negotiate in good faith with ATU and SEIU on the General and Supplemental provisions throughout the 30 day extension.

**August 2013:**

The parties continued to negotiate up to the August 4<sup>th</sup> deadline. The District and ATU requested a sixty (60) day "cooling off" period from the Governor.

Attached hereto are calendars which illustrate the specific dates for ATU, SEIU, and joint meetings. An additional calendar provides the same information for AFSCME.

**2013 NEGOTIATIONS CHRONOLOGY**  
**AFSCME**

**DECEMBER 2012**

The District entered into a modified interest based bargaining (IBB) process with AFSCME, Local 3993. Discussions commenced regarding a proposed classification and compensation program for the District and AFSCME.

**JANUARY 2013**

The District met with AFSCME to discuss ground rules and continued discussions on classification and compensation.

**FEBRUARY 2013**

The District continued to meet with AFSCME regarding classification and compensation and to discuss ground rules.

**MARCH 2013**

On March 19, 2013, the District and AFSCME agreed to written ground rules to begin negotiations. The parties exchanged lists of contract sections to discuss and specifically discussed vacations, compensatory time/overtime, and meal allowance.

**APRIL 2013**

The District and AFSCME exchanged proposals and began formal contract negotiations using a modified IBB process. The focus of the negotiations was training, standby pay, workweek, Operations Control Center (OCC) extra board, OCC performance incentives, OCC overtime allocation, Senior and Operations Supervisor (SOS/OS) scheduling, maintenance clothing allowance, SOS/OS seniority, and flexible hours. The District's chief negotiator, Rudy Medina explained the process of signing "pre" tentative agreements, or "PTAs". The PTAs allowed negotiations to progress with the understanding that the District's executive leadership team and Office of the General Counsel have the final authority to approve tentative agreements.

**MAY 2013**

The District continued negotiations with AFSCME. The main topics discussed were the focus of the discipline and termination procedures, probationary period, holidays, offline assignments,

SOS/OS vacation allocation, reduction in force, unscheduled call back, SOS/OS training compensation, educational assistance program, and union representatives.

### **JUNE 2013**

The District and AFSCME continued negotiations on outstanding issues. On June 5, 2013, the District had a discussion with AFSCME related to contract extension and a different agreement expiration date. On June 26, 2013, the parties mutually agreed to extend the contract on a day to day basis, or until either party provided a 72 hour notice of its intent to terminate the contract extension. Both parties also agreed to recess negotiations until the ATU and SEIU negotiations concluded.

### **JULY 2013**

Negotiations continued on outstanding issues throughout July. On July 2, 2013, the parties agreed to a most favored nation agreement to have AFSCME members return to work and a related Letter of Understanding concerning a classification and compensation model. These agreements were signed by both parties. On July 9, 2013, the District was informed by AFSCME's legal counsel that AFSCME's Executive Board replaced their chief negotiator Jean Hamilton-Gomez with George Popyack. The District was also informed that AFSCME's Legal Counsel would be attending most negotiation sessions. On July 18, 2013, Mr. Popyack repudiated the July 2, 2013, agreements and informed the District that AFSCME no longer had confidence in the IBB process. He also stated that classification and compensation was their main issue. On July 23, 2013, the District was prepared to continue to discuss classification and compensation. However, AFSCME refused, indicating they wanted to discuss other outstanding contract issues instead. On July 30, 2013, the District and the Union engaged in classification and compensation discussions. July 30, 2013, 10:37 p.m. the Union notified the District of its intent to terminate the contract extension by issuing its 72 hour notice.

### **AUGUST 2013**

The District and AFSCME continue to discuss the classification and compensation issues. On August 1, 2013, AFSCME submitted its 72 hour notice of its intent to strike. The District continued to bargain until 10 p.m. on August 4, 2013.

Attached is a calendar that lists all of the dates on which AFSCME and the District met.

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**SUMMARY**

**OF**

**BART PROPOSALS**

August 6, 2013

Currently Outstanding District General Proposals to ATU and SEIU

Term of Contract – BART proposes a four (4) year term.

Wages – BART proposes the following wage increases: a 2% increase effective upon ratification; a 2% increase effective July 1, 2014; a 2.5% increase effective July 1, 2015 and a 2.5% increase effective July 1, 2016.

Cost of Living Wage Adjustment – This section provides a nominal wage increase at the conclusion of the 2013 contract. That wage increase has been implemented and the District proposes the elimination of this provision.

Medical Coverage – The District proposes to cap its premium contribution at the lessor of the premium for employee plus two (2) of the Blue Shield Access+ or PERS HMO Kaiser Plan for employee plus two (2) dependents whichever is less. Employees would continue to pay the employee's share of the premium as set forth in the contract and those employees in the plans which exceed the cap must either pay the difference or enroll in a less expensive plan.

Pension Contribution - BART proposed that new employees (first employed after January 1, 2013) contribute 50% of the normal cost and that current employees contribute 2% of their salary the first year, 3% the second year, 4% the third year and 5% the fourth year of the contract.

Sick Leave – BART proposes modifications to the sick leave provisions which would result in more accountability from employees specifically these proposed changes require employees to provide a doctor's note excusing absences of three (3) days or more upon their return to work.

Industrial Injury - BART proposed that employees be required to coordinate their leave when off on disability

Medical Examinations -BART seeks increased flexibility in its ability to seek a fitness for duty evaluation and otherwise in obtaining medical evaluations of the employee's ability to return to work.

Temporary Modified Assignment - BART seeks additional flexibility in assigning employees to temporary modified assignments and flexibility in the development of temporary work programs.

August 6, 2013

Currently Outstanding District Supplemental Proposals to ATU

Train Operator Breaks: BART proposes that Train Operators (T.O.) within fifteen (15) minutes of arrival at their final destination may have to perform additional duties prior to taking their break or lunch and provide increased flexibility to management to determine where Train Operators will take their lunch and breaks.

Choice of Shifts / Sign-ups for Train Operators: BART proposes that the currently existing report locations for train operators be modified to allow BART to assign Train Operators to any location on the Line as their report location which will increase scheduling flexibility and enhance efficiency.

40 hour work week: BART proposed to pay time and one half to employees only after they have actually worked forty (40) hours in a work week. Employees who have worked forty (40) hours would also be eligible for double-time and one-half for holidays worked and for working the employee's second regular scheduled day off. This proposal is intended to increase the incentive employees have to appear for work during their regularly scheduled workweek.

Systemwide Extra Board: BART proposes that the Train Operator and Station Agent Extra Board report to designated locations set by the District.

Side Letters(SL's) and Memoranda of Understanding (MOUs): BART proposes to eliminate obsolete Side Letters and Memoranda of Understanding from the Collective Bargaining Agreement, and move others into the body of the agreement.

August 6, 2013

Currently Outstanding District Supplemental Proposals to SEIU

Elimination of Daily Bidding – The District proposes to eliminate the past practice of personnel in the track department bidding their daily assignments for the purpose of ensuring continuity and quality of work and efficiency of the operation.

5-8 Work Day & Work Week – The District seeks to reclaim the fundamental management right to schedule personnel for a 5-8 standard work week or a 4-10 alternative work week based on operational needs and without the necessity for mutual agreement.

4-10 Work Day & Work Week – The District seeks to reclaim the fundamental management right to schedule personnel for a 5-8 standard work week or a 4-10 alternative work week based on operational needs and without the necessity for mutual agreement, and eliminate the Memoranda of Understanding (MOU) no. 007-4 which guarantees 4-10 work weeks for multiple classifications.

Overtime – BART proposed to pay time and one half to employees only after they have worked forty (40) hours in a work week. Employees who have worked forty (40) hours would also be eligible for double-time and one-half for holidays worked and for working the employee's second regular scheduled day off. This proposal is intended to increase the incentive employees have to appear for work during their regularly scheduled workweek.

Change Development and Training Oversight Committee – The District seeks to reduce the committee staffing consist and overburdened scheduling requirements of the change development and training oversight committee to a more reasonable and functional schedule. This proposal is intended to increase the efficiency of the committee and concentrate on detailed training initiatives.

Foreworkers – The District seeks to eliminate Side Letter 1-3 which contains the obsolete system foreworker job description as the job description is no longer applicable.

Foreworker Evaluation Committee – The District seeks to revamp its foreworker selection process consistent with the policies and procedures of the Human Resources and the Office of Civil Rights standards for hiring procedures. The District further seeks to improve the committee by streamlining the number of participants and scheduling capabilities.

Job Descriptions – The District seeks to reestablish its fundamental management right to create and update job descriptions to define actual job duties without required Union concurrence.

Functional Classification – The District seeks to reestablish its fundamental management right to delete and/or modify functional classifications and seeks clarity in the language about overlapping duties without the necessity of mutual agreement.

Side Letters and Memoranda of Understanding (MOUs) – The District seeks to remove obsolete MOUs and Side Letters and when necessary incorporating existing contract language for ease of administration.

**SUMMARY**

**OF**

**ATU PROPOSALS**

August 6, 2013

Currently Outstanding ATU Proposals to District

Opening Station Agent – The Union seeks a scheduled start time for station agents of no less than 25 minutes before the first revenue train is scheduled to arrive in order to provide adequate time to open the station and perform safety inspections.

Foreworkers in Tower/Yard Control Functions – The Union is seeking an additional 10% premium for foreworkers working the secondary shift in the Richmond Tower.

Holiday Scheduling – The Union is proposing a hybrid holiday schedule for New Year's Eve which shall entitle each employee who works beyond 2100 hours (9:00pm) to receive an extra straight time rate of pay for all hours worked.

Shift Differential – The Union is seeking to expand the number of employees who will be eligible for the swing shift premium of 7% (4pm to 12am) and graveyard shift premium of 9.5% (12am to 8am).

Lead Worker and Instructor Premium – The Union is seeking to increase the premium for lead worker and instructor from 10% to 15%.

Foreign Language Differential – The Union is seeking to pay 7% differential to employees who demonstrate a proficiency in a foreign language. Such employees while on duty shall be available to translate as mandated by LEP Program (Title 6).

Uniforms – The Union is seeking the District to specify a preference for uniforms made in America when issuing a request for proposals related to uniforms or otherwise seeking uniform suppliers. Any such contract for uniform suppliers shall include an option allowing employees to choose uniforms of natural fibers. The Union is also seeking to eliminate bidders who have been unable to provide uniforms in a timely manner during the term of the last two contracts.

Uniform Allowance – The Union is seeking an increase in the monthly uniform cleaning allowance beginning at \$30, and an additional \$5 on July 1 of each fiscal year during the term of the contract.

Closing Agent/Station End of Revenue – The Union proposes there be two (2) stations agents scheduled for certain station's opening and closing.

Violence Prevention and Control – The Union is seeking additional safety procedures including but not limited to bulletproof windows and Dutch doors in all booths with respect to those stations where violence is a continual problem. The District shall ensure employees' safe passage on streets, parking lots and other areas near the station.

Employee Accident/Injury Reporting – The Union is requesting to be notified immediately of an employee injury or assault while on duty.

Trauma Leave – The Union is requesting that no employee shall lose pay or benefits as a result of trauma or accident (e.g. fatality, trackway accident, or physical assault).

Frontline Employee Wellness & Resiliency – The Union is requesting a joint-peer counseling committee to assist in trauma recovery of employees. In addition, they are seeking gym membership reimbursement for all frontline employees.

**SUMMARY**

**OF**

**SEIU PROPOSALS**

August 6, 2013

## Currently Outstanding SEIU, Local 1021 Proposals to the District

Patron Safety in Stations and Facilities – The Union proposes to open public bathrooms in conflict with the District's longstanding security policies. The Union also seeks guaranteed staffing levels of system service workers.

Patron and Employee Safety Lighting – The Union proposes that the District adds contractual language to provide adequate safety lighting in the areas common to the patrons and employees.

Foreworkers – The Union seeks unspecified pay raises that are defined as "fair and equitable." They are also seeking guaranteed overtime assignments expanding their basic shift work. Their proposal further seeks guaranteed promotional opportunities, increased pay for temporary foreworkers, and guaranteed training classes.

### Part-time Workers

The Union seeks to:

- Establish a requirement for mutual agreement and limit part-time workers to shifts of less than 25 hours;
- increase the existing differential paid in lieu of benefits from 10% to 20%;
- guarantee a full-time position to part-time workers when opportunities arise; and
- nullify the Settlement Agreement regarding Grievance 08-6-066, dated January 26, 2010.

### Functional Classifications

The Union is seeks to:

- reclassify and increase the rates of pay for various classifications; and
- establish a graveyard shift for grounds crew.

Base Wage Schedule – The Union seeks pay grade changes to multiple classifications.

Longevity – The Union seeks for employees who have completed 15 years of service or more an hourly wage increase of 25 cents/hour.

August 6, 2013

Currently Outstanding ATU and SEIU General Proposals

Term of Contract – The Unions propose a three (3) year term.

Wages – The Unions currently seek a 5% year wage increase each year of the contract. That wage increase inclusive of the COLA proposal. As BART understands this proposal the employee would receive the cost of living adjustment each year of the three year contract and then the wage increase would be whatever amount is required to bring the total wage increase to 5%/year.

Cost of Living Wage Adjustment – The Unions seek to add an annual cost of living adjustment provision to the contract.

Medical Coverage – The Unions propose an additional five percent (5%) employee and retiree contribution toward the cost of health increased in each year. Upon expiration of the contract, the employee/retiree contribution amount would revert to the June 30, 2016 amount.

Pension Contribution - The Unions propose an EPMC “swap.” BART would discontinue its seven percent (7%) contribution toward the member contribution and increase employee wages by six and one-half percent (6.5%).

Sick Leave – In response to the 40 hour work week, the Unions propose modifications to the sick leave provisions which specify that an employee who is off work in an unpaid and unprotected status (i.e. not on FMLA or other protected leave) would be ineligible to work overtime.

Contracting out work - The Unions propose BART be required to meet and confer with the Unions before contracting out any work and that the notice requirements be extended from 7 to 30 days.

Workers Compensation - The Unions seek to jointly establish and Alternative Dispute Resolution Program for workers Compensation in accordance with Labor Code Section 3201.7.

Reasonable accommodation /Temporary Modified Assignment - The Unions seek to require additional reporting regarding employees seeking temporary modified assignments and further seek to establish joint union/management committees which oversee reasonable accommodation requests, temporary modified assignments and evaluate ergonomic issues.

SEIU/ATU      GENERAL PROVISIONS

*6/3/13*

**SECTION 1.2      TERM OF AGREEMENT**

The term of this Agreement shall be from and including the first day of July 2013~~09~~ up to and including the 30th day of June 2013~~09~~ or one hundred (100) days following receipt of notice of a desire to modify or terminate this Agreement, whichever occurs later. Each party shall comply with the provisions of California Government Code Section 3611 ~~Section 1137.1, Par. B of Chapter 9, Part 3, of Division 2 of the California Labor Code, as amended.~~ In the event either party serves notice upon the other party of a desire to modify or terminate the Agreement, the parties shall meet and make all reasonable efforts to reach agreement on the subject matters of such proposed modifications.

The parties shall respond to any requests for information reasonably necessary for intelligent negotiations and the standards and guidelines in accordance with California Government Code Section 3611 ~~(c) 1137.1, Par. C, of Chapter 9, Part 3 of Division 2 of California Labor Code, as amended~~ Each party shall supply to the other party such reasonable data as are requested by the other party.

To the fullest extent possible the parties shall endeavor to complete their negotiations at least seven (7) days prior to the date any lawful economic action may be taken in connection with any dispute concerning any proposed changes in any Collective Bargaining Agreement.

## SEIU/ATU – GENERAL PROVISIONS – EFFICIENCY

### SECTION 1.5                      BENEFICIAL PRACTICES

Rules or regulations or practices within the scope of representation affecting employees beneficially may be discontinued or modified provided that the District provides notice to the Union of its intention to discontinue or modify the practice. If the union objects to the discontinuation or modification, the District shall meet and confer with the Union regarding the impact of the discontinuation or modification. ~~will not be changed without mutual agreement, provided that District Management has accepted the past practice over a reasonable period of time as an established practice that is unequivocal, clearly enunciated and acted upon. For purposes of this provision, "District Management" does not include any individuals represented by ATU/SEIU.~~



## SEIU/ATU      GENERAL PROVISIONS

~~1.8 CONTRACTING WORK – HOUSEKEEPING~~

## 1.8 CONTRACTING WORK \*

It is in the intent of the parties that work connected with the operation and maintenance of the system be performed by the bargaining unit employees, consistent with the basic Bay Area Rapid Transit District operations and maintenance philosophy.

Should it become necessary to deviate from this practice, the Unions shall be informed of the reason work is being contracted. The District shall email or –fax a Contract Notification Form to the individual designated by each Union. Such designation shall be provided to the District by the Unions and updated as required. ~~President of the ATU, or the BART Chapter President, the President of the Professional Chapter, and the Chair of the SEIU Contracting Out Committee, whichever Union is directly affected, prior to submitting the Contract Notification Form to the Procurement Department.~~ The Contract Notification Form will identify the date it is transmitted~~faxed~~. The Union shall have seven (7) workdays after receipt of ~~the Contract Notification Form is faxed to~~ provide any comments to the department manager. If comments are received within the seven (7) workday period, the Department Manager will consider the comments before making his or her final decision to contract.

It is agreed that prior to contracting work, the District will give consideration to whether adequate numbers of qualified employees are available to perform the necessary work within time limits available, whether sufficient and suitable equipment is available within the District to perform the work, whether shop capacity is adequate,

whether the use of District employees shall involve extra cost to the District, or whether the performance of the work presents added hazards to existing employees which are not present in their normal assignments. Temporary work load, over and above normal positions, including overtime, may be contracted out. Suppliers' personnel performing work related to their equipment and clearly not bargaining unit work will not be prohibited.

Contracts in effect at the time of this Agreement will not be voided by terms of this Agreement.

**\* Minute Clarification**

District procedures regarding contracting out work which include prior notice to the Unions at the commencement of the contracting process shall continue during the term of this Agreement.

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## SEIU/ATU – GENERAL PROVISIONS – BENEFITS

The District withdraws its proposal related to Section 4.1 except as noted herein:

### 4.1 VACATION

The District will grant three (3) weeks of vacation following one (1) year of service, four (4) weeks of vacation after eight (8) years of service, five (5) weeks vacation after fifteen (15) years of service and six (6) weeks vacation after twenty (20) years of service.

Employees may carry over up to sixty (60) days (up to forty-eight [48] days for employees on a 4-10 Plan) of vacation. Employees with four (4) or more weeks of accumulated vacation will be allowed to buy back up to forty (40) hours of such vacation. The election of such buy-back shall be made in December with determination of the four (4) week eligibility threshold to be made in December the following year with payment made in the second February following the election. Subject to applicable law and policies applicable to the MPPP program, employees may elect to have such payment deposited in their MPPP account on a post tax basis. ~~This shall take effect when BAP Phase 4 goes live.~~

Employees will select their vacation in accordance with the applicable seniority provisions consistent with the scheduling ability of their department, division or section.

In the event an employee terminates or retires, he/she shall be granted pro rata vacation compensation based upon his/her accrued credits.

Vacation allocation will be scheduled throughout the calendar year; however, to the maximum extent possible, consideration consistent with operating requirements will be given to allow employees to take their vacation during the summer months.

Should a contractual holiday fall within the employee's vacation period, compensation will be applied consistent with holiday provisions of this Agreement.

Years of service shall be based upon the employee's date of employment by the Bay Area Rapid Transit District or in the case of 13(c) employees, in accordance with the 13(c) Award.

Vacation accrual will not be continued beyond thirty-one (31) days in the event an employee is in a non-pay status.

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**SEIU/ATU – GENERAL PROVISIONS - BENEFITS****SECTION 5.2 PERS-MEDICAL & PRESCRIPTION DRUG BENEFITS \*****A. PERS Medical and Prescription Drug Benefits**

The District will provide group medical and prescription drug benefits, as provided below, through the Public Employees' Retirement System (PERS). The PERS rules, regulations and plan documents will control on all issues concerning benefits, including the types and levels of benefits offered and eligibility for those benefits.

The Unions acknowledge that they understand these benefits may not equate to benefits previously available to employees and retirees through the various optional medical plans and the prescription drug plan. Because coverage will be provided through PERS, the District and the Unions understand that PERS may terminate or change covered expenses, benefit payments and co-payments on covered benefits, deductibles, lifetime and/or annual maximums and may implement various cost control features.

Except for Survivors Benefits, as provided for in Section 5.8, the Unions waive the right to any group medical or prescription drug benefit granted expressly or impliedly under other sections of this Agreement, or by any other agreement between the parties or by any District guideline, policy or practice if that benefit is not offered through the PERS medical plan.

**B. Employee and Retiree Contributions for Health Insurance**

1. All employees eligible for PERS medical benefits who enroll for such benefits shall be responsible for a premium contribution towards the District's premium cost for the plan and level chosen except as further defined in Section C as follows:

a. Commencing no later than January 1, 2014, employees shall be responsible for a contribution of six percent (6%) of the premium cost for the plan and level chosen;

b. Commencing FY 2015, such contribution shall increase to eight percent (8%) of the premium;

c. Commencing FY 2016 such contributions shall increase to twelve percent (12%) of the premium, and

d. Commencing FY 2017, such contribution shall increase to sixteen percent (16%) of the premium.;

~~in the amount of twenty five dollars (\$25.00) per month, except as provided below.~~

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1. The employee's twenty-five dollar (\$25.00) monthly employee contribution toward the medical insurance premium shall increase by fifty dollars (\$50) on January 1, 2006. Each January 1 thereafter, the monthly employee contribution shall increase by an escalator amount of three percent (3%). For example, the total monthly employee contribution on January 1, 2007 will be seventy-seven dollars and twenty-five cents per month. (The calculation that arrives at this number is as follows:  $\$25 + \$50 = \$75 \times 1.03 = \$77.25$ .) The employee contribution amounts provided below shall be in addition to any costs for coverage in excess of the amounts specified in paragraph C below.

<u>DATE</u>	<u>Maximum Employee Monthly Contribution</u>
01 Jan. 06	\$75.00
01 Jan. 07	\$77.25
01 Jan. 08	\$79.57
01 Jan. 09	\$81.95
01 Jan. 10	\$84.41
01 Jan. 11	\$86.95
01 Jan. 12	\$89.55
01 Jan. 13	\$92.24
01 Jan. 14	\$95.01
01 Jan. 15	\$97.86
01 Jan. 16	\$100.79
01 Jan. 17	\$103.82
01 Jan. 18	\$106.93
01 Jan. 19	\$110.14
01 Jan. 20	\$113.44
01 Jan. 21	\$116.85
01 Jan. 22	\$120.35
01 Jan. 23	\$123.96

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01 Jan. 24	\$127.68
01 Jan. 25	\$131.51
01 Jan. 26	\$135.46
01 Jan. 27	\$139.52
01 Jan. 28	\$143.02
01 Jan. 29	\$148.02
01 Jan. 30	\$152.46
01 Jan. 31	\$157.03
01 Jan. 32	\$161.74
01 Jan. 33	\$166.60
01 Jan. 34	\$171.59

2. 2. Each eligible retiree shall pay the same premium contribution as active employees. Employees' premium contributions will be paid for through tax-exempt payroll deductions. Retiree premium contributions will be deducted from the retirement allowance paid by PERS. If a retiree's retirement allowance is not sufficient to pay the entire contribution, the retiree must pay the balance due on such premium contribution directly to PERS. If such payment is not received by the due date, health care coverage will automatically, immediately and permanently cease. These rules are intended to comply with the premium contribution procedures established by PERS, which may be modified by PERS. The District, Unions and employees shall comply with the PERS procedures in effect from time to time.

**C Maximum District Contributions for Health Insurance**

Beginning on January 1, 2010, the District's maximum shall contribution shall be the remainder of the premium above the employee's contribution for the applicable plan and level of plan and participation (i.e. one party, two party, or family) and the same Medicare status as elected by the eligible employee or retiree capped by equal to the Bay Area Basic Premium Rates for the PERS HMO BlueShield Access and/or PERS HMO Kaiser HMO Plan, whichever is greater, less the employee and retiree contributions provided for in 5.2B above. This District contribution shall be the District's maximum payment toward employee health insurance premiums. Employees and retirees electing a coverage with a cost greater than the District's maximum contribution shall have the difference deducted automatically from the unit member's

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pay or as set forth in 5.2 B 2. above, in addition to amounts to be deducted in accordance with subsection B above.

**4. D Retiree Insurance Funding**

4. Beginning July 1, 2007, the District shall contribute into its Retiree Health Benefit Trust (“RHBT”) amounts that, at minimum, reflect an eight (8) year “ramp up” to District payment of the full Government Accounting Standards Board (“GASB”) compliant Annual Required Contribution (“ARC”) beginning July 1, 2013 using an open group valuation method with a closed 30-year amortization schedule for unfunded liability ending June 30, 2034. Except as provided in paragraph 3 below, each pay period the District shall contribute to the RHBT an amount equal to the below listed percentages of straight time bargaining unit base pay paid to bargaining unit members in that pay period into the RHBT. (For example, if base pay in the pay period in FY 07 is one million dollars [\$1,000,000], the District will contribute \$34,900 into the RHBT for that pay period).

1. Date	3. Percentage
4.	6.
7. July 1, 2007 (FY 08)	9. 3.49%
10.	12.
13. July 1, 2008 (FY 09)	15. 3.64%
16.	18.
19. July 1, 2009 (FY 10)	21. 3.79%
22.	24.
25. July 1, 2010 (FY 11)	27. 3.94%
28.	30.
31. July 1, 2011 (FY 12)	33. 4.10%

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~~34.~~

~~36.~~

~~37. July 1, 2012 (FY  
13)~~

~~39. 4.27%~~

~~40. In addition, on or before June 30, 2009 the District shall, at minimum, contribute into the RHBT an amount equal to three and twenty two one hundredths percent (3.22%) of straight time bargaining unit base pay paid in FY 06 and three and thirty six one hundredths percent (3.36%) of straight time bargaining unit base pay paid in FY 07. These figures represent the “ramp up” percentages for those fiscal years.~~

~~1. The District shall perform an actuarial study of the retiree medical insurance plan liabilities and funding needs (including the Annual Required Contribution “ARC”) after the end of each fiscal year. For each fiscal year beginning with FY 2007, the actuaries shall adjust the above ramp up percentages for the fiscal year for which the study was prepared and for each remaining fiscal year in the ramp up period. The last such adjustment will be in the study performed prior to July 1, 2013 for FY 2013. The revised percentages shall be the percentages contributed by the District to the RHBT for those years, except that the District shall pay no less than the percentages specified in subsections 1 and 2 above.~~

~~2.1. Beginning July 1, 2013, the District shall, at minimum, contribute to the RHBT each pay period an amount equal to the full GASB compliant Annual Required Contribution (ARC) percentage of straight time base pay paid to bargaining unit members during that pay period using an open group valuation method with a closed thirty (30) year amortization schedule for unfunded liability ending June 30, 2034. (For example, if the base pay during the pay period is one million dollars [\$1,000,000] and the ARC percentage is fourteen percent [14%], the District will contribute one hundred forty thousand dollars [\$140,000] to the RHBT for that pay period.)~~

~~4.2. The District shall continue to retain all of the one and six hundred twenty-seven one-thousandths percent (1.627%) Money Purchase Plan contribution for the term of this agreement Commencing July 1, 2017 that contribution shall be retained to referred to in subsection D.5 above to the extent necessary to compensate the District for paying the difference between the actual ARC and the baseline ARC described below. The District shall retain this amount through June 30, 2034. In any year in which the actual ARC does not exceed the baseline ARC by an amount equal to the amount of the retained 1.627% MPPP contribution, the District shall pay the appropriate portion of the 1.627% into the employees’ MPPP accounts, but only to the extent that the difference between the actual ARC and the baseline ARC is less than the dollar value of the retained MPPP 1.627%.~~

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EXAMPLE: Assume that the actual ARC is fifteen percent (15%) in the particular year, the baseline ARC is fourteen percent (14%) in the particular year, and that the difference between the two is one million dollars (\$1,000,000). Assume further that the value of the retained 1.627% is one million five hundred thousand dollars (\$1,500,000). The District would then pay a total of five hundred thousand dollars (\$500,000) into the employees' collective MPPP accounts. These payments would be prorated in the same manner as would result from full payment of the 1.627% into the employee accounts.

The baseline ARC is as follows:

<u>FY Year Beginning</u>	<u>Baseline ARC</u>
7/1/13	11.88%
7/1/14	11.94%
7/1/15	12.00%
7/1/16	12.06%
7/1/17	12.12%
7/1/18	12.18%
7/1/19	12.24%
7/1/20	12.30%
7/1/21	12.36%
7/1/22	12.42%
7/1/23	12.48%
7/1/24	12.54%
7/1/25	12.60%
7/1/26	12.66%
7/1/27	12.72%
7/1/28	12.78%
7/1/29	12.84%
7/1/30	12.90%

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7/1/31	12.96%
7/1/32	13.02%
7/1/33	13.08%

7. Effective July 1, 2013 the District shall direct the Trustee of the RHBT to pay retiree health insurance premiums from the RHBT. No premiums will be paid from the RHBT prior to July 1, 2013.

**E. In Lieu of Medical Payments**

During any open enrollment period after July 1, 2009, an eligible employee who has medical coverage under a spousal or other alternate plan may elect, in accordance with procedures established by the District to opt out of the group medical and prescription drug benefits covered under Section 5.2(A) (“5.2A Coverage”).

The District shall make a monthly payment of \$~~350~~400.00 “in lieu of medical” to each eligible employee who opts out of 5.2A coverage.

Tax treatment of these payments will be subject to applicable Internal Revenue Code (“IRC”) and Internal Revenue Service (“IRS”) rules. The payments will be made in a manner that will not impact the income tax status of medical premiums under IRC requirements and to allow an employee to receive the amounts as cash monthly payments.

An eligible employee who opts out of 5.2(A) coverage may subsequently enroll in such coverage as permitted under the terms of the plan(s) described in Section 5.2(A).

**F. Trust Review Committee**

1. The District’s five (5) unions shall each appoint one (1) member to serve on a trust review committee (“TRC”). The District Labor Relations Manager and Human Resources Manager shall serve on the TRC for the District. The TRC shall meet quarterly. Employee members of the TRC will be released from regularly scheduled duty with pay for quarterly TRC meetings.
2. The District will direct the Trustee of the Trust to provide the Unions with quarterly reports of all RHBT operations, including audited and unaudited financial statements and investment performance reports, and other consultant reports in advance of the quarterly TRC meeting. (The parties acknowledge that audited financial statements are performed only once per year.)

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3. The Trustee will attend the TRC meeting to answer questions concerning the information provided to the TRC. However, the TRC shall in no way attempt to assist, direct, or otherwise involve itself in matters concerning the investment of Trust assets. However, the TRC may advise the Trustee on other Trust matters to the extent such advisory activity does not affect the legal status of the Trust. It shall be within the sole discretion of the Trustee whether to follow or not follow such advice.
4. The TRC members shall be released from regularly scheduled duty with pay to attend meetings of the Human Resources Manager and Labor Relations Manager with the District's actuaries and other professionals to discuss assumptions to be included in annual GASB valuation studies, the preliminary and final results of such studies, etc. Such studies shall include ARC projections through at least 2035. The District will provide the unions with a copy of the final version of such study on or before February 1 each year or as soon thereafter as is practicable.

**G. Retiree Health Benefits Trust**

Within one hundred twenty (120) days after the signing of this agreement by the parties hereto, the District shall amend the Trust Agreement to provide that:

1. Trust assets shall be held for the sole and exclusive purpose of providing health benefits to eligible BART retirees and to defray the reasonable expenses of administering the RHBT.
2. The only District benefit plans for which payments may be made from the RHBT shall be those retiree health benefit plans offered to eligible District retirees as a result of its collective bargaining agreements, or District policy which extends such plans to non-represented employees. In addition, for District personnel on a District plan that is no longer generally offered to District employees, payments may be made from the RHBT. However, the District shall ensure sufficient separate funding and the Trustee shall separately account for benefits paid for such personnel.
3. The District may terminate the RHBT, subject to its duty to bargain in good faith to agreement or impasse over such termination with the union. If the District gives the Unions notice of the termination of the RHBT, the Trust shall not terminate until the assets then remaining are exhausted. Such assets shall be used only as provided in paragraph 1 above.

The District reserves the right to terminate or change any part or all of the health benefits program at any time with respect to active or retired employees, however, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's contractual obligation to provide health benefits coverage to retired

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employees shall terminate upon the expiration of this Agreement. By providing benefits to retirees, the parties do not intend to vest retirees with such benefits.

**\* Minute Clarification**

Members who would like to realize the benefit of the in lieu payment as a pre-tax contribution to their deferred compensation accounts can accomplish this result by increasing their deferral amount for the deferred compensation plan by the amount of the in lieu payment, subject to Internal Revenue Code limitations on maximum annual contributions.

**\* Minute Clarification**

The parties mutually understand that the only obligation to continue the health benefits of active employees after the expiration of the Agreement is that which may arise from the general legal duty to bargain in good faith.

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**SEIU/ATU – GENERAL PROVISIONS - BENEFITS****8.0 PAY PROCEDURES****8.1 PAY PERIODS \***

All hourly employees shall be paid bi-weekly on every other Friday, on an hourly rate basis., ~~except that Staff Assistants shall continue to be considered salaried and shall be paid twice a month on the 15<sup>th</sup> and last day of the month, until such time as the District is able to establish and implement a bi-weekly payroll system for all District represented and non-represented employees. When that occurs, Staff Assistants shall continue to be considered salaried and shall be paid bi-weekly every other Friday.~~

The District shall make available an electronic direct deposit system for payroll checks. As a condition for participating in the electronic direct deposit payroll system, any correction necessary for payment made in error, other than for regular straight time hours worked, which cannot be adjusted in the current pay period will be adjusted in full on the next following pay period's direct deposit subsequent to receipt of written notification to Payroll. If the correction is not made in the next following pay period's direct deposit, the District will make the correction as set forth below.

Except for employees participating in direct deposit, employees whose regular day off/holiday falls on a payday shall receive their payroll checks prior to the end of their shifts on the preceding day. Should checks be available at the employee's work site on the day preceding the regular payday, they shall be distributed to such employees requesting same, but in no event prior to 4:00 p.m. on the day preceding the regular payday.

Pay periods shall remain as established unless changed by mutual agreement.

There shall not be more than five (5) days' holdback of pay for any employee.

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The District shall continue the present system of itemized deductions, and all adjustments shall be clearly defined on the statement portion of the check. All shortages above one hundred fifty dollars (\$1050) shall be corrected within the time limits set below. The employee's immediate or appropriate supervisor shall assure that the documentation necessary to correct the shortage has been delivered to Payroll within one (1) work day, exclusive of weekends and holidays, after he/she receives written notification of the shortage from the employee. Payroll shall correct the shortage and cause a check to be available at the employee's normal work location within three (3) Accounting work days, exclusive of weekends and holidays, after receipt of written notification.

All other shortages shall be added to the next paycheck.

No deductions for overpayments shall be made without express specific written authorization from the employee.

In the event an overpayment of fifty one hundred dollars (\$1050) or less is made in error, it may shall be deducted from the employee's first regular paycheck, following discovery of such overpayment upon express written authorization from the employee.

Except for employees participating in direct deposit, any employee taking a scheduled vacation shall be provided an advance paycheck, provided such payday falls within the scheduled vacation period and provided a written request is submitted to the District no less than five (5) Accounting workdays prior to the scheduled vacation.

Final termination paychecks shall be issued to terminating employees within seventy-two (72) hours after such termination becomes effective.

The District will promptly process Public Employees' Retirement System refund forms following an employee's termination.

**SEIU/ATU - GENERAL PROVISIONS - HOUSEKEEPING** 5/10/13 - 11:37 AM**8.2 COST OF LIVING / WAGE ADJUSTMENT**

All employees covered by this Agreement shall be covered by the provisions for a cost of living increase as set forth in this Section.

The wage rates as contained in this Agreement shall not be reduced by application of this Cost of Living Provision. In addition to the wage rates contained in this Agreement, all employees shall be paid cost of living adjustments to be determined on the basis of the "Urban Wage Earners and Clerical Workers" Consumer Price Index (United States Average, revised base 1967 = 100), published by the Bureau of Labor Statistics, United States Department of Labor, in the manner described in this Section (hereafter referred to as the "Index").

A. Effective on June 30, 2013, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to one cent (1¢) per hour for each full point four (.4) of a point change in the Consumer Price Index as measured on the basis of movement of the Index published for the month of May, 2013 over the Index published for the month of February, 2013.

B. All Cost of Living Adjustments specified in Paragraph A of this Section for salaried employees shall be at the monthly equivalent of the hourly adjustment (the cost of living cent adjustment times two thousand eighty hours [2,080] hours divided by twelve [12] months = monthly equivalent of the hourly adjustment.)

C. The resulting Cost of Living Allowance shall be used in the computation of pensions, straight time and overtime pay exactly as though the wage rates had been changed by the allowance. However, the allowance shall not be added to the base wage rates.

D. The District, during the negotiations for a succeeding term after June 30, 2013, shall not assert that the Cost of Living Allowance increase effective on June 30, 2013 is included as part of any increased wage offer made by the District for the succeeding contract.

## SEIU/ATU – GENERAL PROVISIONS

### 9.1 SICK LEAVE

A. **Accrual:** Covered employees shall accrue one (1) day of sick leave for each full month of employment. Sick leave credits may be accumulated to a total of two hundred fifty (250) working days.

#### B. Incentives for Sick Leave Accrued and Unused on or After October 19, 2009:

To encourage employees to maintain maximum attendance and to improve performance, the District offers employees the following two (2) incentives beginning October 19, 2009:

1. **PERS Retirement Service Credit For Sick Leave:** ~~In 2009,~~ The District ~~amended~~ will ~~amend~~ its contract with CalPERS to provide the California Government Code Section 20965 option for service credit for unused sick leave for eligible CalPERS members in the bargaining unit, with an effective date of October 19, 2009. The Public Employees Retirement Law (PERL) and CalPERS rules will govern the eligibility of unused sick leave earned on or after October 19, 2009 for service credit. Those rules presently grant 0.004 years of service credit for each certified unused day of sick leave accrued by the member during the normal course of his/her employment. For employees whose effective date of retirement is within four months of separation from employment with the District, the District shall certify to CalPERS all such unused days of sick leave that were accrued by the employee on or after October 19, 2009. For purposes of Government Code Section 20965, leave accrued prior to October 19, 2009 ~~is~~ shall not be considered “unused” sick leave and the District will not certify such sick leave to CalPERS, unless the employee has made the one-time election to convert such pre-October 19, 2009 sick leave to PERS credit eligible sick leave, pursuant to Paragraph C below.

The parties agree to jointly take reasonable steps to permit the District to cease participation in the PERS Retirement Service Credit for Sick Leave program within thirty (30) days following the signing of this Agreement.

2.. **Annual Buy-Back Or MPPP Incentive:** The District shall give employees the option each year to make an irrevocable election on the schedule indicated below to buy-back or to deposit into their Money Purchase Pension Plan (MPPP) accounts, the dollar value of the sick leave earned within the annual accrual period indicated in paragraph B(2)(a) below, less sick leave taken during that same period, on an after tax basis.

- a. **Sick Leave Accrual/Election Periods:** The maximum sick leave which may be earned for each accrual period is ninety-six (96) hours for employees on a 5-8 or 9/80 Work Plan and one hundred twenty (120) hours for employees on a 4-10 Work Plan. Sick leave for which such an election has been made shall not be included by the

District in the certification to CalPERS under the retirement service credit plan described above.

Election Period	Accrual Period
9/1/ <del>1309</del> – 9/15/ <del>0913</del>	9/21/ <del>1309</del> – 9/19/140
9/1/ <del>140</del> – 9/15/140	9/20/140 – 9/18/151
9/1/ <del>151</del> – 9/15/151	9/19/151 – 9/16/162
9/1/ <del>162</del> – 9/15/162	9/17/162 – 9/15/173

- b. Buy-Back/MPPP Deposit Amounts:** An election to “buy-back” or to deposit into the MPPP must also include an election as to the percentage amount of the ‘buy-back”, based on the percentage increments and maximums provided below. The maximum Buy-Back percentage that will be allowed is based on the employee’s attendance record during the accrual period.

Days	Eligible Percentage of Unused Earned Sick Leave
0	5% up to 50% (in 5% increments)
1-3	5% up to 40% (in 5% increments)

Buy-Back and MPPP amounts shall be calculated at the employee’s base rate of pay at the end of the accrual period, less applicable tax withholding.

- c. Impact Of Buy-Back/MPPP Election:** Employees may select only one option (Buy-Back or MPPP) for each accrual period.

Once the buy-back or MPPP Incentive election is made for any accrual period it may not be changed. Employees will receive the buy-back checks or MPPP credit no later than December 1 following the end of the accrual period.

Unused sick leave hours for which an election to buy-back or transfer into the MPPP is not made shall be carried over to the next year, subject to maximum accumulation limits, and will no longer be available for any future Annual Buy-Back/MPPP incentive election.

~~C. One-Time Election To Convert Sick Leave Accrued Prior To October 19, 2009 To PERS Creditable Sick Leave~~

~~During the month of October 2009, employees will be given a one-time opportunity to convert unused sick leave that has been accrued prior to October 19, 2009 to PERS credit-eligible sick leave (described in paragraph B(1) above). This election shall be irrevocable, and will include all of the employee’s unused sick leave, including banked sick leave pursuant to D(1), and/or unbanked sick leave pursuant to D(3) below. If an employee makes this election, such accrued leave will no longer be eligible for pay-out at termination/retirement (previously banked leave) or at retirement (unbanked leave). All leave converted pursuant to this paragraph C will be subject to CalPERS rules for service credit eligibility. Leave converted under this paragraph will thereafter be considered, for~~

~~purpose of disposition at the end of employment only, to have been accrued on or after October 19, 2009.~~

### C. Sick Leave Accrued Prior To October 19, 2009

Sick leave accrued prior to October 19, 2009, which ~~was~~ not converted to PERS creditable sick leave pursuant ~~under the terms of the 2009-2013 Agreement to paragraph C above,~~ shall continue to be preserved in accounts separate from sick leave accrued on or after October 19, 2009, and shall be used pursuant to the terms of this paragraph C, including subsections (1) – (2).

#### 1. Banked Sick Leave (Under Previously Exercised Option)

This section refers to sick leave which has been 'banked' in accordance with Labor Agreement Section 9.1B(2) as it was in effect on June 30, 2009, or banked pursuant to Agreements previously in effect. It excludes sick leave electively converted to PERS-creditable sick leave, ~~pursuant to paragraph C above.~~ It includes sick leave for which a banking election was made during the 2008 or earlier option periods.

Banked sick leave, as defined above, will be preserved in a separate account for use by the employee in accordance with the provisions of former Section 9.1B(2), including the following:

- a. Such bank shall be set aside for payment upon death/retirement/termination and shall not be included in the calculation of unused sick leave pursuant to paragraph B(1) above or Government Code Section 20965.
- b. Sick leave hours banked will be paid at the employee's base rate of pay, effective on the employee's date of death or retirement/termination from District's employment.
- c. Employees who experience an illness/injury and exhaust their existing sick leave that is available, may utilize sick leave that has been banked under prior Section 9.1b(2) provided they make a written request to do so through their Department Manager at the time of the illness/injury and the circumstances qualify for sick leave under section F ("sick leave payment") below.

#### ~~2. Sick Leave Buy Back (Under Previously Exercised Option)~~

~~Employees who exercised the option during the September 2008 option period specified in Labor Agreement Section 9.1B(3) in effect on June 30, 2009 to make an irrevocable election to buy back or deposit into the MPPP the value of sick leave earned during the annual accrual period, less sick leave taken during the annual accrual period shall receive the buy back payments and the MPPP deposits required by the prior Labor Agreement.~~

~~Buy back checks for the 2009 accrual period under former Labor Agreement Section 9.1B will be distributed to employees no later than December 1 following the end of the accrual period, and MPPP elections for that period will be deposited by that same date.~~

### 23. Retirement Buy-Back

Sick leave accrued prior to October 19, 2009, and not (1) banked pursuant to paragraph 1 above; (2) bought back or deposited in the MPPP pursuant to paragraph 2 above; (3) converted to PERS creditable sick leave pursuant to paragraph C above; or (4) used pursuant to E and F below, shall be available for use as a Retirement Buy Back incentive. Employees leaving District service on a service retirement shall be paid fifty percent (50%) of this accrued sick leave balance upon the effective date of service retirement. This accrued sick leave shall not be included in the calculation of unused sick leave pursuant to paragraph B above or Government Code Section 20965.

#### D. Order Of Use Of Sick Leave From Separate Accounts

When using sick leave with pay pursuant to Section E below, employees' sick leave balances will be deducted in the following order:

1. Sick leave accrued on or after October 19, 2009, if any, including any sick leave accrued before October 19, 2009 which an employee has elected to convert to PERS creditable sick leave pursuant to paragraph C above, if any.
2. If the accruals described in paragraph D(1) are exhausted, unbanked sick leave accrued prior to October 19, 2009, if any.
3. If the accruals described in paragraphs D(1) and D(2) above are exhausted, banked sick leave, if any, may be used subject to the terms of paragraph C(1)(c) above.

- E. **Sick Leave Payment:** Employees shall receive sick leave with pay up to the amount of sick leave accrued at the time of illness, provided the requirements of this section are met. Employees shall accrue sick leave credits during the probationary period, however, they shall not be eligible for sick leave pay until after completion of the probation period.

An employee who is absent from work for reasons that qualify for use of sick leave under Section 9.1 who has no accumulated sick leave to cover such absence must use accumulated vacation, personal holiday, and compensatory time off before unpaid leave may be granted. Even though such charges are made, the employee's absence remains subject to the contract provisions governing the use of sick leave. ~~The employee must advise the employee's appropriate absence report recipient, as designated by the District, shall, based on the information provided by the employee, determine~~ of the category of paid leave that shall be charged for such absence. ~~If the employee does not do so,~~ In the absence of requested verification or information, the absence shall be charged by default against the employee's accumulated vacation, holiday and compensatory time off in that order. Sick leave preserved under section 9.1.F last paragraph (below) will not be available for such charges. Holidays may not be charged if such charge would reduce the number of holidays in the employee's account below the number of designated contractual holidays remaining in the fiscal year.

Employees shall be eligible for paid sick leave as follows, without limitation on their rights under state and federal law.

1. Illness, including the appropriate use of required prescribed medication which would impair the employee's work performance, injury, quarantine, or similar exposure to contagious disease;
2. Verifiable medical and/or dental appointments which cannot be scheduled outside the normal working hours, provided that a minimum of forty-eight (48) hours advance notice is given and provided subsequent confirmation that the appointment was kept is given if requested by Management.
3. Doctor's visits associated with pregnancy, subject to the provisions in "2." above;
4. Hospitalization or serious illness/accident and resulting subsequent related scheduled doctor's visits, subject to the provisions in "2." above;
5. Required attendance upon a seriously ill spouse, eligible domestic partner, or child. The District may require a written statement from the attending physician that the employee's attendance was required.
6. Required transportation to doctor for employee's spouse, eligible domestic partner, or child if spouse, eligible domestic partner, or child has serious accident or serious illness (subsequent verified and scheduled doctor's visits resulting from initial visit are also included). The District may require a written statement verifying the doctor's appointment.
7. Industrial injury and resulting subsequent related scheduled doctor's visits.

Sick leave with pay shall apply to each separate sick leave incident. For purposes of this section, "sick leave with pay" means pay calculated at the straight time day shift rate for the number of hours the employee was regularly scheduled to work each day, had the illness or injury not occurred.

If an employee's absence which qualifies for paid sick leave also qualifies as statutory family and medical leave (i.e. FMLA/CFRA), the employee may elect to preserve eligibility for participation in the annual buy-back or transfer into the MPPP of eligible accruals, if elected during the election period, by requesting to substitute vacation, floating holidays (for increments of a full day only), or compensatory leave pay, if applicable, or, if he/she has no accrued vacation, floating holidays or compensatory leave, requesting to take the leave unpaid. The request must be made before receipt of sick pay.

- F. Sick Leave Verification:** The District may take reasonable means to verify the employee's eligibility for sick leave. Upon prior written notice, an employee, at his or her expense may be required to provide a doctor's statement which demonstrates to the satisfaction of the District, eligibility for sick leave as defined above, for any sick leave incident.

Employees shall furnish a doctor's statement for each sick leave incident involving absences of more than three (3) working days

In instances where the District requires a doctor's statement, either to verify sick leave or determine an employee's fitness to return to work, that statement must include the following:

1. date and time of treatment;
2. duration of illness;
3. date cleared to return to work.

~~Otherwise,~~ An employee returning to work from a sick leave incident must submit a required doctor's statement and other documentation within three (3) ~~seven (7)~~ calendar days of his/her return to work. Failure to submit required documentation within the time provided shall result in denial of sick leave pay, and may result in disciplinary action.

The District may require any employee to submit to a medical examination by a doctor designated by the District, at the District's expense, as a condition of return to work from a sick leave incident or to verify the continuing need for sick leave.

Pattern use, misuse or abuse of sick leave will be governed by the District's disciplinary procedures and handled on a case-by-case basis.

- G. Sick Leave Reporting:** It is the responsibility of every employee absent from work because of illness or injury to report such absences to his/her immediate supervisor or the supervisor's designated representative. This report must include information as to the expected date of return to work and where the employee can be reached during his/her normal work hours. The employee will promptly notify his/her supervisor or supervisor's designee of any change which affects his/her ability to return to work.

## SEIU/ATU – GENERAL PROVISIONS – ATTENDANCE

5/20/13 - 3:33pm

## 9.5 TEMPORARY MODIFIED ASSIGNMENT PROCEDURE

~~The parties recognize that offering Temporary Modified Work Assignments (TMA's) can be a form of reasonable accommodation and a benefit to both the District and the employee. When properly administered, benefit the District and employees financially and in accelerating rehabilitation. Temporary modified work or temporary work assignments will be provided where available to those employees who require accommodation as a result of a disability permanently (who volunteer to participate) and temporarily disabled BART employees, when in the judgment of the District, Temporary modified work may be a short term modification of the employee's regular employment or may be the assignment of the employee to an alternative temporary position which is specified for use for employee who cannot temporarily perform their essential job function. work is available which can be provided without adversely affecting operations or services. Temporary modified work will be considered on a case-by-case basis.~~

The District proposes that the remainder of this provision be deleted and revised in its entirety. The District is interested in development of a robust temporary modified assignment program that will provide employees with the ability to continue to work in accordance with limited work restriction or during disability. The District further intends to develop a pilot transitional work program which is designed to allow employees to perform transitional work for a limited period of time to assist those who have been absent because of injury or disability to prepare to return to the workplace full time. The District intends, through these programs to encourage employee who are off work to return to work in a manner that does not result in re-injury

## 1.2 TERM OF AGREEMENT

The term of this Agreement shall be from and including the first day of July ~~2009-2013~~ up to and including the 30th day of June ~~2013~~ 2016 or one hundred (100) days following receipt of notice of a desire to modify or terminate this Agreement, whichever occurs later. Each party shall comply with Section 1137.1, Par. B of Chapter 9, Part 3, of Division 2 of the California Labor Code, as amended. In the event either party serves notice upon the other party of a desire to modify or terminate the Agreement, the parties shall meet and make all reasonable efforts to reach agreement on the subject matters of such proposed modifications.

The parties shall respond to any requests for information reasonably necessary for intelligent negotiations and the standards and guidelines in accordance with 1137.1, Par. C, of Chapter 9, Part 3 of Division 2 of California Labor Code, as amended. Each party shall supply to the other party such reasonable data as are requested by the other party.

To the fullest extent possible the parties shall endeavor to complete their negotiations at least seven (7) days prior to the date any lawful economic action may be taken in connection with any dispute concerning any proposed changes in any Collective Bargaining Agreement.

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ATU-SEIU proposes to change the time limits from seven (7) days to twenty (20) days. *4/2/13*

## 1.8 CONTRACTING WORK

It is ~~in~~ the intent of the parties that work connected with the operation and maintenance of the system be performed by the bargaining unit employees, consistent with the basic Bay Area Rapid Transit District operations and maintenance philosophy.

~~Should~~ After all existing and internal labor resources are exhausted, and should it become necessary to deviate from this practice contract out work, the Unions shall be informed of the reason work is being reviewed for contract ~~contracted~~. The District shall fax a Contract Notification Form to the President of the ATU or the BART Chapter President, the President of the Professional Chapter, and the Chair of the SEIU Contracting Out Committee, whichever Union is directly affected, prior to submitting the Contract Notification Form to the Procurement Department. The Contract Notification Form will identify the date it is faxed to the President(s), the best estimate of the cost of the contract, the expected duration of the contract, the funding source of the contract, and the reason the work is not being assigned to the bargaining unit. The Union shall have ~~seven (7)~~ twenty (20) workdays after the Contract Notification Form is faxed to provide make a request to meet and confer ~~any comments~~ to the department manager. If a request to meet and confer ~~is comments are received~~ within the ~~seven (7)~~ twenty (20) workday period, the Department Manager will meet and confer prior ~~consider the comments before making his or her final decision~~ to contracting out any work.

It is agreed that prior to ~~contracting work~~ submitting a Contract Notification Form requesting to contract out work, the District will give consideration to whether adequate numbers of qualified employees are available to perform the necessary work within time limits available, whether sufficient and suitable equipment is available within the District to perform the work, whether shop capacity is adequate, whether the use of District employees shall involve extra cost to the District, or whether the performance of the work presents added hazards to existing employees which are not present in their normal assignments. ~~Temporary work load, over and above normal positions, including overtime, may be contracted out.~~ Suppliers' personnel performing work related to their equipment and clearly not bargaining unit work will not be prohibited.

Contracts in effect at the time of this Agreement will not be voided by terms of this Agreement.

### \* Minute Clarification

District procedures regarding contracting out work which include prior notice to the Unions at the commencement of the contracting process shall continue during the term of this Agreement.

ATU / SEIU  
6/27/13  
9:02 AM

# ATU & SEIU PROPOSAL

6/27/13

## 4.1 VACATION

The District will grant three (3) weeks of vacation following one (1) year of service, four (4) weeks of vacation after ~~eight (8)~~ five (5) years of service, five (5) weeks vacation after ~~fifteen (15)~~ fourteen (14) years of service and six (6) weeks vacation after ~~twenty (20)~~ nineteen (19) years of service, seven (7) weeks vacation after twenty five (25) years of service. Employees may carry over up to sixty (60) days (up to forty-eight [48] days for employees on a 4-10 Plan) of vacation. Employees with four (4) or more weeks of accumulated vacation will be allowed to buy back up to forty (40) hours of such vacation. The election of such buy-back shall be made in December with determination of the four (4) week eligibility threshold to be made in December the following year with payment made in the second February following the election. Subject to applicable law and policies applicable to the MPPP Program, employees may elect to have such payment deposited in their MPPP account on a post tax basis. ~~This shall take effect when BAP Phase I goes live.~~

Employees will select their vacation in accordance with the applicable seniority provisions consistent with the scheduling ability of their department, division or section.

In the event an employee terminates or retires, he/she shall be granted pro rata vacation compensation based upon his/her accrued credits.

Vacation allocation will be scheduled throughout the calendar year; however, to the maximum extent possible, consideration consistent with operating requirements will be given to allow employees to take their vacation during the summer months.

Should a contractual holiday fall within the employee's vacation period, compensation will be applied consistent with holiday provisions of this Agreement.

Years of service shall be based upon the employee's date of employment by the Bay Area Rapid Transit District or in the case of 13(c) employees, in accordance with the 13(c) Award.

Vacation accrual will not be continued beyond thirty-one (31) days in the event an employee is in a non-pay status.

4:12pm

**5.9 DISABILITY COVERAGE**

- A. **Short-Term Disability Coverage** - The District will continue to maintain Short-Term Disability coverage at the following rates:

Weeks of Disability	Maximum Salary	Maximum Benefit
1 <sup>st</sup> - 26 <sup>th</sup>	$\$1260 - \$2000 \times 66\%$	$\$840 - \$1332$

At no time will disability coverage be less than level mandated by State law.

- B. **Long-Term Disability** - The District will continue to maintain Long-Term Disability coverage with a maximum monthly weekly benefit of sixty-six and two-thirds percent (66%) of the base monthly weekly salary up to two thousand dollars (\$2000.) to a maximum insured salary of two thousand dollars (\$2,000) per month. Maximum benefit - one thousand four hundred fifty-six dollars (\$1,456.00) one thousand three hundred and thirty two dollars (\$1,332) per month week, for weeks twenty-seven (27) through fifty-two (52) and one thousand three hundred thirty-four dollars (\$1,334.00) for weeks fifty-three (53) and any subsequent week.

- C. **Employee Purchase of Additional Coverage**

Employee has the ability to purchase additional Short Term and/or Long Term Disability coverage up to the dollar amount(s) to be made whole.

1. Short-Term Disability Coverage - Employees may purchase additional Short-Term Disability coverage up to the following rates:

Weeks of Disability	Maximum Salary	Maximum Benefit
<u>1<sup>st</sup> - 4<sup>th</sup></u>	<u><math>\\$800.00 \times 66\%</math></u>	<u><math>\\$533.00</math></u>
<u>5<sup>th</sup> - 26<sup>th</sup></u>	<u><math>\\$931.00 \times 66\%</math></u>	<u><math>\\$621.00</math></u>

Premiums for this additional coverage shall be fully paid by the employee.

2. Long-Term Disability Coverage - Employees may purchase additional Long-Term Disability coverage to assure payment of up to sixty-six and two-thirds percent (66-~~2~~%) of the employee's base monthly salary to a maximum insured salary of three thousand dollars (\$3,000) per month. The maximum monthly benefit is two thousand dollars (\$2,000). Premiums for this additional coverage shall be fully paid by the employee.

Eligibility of employees to purchase additional Short-Term and/or Long-Term Disability coverage shall be subject to medical certification of insurability.

5.9 DISABILITY COVERAGE

A. Short-Term Disability Coverage - The District will continue to maintain Short-Term Disability coverage at the following rates:

Weeks of Disability	Maximum Salary	Maximum Benefit
1 <sup>st</sup> - 26 <sup>th</sup>	\$1260 Base Monthly Salary x 66 ⅔%	\$840

At no time will disability coverage be less than level mandated by State law.

B. Long-Term Disability - The District will continue to maintain Long-Term Disability coverage with a maximum monthly benefit of sixty-six and two-thirds percent (66-⅔%) of the base monthly salary to a maximum insured salary of two thousand dollars (\$2,000) per month. Maximum benefit one thousand four hundred fifty six dollars (\$1,456.00) per month for weeks twenty-seven (27) through fifty two (52) and one thousand three hundred thirty four dollars (\$1,334.00) for weeks fifty-three (53) and any subsequent week.

C. Employee Purchase of Additional Coverage

Employees shall have the ability to purchase additional Short Term and/or Long Term Disability coverage up to the dollar amount(s) to be made whole.

~~1. Short-Term Disability Coverage - Employees may purchase additional Short Term Disability coverage up to the following rates:~~

Weeks of Disability	Maximum Salary	Maximum Benefit
1 <sup>st</sup> - 4 <sup>th</sup>	\$800.00 x 66 ⅔%	\$533.00
5 <sup>th</sup> - 26 <sup>th</sup>	\$931.00 x 66 ⅔%	\$621.00

Premiums for this additional coverage shall be fully paid by the employee.

~~Long-Term Disability Coverage - Employees may purchase additional Long-Term Disability coverage to assure payment of up to sixty-six and two-thirds percent (66-⅔%) of the employee's base monthly salary to a maximum insured salary of three thousand dollars (\$3,000) per month. The maximum monthly benefit is two thousand dollars (\$2,000). Premiums for this additional coverage shall be fully paid by the employee.~~

~~Eligibility of employees to purchase additional Short-Term and/or Long-Term Disability coverage shall be subject to medical certification of insurability.~~

## 5.10 EMPLOYEE ASSISTANCE PROGRAM

The parties agree that the District will continue a referral program for the purpose of assisting, in a confidential manner, employees and their families with marital, psychological, alcohol, drug, child, elder and other dependent care needs, domestic violence, financial, legal and other problems to obtain counseling and other services. A twenty-four (24) hour crisis intervention service will be available at all times. Child care and other dependent care services, including those with emergency availability, are also available.

The Unions agree to cooperate with the District in the administration of this program.

The District shall retain a consultant to provide referrals as appropriate in the above-described problem areas. The District shall pay the cost of this consultant's referral services, which will constitute the entire District monetary contribution to this program.

The costs for all other services provided to employees or their families under this program shall be borne by the participating employee/family member to the extent such services are not covered by the employee's medical or other benefit plans.

The District shall distribute informational materials in order to inform employees of the EAP Program and the services provided and shall provide union stewards and officials, on an annual basis, with training regarding the nature and extent of said programs and otherwise provide the unions with information as may be requested regarding the nature and extent of all such programs.

The District shall provide reimbursements for parents who are unable to use their regular childcare provider. Employees shall receive reimbursement up to \$100 a day, to a maximum of \$500 a year. The District shall provide resource and referral services for families who need such care.

The District shall provide a Dependent Care referral service, for programs such as child and elder care, counseling, seminars, education and information services.

The parties agree that all employees have the right to a work environment free of and safe from domestic violence, which may involve physical, psychological, economic violence or stalking, against a current or former intimate partner. The District shall use early prevention strategies to avoid or to minimize the occurrence and effects of domestic violence in the workplace and to offer assistance and a supportive environment to its employees experiencing domestic violence. In all responses to domestic violence, the employer shall respect employees' confidentiality.

The EAP shall include professionals trained specifically in domestic violence and its potential impacts.

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7.4 FREE PARKING AT BART STATIONS (NEW)

400/mo.

Existing practices in regards to employee parking and the current dollar amount that employees pay for parking shall remain in effect for the life of the contract.

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*4/1/2013*

## 8.1 PAY PERIODS \*

All hourly employees shall be paid bi-weekly on every other Friday on an hourly rate basis, ~~except that Staff Assistants shall continue to be considered salaried and shall be paid twice a month on the 15<sup>th</sup> and last day of the month, until such time as the District is able to establish and implement a bi-weekly payroll system for all District represented and non-represented employees. When that occurs, Staff Assistants shall continue to be considered salaried and shall be paid bi-weekly every other Friday.~~

The District shall make available an electronic direct deposit system for payroll checks. As a condition for participating in the electronic direct deposit payroll system, any correction necessary for payment made in error, other than for regular straight time hours worked, which cannot be adjusted in the current pay period will be adjusted in full on the next following pay period's direct deposit subsequent to receipt of written notification to Payroll. If the correction is not made in the next following pay period's direct deposit, the District will make the correction as set forth below.

Except for employees participating in direct deposit, employees whose regular day off/holiday falls on a payday shall receive their payroll checks prior to the end of their shifts on the preceding day. Should checks be available at the employee's work site on the day preceding the regular payday, they shall be distributed to such employees requesting same, but in no event prior to 4:00 p.m. on the day preceding the regular payday.

Pay periods shall remain as established unless changed by mutual agreement.

There shall not be more than five (5) days' holdback of pay for any employee.

The District shall continue the present system of itemized deductions, and all adjustments shall be clearly defined on the statement portion of the check. All shortages above fifty dollars (\$50) shall be corrected within the time limits set below. The employee's immediate or appropriate supervisor shall assure that the documentation necessary to correct the shortage has been delivered to Payroll within one (1) work day, exclusive of weekends and holidays, after he/she receives written notification of the shortage from the employee. Payroll shall correct the shortage and cause a check to be available at the employee's normal work location within three (3) Accounting work days, exclusive of weekends and holidays, after

receipt of written notification. If the employee does not receive the shortage pay as defined in this section, the employee shall be paid a five (5) percent penalty per day until employee receives the check for shortage.

All other shortages shall be added to the next paycheck.

No deductions for overpayments shall be made without express specific written authorization from the employee.

~~In the event an overpayment of fifty dollars (\$50) or less is made in error, it shall be deducted from the employee's first regular paycheck, following discovery of such overpayment.~~

Except for employees participating in direct deposit, any employee taking a scheduled vacation shall be provided an advance paycheck, provided such payday falls within the scheduled vacation period and provided a written request is submitted to the District no less than five (5) Accounting workdays prior to the scheduled vacation.

Final termination paychecks shall be issued to terminating employees within seventy-two (72) hours after such termination becomes effective.

The District will promptly process Public Employees' Retirement System refund forms following an employee's termination.

\* Minute Clarification

The parties have reached the following understanding with respect to repayment of overpayments made to employees. This understanding also applies to overpayments made pursuant to the electronic direct deposit system.

Where repayment of the entire amount of the overpayment in a lump sum would work a hardship on the affected employee, the Union may request development of a reasonable repayment schedule through Human Resources. Such request will not be unreasonably denied by Human Resources.

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## 8.2 COST OF LIVING / WAGE ADJUSTMENT

All employees covered by this Agreement shall be covered by the provisions for a cost of living increase as set forth in this Section.

The wage rates as contained in this Agreement shall not be reduced by application of this Cost of Living Provision. In addition to the wage rates contained in this Agreement, all employees shall be paid cost of living adjustments to be determined on the basis of the "Urban Wage Earners and Clerical Workers" Consumer Price Index for the San Francisco Bay Area (United States Average, San Francisco-Oakland-San Jose, CA area base period revised base 1967 = 100 1982-84 = 100), published by the Bureau of Labor Statistics, United States Department of Labor, in the manner described in this Section (hereafter referred to as the "Index").

- A. ~~Effective on June 30, 2013, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to one cent (1¢) per hour for each full point four (.4) of a point change in the Consumer Price Index as measured on the basis of movement of the Index published for the month of May, 2013 over the Index published for the month of February, 2013.~~ Effective July 1, 2013, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to the percentage change in the Index as measured by movement of the Index published for the month of May, 2013 over the Index published for May, 2012.
- B. ~~All Cost of Living Adjustments specified in Paragraph A of this Section for salaried employees shall be at the monthly equivalent of the hourly adjustment (the cost of living cent adjustment times two thousand eighty hours (2,080) hours divided by twelve (12) months = monthly equivalent of the hourly adjustment.)~~ Effective July 1, 2014, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to the percentage change in the Index as measured by the movement of the Index published for the month of May, 2014 over the Index published for May, 2013.
- C. ~~The resulting Cost of Living Allowance shall be used in the computation of pensions, straight time and overtime pay exactly as though the wage rates had been changed by the allowance. However, the allowance shall not be added to the base wage rates.~~ Effective July 1, 2015, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to the percentage change in the Index as measured by the movement of the Index published for the month of May, 2015 over the Index published for May, 2014.
- D. Such succeeding base rates shall include cost of living adjustments granted during the preceding year which shall be added to and become a part of the base wage rate. In computing adjustments due on any July 1, the first step shall be to add the previous accumulated cost of living adjustment for the prior year to the base before calculating the percentage adjustment due.

E. All Cost of Living Adjustments specified in Paragraphs A, B, C of this Section for salaried employees shall be at the monthly equivalent of the hourly adjustment (the cost of living cent adjustment times two thousand eighty hours [2,080] hours divided by twelve [12] months= monthly equivalent of the hourly adjustment.)

~~D. The District, during the negotiations for a succeeding term after June 30, 2013 shall not assert that the Cost of Living Allowance increase effective on June 30, 2013 is included as part of any increased wage offer made by the District for the succeeding contract.~~

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6/30/13  
F. B. Brown

# ATU & SEIU GENERAL PROPOSAL

6/30/13

## 9.1 SICK LEAVE

**A. Accrual:** Covered employees shall accrue one (1) day of sick leave for each full month of employment. Sick leave credits may be accumulated to a total of two hundred fifty (250) working days.

### **B. Incentives For Sick Leave Accrued And Unused On Or After October 19, 2009**

To encourage employees to maintain maximum attendance and to improve performance, the District offers employees the following ~~two (2)~~ incentives beginning October 19, 2009:

1. **PERS Retirement Service Credit For Sick Leave:** The District will amend its contract with CalPERS to provide the California Government Code Section 20965 option for service credit for unused sick leave for eligible CalPERS members in the bargaining unit, with an effective date of October 19, 2009. The Public Employees Retirement Law (PERL) and CalPERS rules will govern the eligibility of unused sick leave earned on or after October 19, 2009 for service credit. Those rules presently grant 0.004 years of service credit for each certified unused day of sick leave accrued by the member during the normal course of his/her employment. For employees whose effective date of retirement is within four months of separation from employment with the District, the District shall certify to CalPERS all such unused days of sick leave that were accrued by the employee on or after October 19, 2009. For purposes of Government Code Section 20965, leave accrued prior to October 19, 2009 shall not be considered "unused" sick leave and the District will not certify such sick leave to CalPERS, unless the employee has made the one-time election to convert such pre-October 19, 2009 sick leave to PERS credit eligible sick leave pursuant to Paragraph C below.

- i. The parties agree that they shall take all necessary steps to cease participation in the PERS Retirement Service Credit for Sick Leave program within 30 days following signing of this agreement to be replaced with the incentives identified in 9.1B(3) and 9.1B(4).

2. **Annual Buy-Back Or MPPP Incentive:** The District shall give employees the option each year to make an irrevocable election on the schedule indicated below to buy-back or to deposit into their Money Purchase Pension Plan (MPPP) accounts, the dollar value of the sick leave earned within the annual accrual period indicated in paragraph B(2)(a) below, less sick leave taken during that same period, on an after tax basis.

- a. **Sick Leave Accrual/Election Periods:** The maximum sick leave which may be earned for each accrual period is ninety-six (96) hours for employees on a 5-8 or 9/80 Work Plan and

one hundred twenty (120) hours for employees on a 4-10 Work Plan. Sick leave for which such an election has been made shall not be included by the District in the certification to CalPERS under the retirement service credit plan described above.

Election Period	Accrual Period
<del>9/1/09 - 9/15/09</del>	<del>9/21/09 - 9/19/10</del>
<del>9/1/10 - 9/15/10</del>	<del>9/20/10 - 9/18/11</del>
<del>9/1/11 - 9/15/11</del>	<del>9/19/11 - 9/16/12</del>
<del>9/1/12 - 9/15/12</del>	<del>9/17/12 - 9/15/13</del>
9/1/13 - 9/15/13	9/21/13 - 9/19/14
9/1/14 - 9/15/14	9/20/14 - 9/18/15
9/1/15 - 9/15/15	9/19/15 - 9/16/16

- b. **Buy-Back/MPPP Deposit Amounts:** An election to “buy-back” or to deposit into the MPPP must also include an election as to the percentage amount of the “buy-back”, based on the percentage increments and maximums provided below. The maximum Buy-Back percentage that will be allowed is based on the employee’s attendance record during the accrual period.

Days	Eligible Percentage of Unused Earned Sick Leave
0	5% up to 50% (in 5% increments)
1-3	5% up to 40% (in 5% increments)

Buy-Back and MPPP amounts shall be calculated at 1.25 the employee’s base rate of pay at the end of the accrual period, less applicable tax withholding.

- c. **Impact Of Buy-Back/MPPP Election:** Employees may select only one option (Buy-Back or MPPP) for each accrual period.

Once the buy-back or MPPP Incentive election is made for any accrual period it may not be changed. Employees will receive the buy-back checks or MPPP credit no later than December 1 following the end of the accrual period.

Unused sick leave hours for which an election to buy-back or transfer into the MPPP is not made shall be carried over to the next year, subject to maximum accumulation limits, and will no longer be available for any future Annual Buy-Back/MPPP incentive election.

3. Limiting Sick Leave Usage Incentive: An Employee who does not use any sick leave during each of the Accrual Period(s) described in Section 9.2a, shall be granted one (1) additional day (extra day) of paid leave. This extra day is to be used in the same manner as a floating holiday, and be deposited to the employees holiday accrual account no later than December 1 following the end of the accrual period
4. Retirement Buy-Back: Employees leaving District service on a service retirement (non-disability retirement) shall be paid eighty percent (80%) of any and all of their accrued sick leave balance(s) upon the effective date of service retirement.

**C. One Time Election To Convert Sick Leave Accrued Prior To October 19, 2009 To PERS Creditable Sick Leave**

During the month of October 2009, employees will be given a one-time opportunity to convert unused sick leave that has been accrued prior to October 19, 2009 to PERS-credit-eligible sick leave (described in paragraph B(1) above). This election shall be irrevocable, and will include all of the employee's unused sick leave, including banked sick leave pursuant to D(1), and/or unbanked sick leave pursuant to D(3) below. If an employee makes this election, such accrued leave will no longer be eligible for pay-out at termination/retirement (previously banked leave) or at retirement (unbanked leave). All leave converted pursuant to this paragraph C will be subject to CalPERS rules for service credit eligibility. Leave converted under this paragraph will thereafter be considered, for purposes of disposition at the end of employment only, to have been accrued on or after October 19, 2009.

**D. Sick Leave Accrued Prior To October 19, 2009**

Sick leave accrued prior to October 19, 2009, which is not converted to PERS creditable sick leave pursuant to paragraph C above, shall be preserved in accounts separate from sick leave accrued on or after October 19, 2009, and shall be used pursuant to the terms of this paragraph D, including subsections (1) – (3).

**1. Banked Sick Leave (Under Previously Exercised Option)**

This section refers to sick leave which has been 'banked' in accordance with Labor Agreement Section 9.1B(2) as it was in effect on June 30, 2009, or banked pursuant to Agreements previously in effect. It excludes sick leave electively converted to PERS-credit-eligible sick leave pursuant to paragraph C above. It includes sick leave for which a banking election was made during the 2008 or earlier option periods.

Banked sick leave, as defined above, will be preserved in a separate account for use by the employee in accordance with the provisions of former Section 9.1B(2), including the following:

- a. Such bank shall be set aside for payment upon death/retirement/termination and shall not be included in the calculation of unused sick leave pursuant to paragraph B(1) above or Government Code Section 20965.
- b. Sick leave hours banked will be paid at the employee's base rate of pay, effective on the employee's date of death or retirement/termination from District's employment.
- c. Employees who experience an illness/injury and exhaust their existing sick leave that is available, may utilize sick leave that has been banked under prior Section 9.1b(2) provided they make a written request to do so through their Department Manager at the time of the illness/injury and the circumstances qualify for sick leave under section F ("sick leave payment") below.

## 2. Sick Leave Buy-Back (Under Previously Exercised Option)

Employees who exercised the option during the September 2008 option period specified in Labor Agreement Section 9.1B(3) in effect on June 30, 2009 to make an irrevocable election to buy-back or deposit into the MPPP the value of sick leave earned during the annual accrual period, less sick leave taken during the annual accrual period shall receive the buy-back payments and the MPPP deposits required by the prior Labor Agreement.

Buy back checks for the 2009 accrual period under former Labor Agreement Section 9.1B will be distributed to employees no later than December 1 following the end of the accrual period, and MPPP elections for that period will be deposited by that same date.

## 3. Retirement Buy-Back

Sick leave accrued prior to October 19, 2009, and not (1) banked pursuant to paragraph 1 above; (2) bought back or deposited in the MPPP pursuant to paragraph 2 above; (3) converted to PERS creditable sick leave pursuant to paragraph C above; or (4) used pursuant to E and F below, shall be available for use as a Retirement Buy Back incentive. Employees leaving District service on a service retirement shall be paid fifty percent (50%) of this accrued sick leave balance upon the effective date of service retirement. This accrued sick leave shall not be included in the calculation of unused sick leave pursuant to paragraph B above or Government Code Section 20965.

## E. Order Of Use Of Sick Leave From Separate Accounts

When using sick leave with pay pursuant to Section F below, employees' sick leave balances will be deducted in the following order:

1. Sick leave accrued on or after October 19, 2009, if any, including any sick leave accrued before October 19, 2009 which an employee has elected to convert to PERS creditable sick leave pursuant to paragraph C above, if any.
2. If the accruals described in paragraph E(1) are exhausted, unbanked sick leave accrued

prior to October 19, 2009, if any.

3. If the accruals described in paragraphs E(1) and E(2) above are exhausted, banked sick leave, if any, may be used subject to the terms of paragraph D(1)(c) above.

**F. Sick Leave Payment:** Employees shall receive sick leave with pay up to the amount of sick leave accrued at the time of illness, provided the requirements of this section are met. Employees shall accrue sick leave credits during the probationary period, however, they shall not be eligible for sick leave pay until after completion of the probation period.

An employee who is absent from work for reasons that qualify for use of sick leave under Section 9.1 who has no accumulated sick leave to cover such absence must use accumulated vacation, personal holiday, and compensatory time off unpaid leave may be granted. Even though such charges are made, the employee's absence remains subject to the contract provisions governing the use of sick leave. The employee must advise the employee's appropriate absence report recipient, as designated by the District, of the category of paid leave that shall be charged for such absence. If the employee does not do so, the absence shall be charged by default against the employee's accumulated vacation, holiday and compensatory time off in that order. Sick leave preserved under section 9.1.F last paragraph (below) will not be available for such charges. Holidays may not be charged if such charge would reduce the number of holidays in the employee's account below the number of designated contractual holidays remaining in the fiscal year.

If an employee is on unpaid sick status or other unpaid time (i.e. a leave of absence not protected by statute) for three (3) or more of his or her regularly scheduled work days during the workweek, he or she will not be eligible to work on his or her RDOs in that work week.

Employees shall be eligible for paid sick leave as follows, without limitation on their rights under state and federal law.

1. Illness, including the appropriate use of required prescribed medication which would impair the employee's work performance, injury, quarantine, or similar exposure to contagious disease;
2. Verifiable medical and/or dental appointments which cannot be scheduled outside the normal working hours, provided that a minimum of forty-eight (48) hours advance notice is given and provided subsequent confirmation that the appointment was kept is given if requested by Management.
3. Doctor's visits associated with pregnancy, subject to the provisions in "2." above;
4. Hospitalization or serious illness/accident and resulting subsequent related scheduled doctor's visits, subject to the provisions in "2." above;

5. Required attendance upon a seriously ill spouse, eligible domestic partner, or child. The District may require a written statement from the attending physician that the employee's attendance was required.
6. Required transportation to doctor for employee's spouse, eligible domestic partner, or child if spouse, eligible domestic partner, or child has serious accident or serious illness (subsequent verified and scheduled doctor's visits resulting from initial visit are also included).
7. Industrial injury and resulting subsequent related scheduled doctor's visits.

Sick leave with pay shall apply to each separate sick leave incident. For purposes of this section, "sick leave with pay" means pay calculated at the straight time day shift rate for the number of hours the employee was regularly scheduled to work each day, had the illness or injury not occurred.

If an employee's absence which qualifies for paid sick leave also qualifies as statutory family and medical leave (i.e. FMLA/CFRA), the employee may elect to preserve eligibility for participation in the annual buy-back or transfer into the MPPP of eligible accruals, if elected during the election period, by requesting to substitute vacation, floating holidays (for increments of a full day only), or compensatory leave pay, if applicable, or, if he/she has no accrued vacation, floating holidays or compensatory leave, requesting to take the leave unpaid. The request must be made before receipt of sick pay.

**G. Sick Leave Verification:** The District may take reasonable means to verify the employee's eligibility for sick leave. Upon prior written notice, an employee, at his or her expense may be required to provide a doctor's statement which demonstrates to the satisfaction of the District, eligibility for sick leave as defined above, for any sick leave incident.

Employees shall furnish a doctor's statement for each sick leave incident involving absences of more than three (3) working days

If the employee remains off work for a period in excess of thirty (30) work days, the District may request that the employee provide a doctor's verification of the continuing need for sick leave.

In instances where the District requires a doctor's statement, either to verify sick leave or determine an employee's fitness to return to work, that statement must include the following:

1. date and time of treatment;
2. duration of illness;
3. date cleared to return to work.

Otherwise, an employee returning to work from a sick leave incident must submit a required doctor's statement and other documentation within seven (7) calendar days of his/ her return to

work. Failure to submit required documentation within the time provided shall result in denial of sick leave pay, and may result in disciplinary action.

The District may require any employee to submit to a medical examination by a doctor designated by the District, at the District's expense, as a condition of return to work from a sick leave incident or to verify the continuing need for sick leave.

Pattern use, misuse or abuse of sick leave will be governed by the District's disciplinary procedures and handled on a case-by-case basis.

**H. Sick Leave Reporting:** It is the responsibility of every employee absent from work because of illness or injury to report such absences to his/her immediate supervisor or the supervisor's designated representative. This report must include information as to the expected date of return to work and where the employee can be reached during his/her normal work hours. The employee will promptly notify his/her supervisor or supervisor's designee of any change which affects his/her ability to return to work.

ATU/SEIU

6/04/13

6:53pm

SEIU/ATUGENERAL

PROVISIONS

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District Proposal 6-4-2013

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9.5 TEMPORARY MODIFIED ASSIGNMENT/REASONABLE ACCOMODATION PROCEDURE

A. Temporary Modified Assignment

The parties recognize that offering Temporary Modified Work Assignments (TMA's) can, when properly administered, administered; benefit the District and employees financially and in accelerating rehabilitation. Temporary modified work or temporary work assignments will be provided to permanently (who volunteer to participate) and temporarily disabled BART employees, when in the judgment of the District, District; work is available which can be provided without adversely affecting operations or services. Temporary modified work will be considered on a case-by-case basis.

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The District is obligated under statue to conduct an extensive program of interaction with employees who are disabled from performing their usual duties on either a temporary or permanent basis. Processes are in place, and continually subject to refinement and/or modification, to accomplish this proactive program, which includes solutions such as temporary modification of the employee's own job; temporary placement of the employee in another District position, subject to the District's collective bargaining agreements; temporary provision of work for the employee that is not 'regular' District work, and so forth. These evaluations are conducted on an ongoing basis, and incorporate the best advice of both the employee, as well as the District and its advisors as to appropriate accommodations. shall evaluate and determine whether an employee shall be placed in a temporary

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modified assignment and/or any other reasonable accommodation that may be required, in accordance with all applicable laws and regulations.

#### B. Transitional Work Pilot Program(s) Return to Work Program

Employees who have been off work as the result of a work related injury or other ~~ies~~ or temporary disability may benefit from a transitional ~~modified~~ work assignment for a limited period of time before undertaking their ~~his~~ or ~~her~~ regular work assignments.

Such a program may include elements such as work in another unit, classification or related work; a program of physical therapy or other 'case hardening' activities under professional supervision and/or direction to promote return to normal duties and to reduce the risk of re-injury. For example, the Transportation Department has indicated interest in such a program within the ATU bargaining unit to provide an opportunity for employees who are unable to perform their essential job functions to return to work as customer service assistants, whose function would be limited to providing additional public assistance on the platforms and in the paid areas of the stations. Such assistance shall not be and is not intended to circumvent the station agent job duties but rather to provide additional customer assistance and to provide those employees with the opportunity to regain strength and make a successful return to the workplace.

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The District proposes to enter into discussions with the union in an effort to establish one or more such pilot programs in addition to solutions already available that do not impact the terms of the collective bargaining agreement. After such pilot program is in operations for six (6) months, the District and Unions shall meet with respect to whether to continue the program and if the parties agree the District shall investigate and initiate additional pilot programs in other departments.

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~~Each employee who desires a TMA shall submit a written notice of such desire simultaneously to his or her immediate supervisor and the District's Disability Programs Office, Department of Human Resources. Promptly after receipt of such notice, the Disability Program Office shall provide the employee with a Return-to-Work questionnaire for completion by the employee's physician, an instruction sheet on how to complete these forms, and a copy of section 9.5 of the Labor Agreement. The employee must simultaneously return this form completed to the Disability Program Office and the employee's immediate supervisor. Temporary modified work may involve modification of an employee's own job or assignment to work outside of an employee's current position or bargaining unit, as provided herein. The Disability Programs Office, in consultation with the applicable department, will determine eligibility for participation in the temporary modified work program and will coordinate temporary work positions/assignments.~~

~~To aid in the administration of this program, the (SEIU and ATU) shall appoint two persons from their bargaining unit to serve on a TMA committee. The duties of the committee include (a) identifying potential TMA opportunities not otherwise identified by the District and recommending them to the Senior Personnel Analyst of the Disability Programs Office for consideration, (b) evaluating proposed TMA assignments and (c) advising the Senior Personnel Analyst of the Disability Programs Office on potential improvements in program administration. The Senior Personnel Analyst of the Disability Programs Office shall periodically train new committee members concerning the TMA Program, and shall periodically offer such training to union officers, stewards, supervisors, and managers.~~

~~The Senior Personnel Analyst of the Disability Programs Office shall provide committee members with a quarterly report of all requests for~~

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~~TMA application materials, completed Return to Work questionnaires, and TMA's that have been implemented. In addition, the committee shall have access to the completed Return to Work questionnaires as they are submitted. The Senior Personnel Analyst of the Disability Programs Office may propose a TMA that crosses bargaining unit lines or that is intra-unit but not on the list described in 9.5.C.3. The committee may by unanimous vote approve assignments that cross bargaining unit lines. The representatives of the Union affected by a proposed intra-unit TMA not on the list may unanimously approve such assignment. If the Senior Personnel Analyst of the Disability Programs Office, the union presidents and Labor Relations Manager agree in writing, additional TMA's may be added to or removed from the list set forth in section 9.5.C.3.~~

~~On written notice delivered to the others within 150 and 180 days before the expiration date of this agreement, (either SEIU, ATU, or the District) may terminate further use or consideration of inter-bargaining unit TMA's and such use or consideration as occurs during the life of this agreement shall not be deemed precedent setting. The parties further agree that the relaxation of jurisdictional boundaries or rights permitted under this section is experimental in nature, restricted exclusively to this section, and may not be relied on as a precedent in any future dealings between them or any other bargaining unit.~~

~~A. **Medical Evaluation:** The Benefits Analyst will review all requests for temporary modified work. The Benefits Analyst may, after obtaining all necessary authorizations to release medical information, review the employee's medical records, confer with the employee's doctor and/or schedule an examination with a District-selected doctor to determine what type of work accommodations are required. All proposed accommodations or temporary modified positions/ assignments will be reviewed by a District-accepted physician, which may be the employee's physician, if said physician is selected by the District for this~~

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~~purpose, to determine if the job requirements/assignments are within the employee's physical and mental abilities. Any disputes will be handled in accordance with Section 9.3 of the Agreement.~~

~~B. **Accommodation Review:** The Benefits Analyst will discuss accommodation options with a Department representative to determine if accommodations can be made for the employee's disability on a limited term basis without adversely affecting operations or services.~~

~~Accommodations may include but are not limited to:~~

- ~~1. Reduced work schedules at a minimum of twenty (20) hours per week. Schedules which will result in mid-shift interruptions will not be available;~~
- ~~2. reassignment of non-essential duties; and~~
- ~~3. alternate temporary work assignments.~~

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~~C. **Alternate Temporary Modified Positions/ Assignments:**~~

- ~~1. The Senior Personnel Analyst of the Disability Office will follow the sequence outlined below in determining whether alternate temporary modified work positions/ assignments may be made:
  - ~~a. consider returning the employee to work in his/her current position in a modified capacity;~~
  - ~~b. when, in the District's judgment, this is not possible, consider an alternate temporary position/ assignment in the employee's department (Alternate placement within the employee's department will not involve placement in a position represented by a different bargaining unit.);~~
  - ~~c. thereafter, consider an alternate position/ assignment outside the department (Placement outside the department will not~~~~

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involve placement in a position represented by a different bargaining unit.); and

~~d. consider an alternate non-represented position/assignment outside the bargaining unit. Employees placed in non-represented positions/assignments retain the contractual protections provided for in the CBA of their respective Unions.~~

- ~~2. If temporary modified work is not available within the employee's own department, the Senior Personnel Analyst of the Disability Office will determine if there are any unfilled temporary help requests which the employee may be able to fill.~~
- ~~3. A list of temporary modified positions/assignments in which employees who are temporarily disabled may be placed will be developed. Departments who have temporary modified positions/assignments with which they need assistance may submit work requests to the Benefits Office.~~
- ~~4. If there are no temporary help requests available which the employee is qualified to fill, the Benefits Office will determine if there are any assignments on the modified assignment list which the employee is medically qualified to perform.~~
- ~~5. If a temporary modified position/assignment is available, for which the employee meets the minimum qualifications, the Benefits Analyst will confer with the appropriate department regarding placing the disabled employee in the temporary modified position/assignment.~~
- ~~6. If the Department Head or designee agrees with the recommendation, the employee and the Union will be so notified.~~
- ~~7. If the hiring department for the potential position/assignment believes the disabled employee is not qualified, for any reason, to~~

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~~perform the duties of the temporary modified position/assignment, the employee will remain off work. The Senior Personnel Analyst of the Disability Programs Office will, after consultation with the District's Office of Civil Rights, review the matter with the Department Manager of Human Resources whose decision will be binding on the hiring department except as provided in (8) below.~~

~~8. The hiring department may, within three days following notice of the Department Manager of Human Resources' decision, appeal the decision to the Deputy General Manager, whose decision will be final and binding.~~

~~D. General Requirements:~~

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~~1. If an assignment is identified which, in the judgment of the District, is within the employee's medical limitations and restrictions, the employee shall return to work. The District may change regular days off and work hours while an employee is in the temporary modified assignment program. However, employees shall have the option to decline any initial or subsequent temporary modified position/assignment which is a change from the employee's last regular bidded shift, RDO or location. If an employee declines a temporary modified position/assignment because it is a change from the employee's last regular bidded shift, RDO or location, the District and the employee shall meet to determine if an alternate position/assignment is available subject to the employee's rights set forth above.~~

~~2. Employees in temporary modified positions/ assignments shall schedule medical appointments, when possible, during non work hours. Should this not be possible, the examination shall be scheduled at either the beginning or end of the shift so as to~~

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~~minimize lost time from work. If the employee is working a reduced number of hours per week, all medical appointments must be scheduled during non-work hours.~~

- ~~3. After sixty (60) days in a temporary modified work assignment, eligibility for continuation in the assignment will be reviewed by the Benefits Office and a department representative. If the employee is not expected to return to regular work within thirty (30) days, the employee may be removed from the temporary modified work assignment or reassigned to another temporary modified work assignment. The Union will receive notification and explanation of such a removal or reassignment.~~
- ~~4. An employee may be transferred from one temporary modified work assignment to another if his/her functional limitations change or he/she completes an assignment subject to the employee's rights set forth in D.1. The Union will receive notification and explanation of such a transfer.~~
- ~~5. Pay will be at the employee's regular rate of pay. No assignments or combination of assignments will result in an employee earning less than he/she was eligible for while on disability. Any employee placed in a temporary modified assignment/position shall be in a paid status.~~
- ~~6. The District may require an independent medical evaluation by a District-selected physician to determine the current medical status of an employee on temporary modified work. Any disputes will be handled in accordance with Section 9.3 of the Agreement.~~
- ~~7. Temporary modified work will only be provided where, in the judgment of the District, it is available and where it may be accommodated without adverse consequences to the department or disruption in services or operations.~~

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- ~~8. The District may terminate a temporary modified work assignment at any time, particularly if it begins to affect operations, services, or the productivity of other employees.~~
- ~~9. Vacancies shall first be filled in accordance with the other applicable sections of this Agreement prior to the use of the Temporary Modified Assignment Program.~~
- ~~10. Should a provision in this program be in conflict with applicable law (e.g., the Americans with Disabilities Act, the Rehabilitation Act of 1973, the California Fair Employment and Housing Act, etc.), applicable law will prevail.~~
- ~~11. For the purposes of this program, "department" shall be defined as designated in the BART organizational charts, (i.e., Rolling Stocks & Shops, Power & Way, etc.) and as may be changed with future reorganizations.~~
- ~~12. For the purposes of this program, assignment within any of the following enumerated groupings shall not be considered a change in location:
  - ~~a. Records Center, Interstate Bank Building, TransPacific Center, Lake Merritt Administration Building, Metro Center, Madison Square Building, 4<sup>th</sup> Street Training Building, Cash Handling Building, Lake Merritt Administration Building, Oakland Shop, Oakland Shop Annex;~~
  - ~~b. Concord Shop, Concord Transportation Building, Concord Yard, and all locations between Concord Shop and Bay Point;~~
  - ~~c. Daly City Shop, Daly City Transportation Building, Daly City Yard; all work locations on the SFX extension;~~~~

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d. ~~Hayward Shop, Hayward Transportation Building, Hayward Training Center, Hayward Test Track, Hayward Yard, all locations between Hayward Shop and Dublin;~~

e. ~~Richmond Shop, Richmond Transportation Building, Richmond Yard.~~

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# ATU & SEIU GENERALS REVISED PROPOSAL

3:30pm

~~1:30pm~~, 7/19/2013

## 9.7 ERGONOMICS & REASONABLE ACCOMMODATION

- A. Within the first week of each month, the Employer shall provide each Union, as well as each member of the Labor-Management Ergonomics/Accommodation Committee with a copy of the updated OSHA log of workplace injuries for the prior month. The parties agree to review the documentation together to identify the causes of workplace injuries and address them in an effective manner so as to prevent future injuries.
- B. The District shall provide the Union as well as each member of the Labor-Management Ergonomics/Accommodation Committee with a copy of each ergonomic evaluation and performed as required by the Injury and Illness Prevention Program and shall work with the Union regarding the resulting recommendation and its implementation. The parties shall work together to identify recurring sources of injury in the workplace, evaluate and implement appropriate ergonomic measures in a prompt manner so as to avoid further incidents, injuries, and re-injuries.
- C. Within 30 days of the ratification of this Agreement, the District shall draft a written update of its written Reasonable Accommodation policy and procedures and provide the Union with a copy of the proposed changes. Once the changes, if any, are agreed upon, the District shall make a good faith effort to provide a copy of its updated Reasonable Accommodation policy and procedures to all employees and to ensure that the policy and procedures are published in a manner that is readily accessible to all employees.
- D. Within 30 days of adopting an updated Reasonable Accommodation policy and related procedures, the District shall create and implement joint training(s) for Department Managers and ATU 1555/ SEIU1021 shop stewards. Topics to be addressed include: what is a reasonable accommodation, when are employees entitled to accommodation and what accommodations are reasonable; an overview of the interactive process, requests for medical information and/or evaluation of work restrictions.
- E. The District agrees to work with the Unions through the Ergonomics/Accommodation committee to identify potential accommodations and/or the identification of assistive devices that may be useful in accommodating certain types of medical conditions in relation to District positions.

# ATU & SEIU GENERALS REVISED PROPOSAL

1:30pm, 7/19/2013

1. When an employee seeks reasonable accommodation the District shall advise the employee of the right to Union representation during the interactive process and shall permit such representation as may be requested. It is mutually understood that the District shall first consider potential accommodations that would enable the employee to return to or continue working in his or her regular position

2. Where warranted, the District shall arrange for functional capacity testing and/or an ergonomic evaluation to assist with identifying appropriate accommodations

F. This provision is intended to confirm the District's commitment to provide all employees with all legally required benefits and protections under Cal-OSHA, the District's Injury and Illness Prevention Plan, the ADA and FEHA. Nothing in this provision shall be construed as a waiver of any employee's individual statutory rights, remedies and/or procedural protections.

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## 9.7 REASONABLE ACOMMODATIONS

- A. The parties shall create and implement joint training(s) for Department Managers and ATU 1555/ SEIU 1021 shop stewards. Topics to be addressed include: what is a reasonable accommodation, when are employees entitled to accommodation and what accommodations are reasonable; an overview of the interactive process, requests for medical information and/or evaluation of work restrictions.
- B. The District shall provide a copy of its Reasonable Accommodation policy to every individual who files a worker's compensation claim and shall also provide a copy to all employees who inform the District of an injury, condition or disability that might impact or limit their ability to work.
1. At the outset of the interactive process, the District shall provide the employee with a list of potential accommodations that might enable them to perform essential functions of their position and clarify for the employee that the list is not exhaustive but intended to spur discussion of specific aides, tools or equipment that would be beneficial.
  2. The District shall not exclude a Union representative from discussions about possible accommodations to be provided, when the employee requests that a Union representative be present, or when discussions involve mandatory subjects of bargaining.
  3. If, during the interactive process described in BART policy, the employee and the District are unable to agree on appropriate accommodations that would enable the employee to perform the essential functions of his or her position, the District shall arrange for either an ergonomic evaluation or functional capacity testing to explore the scope of the employee's physical abilities and limitations and evaluate specific accommodations.
- C. The District and the Union recognize that within any particular classification, there may be a range of assignments that are not identical in terms of the amount of physical strenuous activity required. The District and the Union shall review all job descriptions to identify essential functions of each bargaining unit position and ensure that they are accurately described therein, and reflect the range of duties required of individual employees within the classification. Employees seeking reasonable accommodation into an alternative position shall be placed in a position for which they meet the minimum qualifications,

## 9.8 WORKPLACE ERGONOMICS

- A. Within the first week of each month, the Employer shall provide the Union with a copy of the OSHA log of workplace injuries for the prior month, for each and every department in which bargaining unit members work; with the number of active workers compensation claims there are for each classification and department, the average number of new claims filed in each department and for each classification in the unit. The parties agree to review the documentation together to identify the causes of workplace injuries and address them in an effective manner so as to prevent future injuries.
- B. The District agrees to perform an ergonomic evaluation of all bargaining unit positions in order to identify possible ways to reduce injury rates, and to include at least two union representatives in each Department in the evaluation process. The District shall prioritize the evaluation of those positions in which the highest number of musculoskeletal injuries/disorders or other repetitive strain injuries (RSIs) have occurred over the past two years. The District shall provide the Union with a copy of each evaluation and final report, including all attachments and all documents used in rendering the evaluation and will meet and confer regarding any recommendations contained therein.
- C. The evaluation shall include an assessment of workers performance of the following tasks, and possible approaches to minimize the risk of injury from their repeated performance:
1. repeated performance of the same motion;
  2. fixed or awkward positions;
  3. use of weighted t-handles;
  4. manual handling of objects weighing more than 25 pounds;
  5. other;
- D. Where the ergonomic evaluation indicates that there exists a moderate to high risk of injury, the Employer shall introduce effective and appropriate control measures to reduce the risk of injury.
- E. All ergonomic assessments and the development of control measures shall be conducted in consultation with the union, the joint health and safety committee and employees performing jobs with an identifiable risk for injury.
- F. The Employer shall ensure that Union representatives, including employees who perform the work of position in question, are involved of all stages of the ergonomic assessment including identification, assessment, control and evaluation of controls.
- G. The Employer shall ensure that employees with risky jobs are trained in ergonomic awareness and how to use control measures properly.

**BART PROPOSALS**

**TO AFSCME/3993**

## MAIN BART-Sponsored Issues in Negotiations with AFSCME as of August 6, 2013

- Duration of Agreement: BART has discussed a 4 year agreement with AFSCME but has not passed a proposal on this matter
- Class and Compensation: Currently, BART has proposed 2% annual increases for Fiscal Year 2014, 2015, 2016 and 2017. BART has also proposed a Classification and Compensation structure that will provide \$1 million towards addressing pay discrepancies and creating a step-based compensation program. BART also asked AFSCME to contribute towards that program.
- Classifications: BART currently has a proposal that includes new job classifications and a provision for e-mail notification to the Union President of any contracting out by BART that could impact work normally performed by AFSCME-represented employees.
- Union Representatives: BART has a proposal outstanding that would require submittal of an Official Union Business form to the employee's supervisor at least 24 hours in advance of the requested leave for AFSCME's monthly Executive Board meeting. Under BART's proposal Union representatives are not to receive any premium or overtime pay for conducting approved Union business.
- Dental Insurance Coverage: BART proposes that retirees shall have the option to purchase the same dental coverage as listed in this section at no cost to the District.
- PERS Medical and Prescription Drug Benefits: BART proposes employees hired after 1/1/13 pay 6% of the premium cost for the plan beginning FY 2014, 8% in FY 2015, 9% of premium costs in FY 2016 and 10% in FY 2017. BART also proposes to retain the Money Purchase Pension Plan ("MPPP") for the life of the agreement.
- Vision Care Plan: BART proposes that retirees have the option to purchase the same vision coverage as listed in this section at no cost to the District.
- Educational Assistance Program: BART has an outstanding proposal increasing the amount it will provide to employees. It increases the amount of money available for employees pursuing an AA degree from \$750 in Fiscal year 2013, to \$950 for Fiscal Year 2014, increasing to \$1,500 for FY 2017. Reimbursement for those in programs beyond 60 semester units will see an increase from \$1,000 in FY 2013, to \$2,000 in FY 2017.
- Retirement Benefits: BART proposes that employees who began working for BART before 1/1/13 will be eligible to participate in the 2% at 55 PERS pension plan. Employees hired after 1/1/13 will be eligible for 2% at 62 PERS benefits. The District will retain its 1.627% of payroll contribution to the Money Purchase Pension Plan
- Workdays and Workweek: BART's outstanding proposal would preclude paying Overtime for working on a first or second Regular Day Off (RDO) unless an employee had worked 40 hours straight-time during their regularly scheduled workweek.

- Reduction in Force (New): BART's most recent counterproposal requires laid off employees to check BART job openings. Internal only postings would be communicated to the employee by BART.
- Special Provision Applicable to Operations Control Center - Extra Board: BART proposes Extra Board personnel be assigned to fill temporary job assignments on a work week basis. It also proposes to make a reasonable effort to schedule Extra Board personnel as close as possible to their bid start times.
- Special Provisions Available to Line/Yard/SOS/OS Uniforms (PTA): BART is proposing to increase uniform maintenance allowances and has offered to provide a voucher for employees to purchase uniforms and/or professional attire. Each year following the initial purchases, employees will receive \$250 checks to purchase replacement uniforms/professional attire.

## DISTRICT COUNTER – 7/30/13

### 3.2 CLASSIFICATIONS

- A. The job classifications covered by the AFSCME bargaining unit include the following:

<b>Classifications</b>	<b>Pay Band</b>
Access Administrator	7
Access Coordinator	6
Applications Analyst	5
<u>Asset Coordinator</u>	<u>6</u>
Assistant Logistics Program Manager	7
Assistant Manager of Revenue Control	9
Automotive and Equipment Maintenance Supervisor	5
Central Maintenance Supervisor	7
Coordinator, Technical Maintenance Support	7
Data Base Administrator	7
District Real Estate Surveyor	8
District Right-of-Way Surveyor	8
Employee Patron Safety Administrator	7
Energy Analyst	4
<u>Project Enterprise Information Specialist</u>	<u>9</u>
Environmental Administrator	8
Facilities/Utility Location Coordinator	7
Facilities Maintenance Supervisor	5
Financial Analyst I	2
Financial Analyst II	4
Government & Community Relations Representative I	2
Government & Community Relations Representative II	4
Hazardous Material/Environmental Compliance Program Manager	7
Industrial Hygienist	7
Information Systems Security Officer	7
Insurance Analyst	5
Lead Marketing Representative	6
Legal Office Supervisor	4

Liability Risk Analyst	5
Logistics Program Administrator	7
Logistics Supervisor	5
Maintenance Support Administrator	6
Manager of Access Programs	8
Manager of Accounting	8
Manager of Automatic Fare Collection Maintenance	9
Manager of Automotive and Equipment Maintenance	9
Manager of Credit/Debit Fare Programs	9
Manager of Customer Services	8
Manager of Drafting & Configuration	9
Manager of Employee/Patron Safety	8
Manager of Inventory Management	8
Manager of Operations Safety	8
Manager of Paratransit Programs	8
Manager of Parking Programs	8
Manager of Quality Assurance	8
Manager of Special Projects	8
Manager of Special Projects, Analysis	8
Manager of Special Projects, TSD	8
Manager of Technical Resources, Publications & Graphics	7
Manager of Time and Labor Administration	8
Manager of Track Geometry	6
Manager of Transit Vehicle Cleaning	8
Marketing Representative I	2
Marketing Representative II	3
Material Control Systems Supervisor	6
Operations Supervisor	6
Operations Supervisor – Operations Liaisons Planner	4
<del>Power &amp; Way Controller</del>	<del>7</del>
Principal Administrative Analyst	7
Principal Financial Analyst	7
<u>Principal Enterprise G.I.S. Analyst</u>	<u>7</u>
Principal Government and Community Relations Representative	7
Principal Legislative Analyst	7
Principal Marketing Representative	7
Principal Planner	7
Principal Property Development Officer	7
Principal Real Estate Officer	7

Principal Right of Way Officer	7
Procurement Analyst	3
Program Control Administrator, Telecommunications Revenue	8
Public Information Officer	7
Purchasing Support Supervisor	7
Quality Assurance Supervisor	6
Query & Reports Specialist	7
<u>Safety Specialist</u>	<u>5</u>
<u>Scheduling Supervisor</u>	<u>6</u>
Section Manager, Automatic Fare Collection Maintenance	7
Section Manager, Elevator/Escalator Maintenance	7
Section Manager, Power and Mechanical Maintenance	7
Section Manager, Structures Inspection and Maintenance	7
Section Manager, Structures Maintenance	7
Section Manager, Systems Maintenance	7
Section Manager, Track Maintenance	7
Section Manager, Track Maintenance and Wreckmaster	8
Senior Administrative Analyst	5
Senior Applications Analyst	7
Senior Budget Analyst	4
Senior Central Maintenance Supervisor	8
Senior Energy Analyst	7
Senior Environmental Compliance Specialist	6
Senior Financial Analyst	5
Senior Government and Community Relations Representative	5
Senior Inventory Control Analyst	4
Senior Logistics Supervisor	6
Senior Marketing Representative	5
Senior Operations Safety Specialist	7
Senior Operations Supervisor	8
Senior Operations Supervisor – Operations Liaisons	8
Senior Planner	5
Senior Real Estate Officer	6
Senior Right-of-Way Officer	6
Senior Safety Specialist	6
Senior Systems Programmer	7

Senior Projects Coordinator	5
Senior Time and Labor Administrative Analyst	5
Special Projects Manager, Systems Maintenance	7
Special Projects Manager, Track and Structures	7
Supervising Power and Way Controller	8
Supervisor, Business Systems Operations	8
Supervisor, Data Center Operations	5
Supervisor, Facilities Maintenance Contract	5
Supervisor, LAN Administration	8
Supervisor, Technical Support and Graphics	6
Systems Programmer	6
System Service Supervisor	5
Technical Documentation Administrator	5
Technical Maintenance Support Administrator	7
Train Controller	8
Treasury Analyst	5
Vehicle Performance Analyst	7

Job descriptions shall be provided by the District to the Union by classification.

- B. If the District creates a new job classification or substantially revises an existing job classification, it shall provide AFSCME with a copy of the classification description at least fifteen (15) workdays prior to posting to fill a vacant position in the classification. If the classification is not designated by the District as an AFSCME represented classification and AFSCME believes that the classification should be AFSCME represented it shall notify the District in writing within fifteen (15) workdays after the union's receipt of the classification description.
- C. If the District performs an analysis of the duties of a position within a classification in the bargaining unit and determines that those duties are described more accurately by a classification description of a classification in another bargaining unit or in a non-represented status, the union may challenge the accuracy of that determination.
- D. If the District revises substantially an AFSCME represented classification or creates a new classification from a pre-existing AFSCME classification(s) and the District proposes to remove the classification from the bargaining unit, the union may proceed immediately to the State Department of Industrial Relations to resolve whether the classification should remain in the AFSCME bargaining unit.

- E. The District or AFSCME may petition the State Department of Industrial Relations to resolve whether the classification or positions therein are to be included in the AFSCME bargaining unit. However, if the classification encompasses duties performed, in whole or in part, by employees in the job classifications already assigned to another bargaining agent under the terms of the then-existing collective bargaining agreement between the District and the other bargaining agent, AFSCME may challenge such assignment only as provided under applicable state law.
- F. If the State Department of Industrial Relations decides or the parties mutually agree that the affected classification(s) or position(s) shall be AFSCME represented, any affected employee's dues, initiation fees and other terms and conditions of employment specified under the AFSCME agreement shall take effect on the first of the month following the date such determination is announced.
- G. The Union President shall be notified whenever the District is considering contracting work which is usually done by an AFSCME classification. The associated Department Manager shall fax or e-mail a Contract Notification Form to the President of AFSCME prior to awarding the contract. The Contract Notification Form will identify the date it is faxed or e-mailed. The Union shall have seven (7) workdays after the Contract Notification Form is faxed to provide any comments to the associated Department Manager. If comments are received within the seven (7) workday period, the Department Manager shall meet with the Union to discuss concerns which will be considered before making a decision to contract. The Department Manager's decision shall be final.

## DISTRICT COUNTERPROPOSAL 7/30/13

### 8. UNION REPRESENTATIVES

Twelve (12) Union representatives, including the President, shall be recognized to assist employees in resolving grievances at the lowest possible administrative level, provided, however, the parties agree that ~~four (4)~~ three (3) of the twelve (12) representatives shall be area representatives. The Union agrees to select one (1) area representative from members working at each of the following ~~four (4)~~ three (3) line locations: A/L Line, G Line C and R Line, and M/W Line, and OCC. ~~Additionally, no more than one (1) union representative may come from each line location or from the Operations Control Center (OCC).~~ If an area representative assignment is vacant for any reason the total number of twelve (12) representatives is temporarily reduced accordingly until the area representative vacancy is filled. Representatives employed by the District shall be afforded reasonable time for the conduct of ~~the Union business; e.g., investigation and processing of grievances, meetings with Management,~~ without loss of pay or benefits, provided that an official Union Business for AFSCME Representatives Form #1499 is submitted to the union representative's supervisor at least 24 hours in advance, notification is given to, and approved by, their immediate supervisor. At no time will a union representative be paid a premium or overtime for conducting approved union business. "Union business," as used in this provision, consists of investigating and processing grievances at the lowest possible administrative level; attending meetings and trainings with management; and participating in arbitrations, including reasonable preparation time for such arbitrations.

The President during his/her respective term of office shall receive grave shift differential in recognition of his/her variable work schedule.

The President, during his/her respective term of office shall have two (2) ~~three (3)~~ paid designated days a week time off on Union Business subject to advance notification to his or her supervisor, as provided above. Requests for additional Union Business time shall not be unreasonably denied.

Upon formal designation by the Union, representatives employed by the District will not be transferred from the assignment, shift or location they hold by reason of their election or appointment, but at no time will the District be under obligation to retain a representative employed by the District because of his/her status for whom there is no work to perform or who cannot perform available work in a qualified and acceptable manner.

Representatives will be given the privilege of utilizing the District's inter-office

mail and existing telephone facilities as may reasonably be necessary in the conduct of Union business.

The twelve (12) union representatives will be released to attend the monthly Executive Board meetings held on the second Wednesday of the month.

Each member of the duly elected or appointed Union Negotiating Committee (not to exceed twelve (12) who attends the Union-Management contract negotiation meetings will be compensated for actual work time lost as a result of such meetings.

DISTRICT PROPOSAL 8/1/13

**28. DENTAL INSURANCE COVERAGE \***

Present coverage for preventative care, restorative care, prosthodontic care, and orthodontic care will continue. Coverage will be as follows:

- A. **Preventative Care:** Insurance will pay one hundred percent (100%) of Usual and Customary charges.
- B. **Restorative Care:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.
- C. **Prosthodontics:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.
- D. **Orthodontics:** Insurance will pay seventy-five percent (75%) of the Usual and Customary charges, with the employee paying the balance.

Maximum benefit payable for a combination of preventative, restorative, and prosthodontics care is two thousand dollars (\$2,000) for each calendar year. Each calendar year, the employee may place the maximum benefit payable for preventative, restorative and prosthodontics care for each employee and dependent in a family bank. Maximum benefit payable for orthodontic care is three thousand five hundred dollars (\$3,500) lifetime maximum, with fifty dollars (\$50) deductible for employees and dependents.

Retirees shall have the option to purchase the same dental coverage as listed in this section at no cost to the District.

**\* Minute Clarification**

Employees shall have the option to purchase, at their own expense, an enhanced dental plan. Benefits and premiums shall be established by the District annually, based on plan experience. Premiums for this benefit will be paid through payroll deduction.

## DISTRICT PROPOSAL 8/1/13

### 33. PERS-MEDICAL & PRESCRIPTION DRUG BENEFITS \*

#### A. PERS Medical & Prescription Drug Benefits

The District will provide group medical and prescription drug benefits, as provided below, through the Public Employees' Retirement System (PERS). The PERS rules, regulations and plan documents will control on all issues concerning benefits, including the types and levels of benefits offered and eligibility for those benefits.

The Union acknowledges that it understands these benefits may not equate to benefits previously available to employees and retirees through the various optional medical plans and the Prescription Drug Plan. Because coverage will be provided through PERS, the District and the Union understand that PERS may terminate or change covered expenses, benefit payments and co-payments on covered benefits, deductibles, lifetime and/or annual maximums and may implement various cost control features.

Except for Survivors Benefits, as provided for in Section 41, the Union waives the right to any group medical or prescription drug benefit granted expressly or implied under other sections of this Agreement, or by any other agreement between the parties or by any District guideline, policy or practice if that benefit is not offered through the PERS medical plan.

~~Employer Contributions for Health Insurance.~~

#### B. Employee and Retiree Contributions for Health Insurance.

1. All employees eligible for PERS medical benefits who enroll for such benefits shall be responsible for a premium contribution towards the District's premium cost for the plan and level chosen except as further defined in Section C as follows: in the amount of twenty four dollars and fifty eight cents (\$24.58) per month, except as provided below.
  - a. Commencing no later than January 1, 2014, employees shall be responsible for a contribution of six (6%) of the premium cost for the plan and level chosen or a monthly contribution of ninety three dollars and sixty two cents (\$93.62), whichever is greater;
  - b. Commencing FY 2015, such contribution shall increase to eight percent (8%) of the premium cost for the plan and level chosen or a monthly contribution of ninety three dollars and sixty two cents

(\$93.62), whichever is greater;

c. Commencing FY 2016 such contributions shall increase to nine percent (9%) of the premium cost for the plan and level chosen or a monthly contribution of ninety three dollars and sixty two cents (\$93.62), whichever is greater; and

d. Commencing FY 2017, such contribution shall increase ten percent (10%) of the premium cost for the plan or level chosen or a monthly contribution of ninety three dollars and sixty two cents (\$93.62), whichever is greater.

~~1. The employee's twenty-four dollars and fifty eight cents (\$24.58) monthly employee contribution toward the medical insurance premium shall increase by fifty dollars and forty two cents (\$50.42) on January 1, 2006. Each January 1 thereafter, the monthly employee contribution shall increase by an escalator amount of three percent (3%). For example, the total monthly employee contribution on January 1, 2007 will be seventy seven dollars and twenty five cents per month. (The calculation that arrives at this number is as follows:  $\$24.58 + \$50.42 = \$75 \times 1.03 = \$77.25$ .) The employee contribution amounts provided by this subsection shall be the maximum employee premium contribution through June 30, 2034. The employee contribution amounts provided below shall be in addition to any costs for coverage excess of the amounts specified in paragraph C. below.~~

<u>DATE</u>	<u>Maximum Employee Monthly Contribution</u>
01 Jan. 06	\$75.00
01 Jan. 07	\$77.25
01 Jan. 08	\$79.57
01 Jan. 09	\$81.95
01 Jan. 10	\$84.41
01 Jan. 11	\$86.95
01 Jan. 12	\$89.55
01 Jan. 13	\$92.24
01 Jan. 14	\$95.01
01 Jan. 15	\$97.86
01 Jan. 16	\$100.79
01 Jan. 17	\$103.82
01 Jan. 18	\$106.93
01 Jan. 19	\$110.14
01 Jan. 20	\$113.44

01 Jan. 21	\$116.85
01 Jan. 22	\$120.35
01 Jan. 23	\$123.96
01 Jan. 24	\$127.68
01 Jan. 25	\$131.51
01 Jan. 26	\$135.46
01 Jan. 27	\$139.52
01 Jan. 28	\$143.02
01 Jan. 29	\$148.02
01 Jan. 30	\$152.46
01 Jan. 31	\$157.03
01 Jan. 32	\$161.74
01 Jan. 33	\$166.60
01 Jan. 34	\$171.59

2.2. Each eligible retiree shall pay the same premium contribution as active employees. Employees' premium contributions will be paid for through tax-exempt payroll deductions. Retiree premium contributions will be deducted from the retirement allowance paid by PERS. If a retiree's retirement allowance is not sufficient to pay the entire contribution, the retiree must pay the balance due on such premium contribution directly to PERS. If such payment is not received by the due date, health care coverage will automatically, immediately and permanently cease. These rules are intended to comply with the premium contribution procedures established by PERS, which may be modified by PERS. The District, Unions and employees shall comply with the PERS procedures in effect from time to time.

**C. Maximum District Contributions for Health Insurance**

Beginning January 1, 2010, ~~the District's maximum shall contribution shall be the remainder of the premium above the employee's contribution for the an amount up to the applicable plan and level of plan participation (i.e. one party, two party, or family) and the same Medicare status as elected by the eligible employee or retiree capped by equal to the Bay Area Basic Premium Rates for the PERS HMO Blue Shield Access+ and/or PERS HMO Kaiser Plan, whichever is greater, less the employee and retiree contributions provided for in 33.B above.~~ This District contribution shall be the District's maximum payment toward employee health insurance premiums. Employees and retirees electing a coverage with a cost greater than the District's maximum contribution shall have the difference deducted automatically from the unit member's pay or as set forth in 33.B.1. above, in addition to amounts to be deducted in

accordance with subsection B above.

**D. Retiree Insurance Funding.**

~~1. Beginning July 1, 2007, the District shall contribute into its Retiree Health Benefit Trust (RHBT) amounts that, at minimum, reflect an eight (8) year "ramp up" to District payment of the full Government Accounting Standards Board (GASB) compliant Annual Required Contribution (ARC) beginning July 1, 2013 using an open group valuation method with a closed thirty (30) year amortization schedule for unfunded liability ending June 30, 2034. Except as provided in paragraph 3 below, each pay period the District shall contribute to the RHBT an amount equal to the below-listed percentages of straight time bargaining unit base pay paid to bargaining unit members in that pay period into the RHBT. (For example, if base pay in the pay period in FY '07 is one million dollars (\$1,000,000), the District will contribute \$34,900 into the RHBT for that pay period).~~

<u>Date</u>	<u>Percentage</u>
July 1, 2007 (FY 08)	3.49%
July 1, 2008 (FY 09)	3.64%
July 1, 2009 (FY 10)	3.79%
July 1, 2010 (FY 11)	3.94%
July 1, 2011 (FY 12)	4.10%
July 1, 2012 (FY 13)	4.27%

~~2. In addition, on or before June 30, 2009 the District shall, at minimum, contribute into the RHBT an amount equal to three and twenty-two one-hundredths percent (3.22%) of straight time bargaining unit base pay paid in FY '06 and three and thirty-six one-hundredths percent (3.36%) of straight time bargaining unit base pay paid in FY '07. These figures represent the "ramp up" percentages for these fiscal years.~~

~~3. The District shall perform an actuarial study of the retiree medical insurance plan liabilities and funding needs (including the Annual Required Contribution "ARC") after the end of each calendar year but before the beginning of the next fiscal year for which the results provide guidance. For each fiscal year beginning with FY 2007, the actuaries shall adjust the above "ramp up" percentages for the fiscal year for which the study was prepared and for each remaining fiscal year in the "ramp up" period. The last such adjustment will be in the study performed prior to July 1, 2013 for FY 2013. The revised percentages shall be the percentages contributed by the District to~~

~~the RHBT for those years, except that the District shall pay no less than the percentages specified in subsections 1 and 2 above.~~

4.1. Beginning July 1, 2013, the District shall, at minimum, contribute to the RHBT each pay period an amount equal to the full GASB compliant Annual Required Contribution (ARC) percentage of straight time base pay paid to bargaining unit members during that pay period using an open group valuation method with a closed thirty (30) year amortization schedule for unfunded liability ending June 30, 2034. (For example, if the base pay during the pay period is one million dollars (\$1,000,000) and the ARC percentage is fourteen percent (14%), the District will contribute one hundred forty thousand dollars (\$140,000) to the RHBT for that pay period.)

5.2. ~~Effective July 1, 2013, the District shall continue to retain the 1.627% MPPP contribution for the term of this agreement, referred to in subsection C.2 above. Commencing July 1, 2017 that contribution shall be retained to the extent necessary to compensate the District for paying the difference between the actual ARC and the baseline ARC described below. The District shall retain this amount through June 30, 2034. In any year in which the actual ARC does not exceed the baseline ARC by an amount equal to the amount of the retained 1.627% MPPP contribution, the District shall pay the appropriate portion of the 1.627% into the employees' MPPP accounts, but only to the extent that the difference between the actual ARC and the baseline ARC is less than the dollar value of the retained MPPP 1.627%.~~

EXAMPLE: Assume that the actual ARC is fifteen percent (15%) in the particular year, the baseline ARC is fourteen percent (14%) in the particular year, and that the difference between the two is one million dollars (\$1,000,000). Assume further that the value of the retained 1.627% is one million five hundred thousand dollars (\$1,500,000). The District would then pay a total of five hundred thousand dollars (\$500,000) into the employees' collective MPPP accounts. These payments would be prorated in the same manner as would result from full payment of the 1.627% into the employee accounts.

The baseline ARC is as follows:

FY Year Beginning

Baseline ARC

7/1/13	11.88%
7/1/14	11.94%
7/1/15	12.00%
7/1/16	12.06%
7/1/17	12.12%
7/1/18	12.18%
7/1/19	12.24%
7/1/20	12.30%
7/1/21	12.36%
7/1/22	12.42%
7/1/23	12.48%
7/1/24	12.54%
7/1/25	12.60%
7/1/26	12.66%
7/1/27	12.72%
7/1/28	12.78%
7/1/29	12.84%
7/1/30	12.90%
7/1/31	12.96%
7/1/32	13.02%
7/1/33	13.08%

6. 3. Effective July 1, 2013 the District shall direct the Trustee of the RHBT to pay retiree health insurance premiums from the RHBT. No premiums will be paid from the RHBT prior to July 1, 2013.

~~E. One Time Payment~~

~~The District shall pay each bargaining unit member a one-time lump sum payment of three hundred dollars (\$300) gross in January 2006 to offset the increased employee's health insurance cost.~~

~~F. Alternative Plans~~

- ~~1. Between July 15 and November 15, 2005 the District and Union will meet to discuss possible proposals for alternative retiree health insurance plan legislation that would apply to employees hired after the effective date of the legislation. If the parties mutually agree on such proposals, they will jointly request that the state legislature and the Governor approve such legislation on an urgency basis. If the proposal becomes law the District will amend its contract with PERS to adopt the new program effective January 1, 2007 or as soon thereafter as possible for employees hired after the plan takes effect,~~

~~subject to satisfaction of the following conditions. First, all other District bargaining agents must agree to amend their respective labor agreements to accommodate the change under the same overall terms as for the SEIU and ATU bargaining units. Second, District actuaries must certify that using the same actuarial assumptions, contribution assumptions and "ramp up" percentages set forth above:~~

- ~~a. The actuarial projection of the ARC under the new program by the District's actuaries demonstrates that it will not rise above the ARC under the existing program at any time and that the District's unfunded liability for retiree medical insurance will not increase at any time.~~
- ~~b. It will not diminish budgetary savings during the "ramp up" period described above.~~

~~In addition, if the new plan otherwise meets the conditions set forth above, but produces additional savings as determined by the District's actuaries, the parties shall offset employee medical contributions to the extent of such savings at the time they occur.~~

~~If there are remaining projected savings after the elimination of the above employee contributions, the District and Union shall meet to discuss further distribution of the savings for employee benefit costs.~~

#### G.F. E. In Lieu of Medical Payments

During any open enrollment period after July 1, 2009, an eligible employee who has medical coverage under a spousal or other alternate plan may elect, in accordance with procedures established by the District to opt out of the group medical and prescription drug benefits covered under Section 33.A.

The District shall make a monthly payment of ~~\$100.00~~\$350.00 "in lieu of medical" to each eligible employee who opts out of 33.A. coverage.

Tax treatment of these payments will be subject to applicable Internal Revenue Code (IRC) and Internal Revenue Service (IRS) rules. The payments will be made in a manner that will not impact the income tax status of medical premiums under IRC requirements and to allow an employee to receive the amounts as cash monthly payments.

An eligible employee who opts out of 33.A. coverage may subsequently

enroll in such coverage as permitted under the terms of the plan(s) described in Section 33.A.

H. F. **Trust Review Committee.**

1. The District's five (5) unions shall each appoint one (1) member to serve on a trust review committee (TRC). The District Labor Relations Manager and Human Resources Manager shall serve on the TRC for the District. The TRC shall meet quarterly. Employee members of the TRC will be released from regularly scheduled duty with pay for quarterly TRC meetings.
2. The District will direct the Trustee of the Trust to provide the Unions with quarterly reports of all RHBT operations, including audited and unaudited financial statements and investment performance reports, and other consultant reports in advance of the quarterly TRC meeting. (The parties acknowledge that audited financial statements are performed only once per year.)
3. The Trustee will attend the TRC meeting to answer questions concerning the information provided to the TRC. However, the TRC shall in no way attempt to assist, direct, or otherwise involve itself in matters concerning the investment of Trust assets. However, the TRC may advise the Trustee on other Trust matters to the extent such advisory activity does not affect the legal status of the Trust. It shall be within the sole discretion of the Trustee whether to follow or not follow such advice.
4. The TRC members shall be released from regularly scheduled duty with pay to attend meetings of the Human Resources Manager and Labor Relations Manager with the District's actuaries and other professionals to discuss assumptions to be included in annual GASB valuation studies, the preliminary and final results of such studies, etc. Such studies shall include ARC projections through at least the year 2035. The District will provide the unions with a copy of the final version of such study on or before February 1st each year or as soon thereafter as is practicable.

I. G. **Retiree Health Benefits Trust.**

Within one hundred twenty (120) days after the signing of this agreement by the parties hereto, the District shall amend the Trust Agreement to provide that:

1. Trust assets shall be held for the sole and exclusive purpose of

providing health benefits to eligible BART retirees and to defray the reasonable expenses of administering the RHBT.

2. The only District benefit plans for which payments may be made from the RHBT shall be those retiree health benefit plans offered to eligible District retirees as a result of its collective bargaining agreements, or District policy which extends such plans to non-represented employees. In addition, for District personnel on a District plan that is no longer generally offered to District employees, payments may be made from the RHBT. However, the District shall ensure sufficient separate funding and the Trustee shall separately account for benefits paid for such personnel.
3. The District may terminate the RHBT, subject to its duty to bargain in good faith to agreement or impasse over such termination with the Union. If the District gives the Union notice of the termination of the RHBT, the Trust shall not terminate until the assets then remaining are exhausted. Such assets shall be used only as provided in paragraph 1 above.

#### H. Retiree Medical Insurance Eligibility

The parties agree that with respect to District employees first hired after July 1, 2013, the District shall make no contribution for postretirement health benefits on behalf of such individuals with less than ten years of credited service with the District, and that the full District contribution for postretirement health benefits shall be made only on behalf of individuals who have completed a minimum of fifteen years of credited service with the District. Eligibility for this benefit is, in addition to the specified criteria, subject to current provisions which require that the employee retire from CalPERS within one hundred and twenty (120) days of separation from the District.

The parties agree that:

1. This provision applies to unrepresented employees, members of the Board of Directors to the extent they are eligible under existing law, and members of any unit of employees whose terms and conditions of employment are determined through collective bargaining and who agree that it should apply to its members.
2. Contributions shall be subject to:
  - a. Credited years of District service
  - b. An agreement with all represented employees mutually agreed upon through collective bargaining;

3. The District contribution shall be a percentage of the employer contribution for applicable credited years of service as follows: 10 years – 50 %, 11 years – 60%; 12 years- 70%; 13 years – 80%; 14 years – 90% and 15 years 100%.
4. The full contribution level shall be available for postretirement health benefits for those employees who are approved for and exercise a disability retirement with at least five years of credited service with the District.
5. This section shall only apply to District employees or Board members who are first hired by the District or newly elected to the Board and first serve on or after July 1, 2013. or, if so specified in an applicable agreement, to District employees first hired by the District on or after the date specified in such agreement.
6. Any agreement to adopt these provisions by any collective bargaining unit shall apply only if the agreement is expressly incorporated into or made a part of a memorandum of understanding.
7. This provision shall not apply to any employee who retires before the effective date of the memorandum of understanding referenced above. In the event that the memorandum of understanding establishes a retroactive effective date, this section will govern, limiting its applicability only to prospective retirements.
8. The District shall provide, in the manner prescribed by CalPERS, a notification of each agreement established pursuant to this section and any additional information necessary to implement it.

The Parties recognize that implementation of this agreement requires statutory changes to the California Government Code and agree to jointly seek a sponsor for and support the passage and signing into law of the provisions as set forth herein. If the law is not successfully passed, then the Parties agree to mutually agree on alternative provisions.

3. \_\_\_\_\_

The District reserves the right to terminate or change any part or all of the health benefits program at any time with respect to active or retired employees, however, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's obligation to provide health benefits coverage to retired employees shall terminate upon the expiration of this Agreement. By providing benefits to retirees, the parties do not intend to vest retirees with such benefits.

**\* Minute Clarification**

The parties mutually understand that the only obligation to continue the health benefits of active employees after the expiration of the Agreement is that which may arise from the general legal duty to bargain in good faith.

**DISTRICT PROPOSAL 7/31/13**

**34. VISION CARE PLAN \***

The District will continue to provide and pay for a Vision Care Plan for employees, an employee's eligible domestic partner (per Board Resolutions 4455 and 4757) and their eligible dependents providing the following:

<b>Coverage</b>	<b>Intervals</b>
Visual Examinations	12 months
Lens Replacement	12 months
Frames Replacement	24 months

There shall be a ten dollar (\$10) deductible.

Retirees shall have the option to purchase the same vision coverage as employees and eligible dependents.

**\* Minute Clarification**

Employees shall have the option to purchase, at their own expense, an enhanced Vision Care Plan. Benefits and premiums shall be established by the District annually based on plan experience.

## District Counterproposal-7/25/2013

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### 36. EDUCATIONAL ASSISTANCE PROGRAM

The District's Educational Assistance Program will be continued during the life of this Agreement. Employees who wish to enroll in job-related and promotion oriented courses which will improve their job knowledge and performance will be compensated by the District for expenses as follows:

- A. When an employee is in the process of acquiring a sixty (60) semester unit or a ninety (90) quarter unit degree (e.g., Associate of Arts Certificate of Achievement), or when an employee is properly authorized to enroll in a Certificate of Achievement Program, correspondence course and/or a specific course of study that may not result in a degree, said employee shall be reimbursed ~~up to a maximum of seven hundred fifty dollars (\$750) per fiscal year as follows:~~ In fiscal year 2014, a maximum of nine hundred fifty dollars (950.00); in fiscal year 2015, a maximum of eleven hundred fifty dollars (\$1,150.00); in fiscal year 2016, a maximum of one thousand three hundred fifty dollars (\$1,350.00); and in fiscal year 2017, a maximum of one thousand five hundred dollars (\$1,500.00).
- B. When an employee exceeds sixty (60) semester units or ninety (90) quarter units and is enrolled in upper division course work, said employee shall be reimbursed ~~up to a maximum of one thousand dollars (\$1,000) per fiscal year.~~ as follows: In fiscal year 2014, a maximum of one thousand two hundred fifty dollars (\$1,250.00); in fiscal 2015, a maximum of one thousand five hundred dollars (\$1,500.00); in fiscal year 2016, a maximum of one thousand seven hundred fifty dollars (\$1,750.00); and in fiscal year 2017, a maximum of two thousand dollars (\$2,000.00)
- G. The maximum amount that an employee may be reimbursed under this program in any fiscal year is ~~one thousand dollars (\$1,000).~~ two thousand dollars (\$2,000.00)

Out-of-pocket expenses for required textbooks and course materials may be included for reimbursement within the above dollar limits. Textbooks may be retained by the

employee upon completion of the course. Courses must be taken at an accredited institution or through correspondence courses or other approved vendors, whether training is delivered in-person or on-line, if comparable courses are not available in local schools or if the work assignment of the individual is such that it does not permit regular classroom attendance. Approval of other vendors under this section and the establishment of criteria for successful completion, when those listed below are inapplicable shall be at the discretion of the Department Manager of Human Resources or designee.

Except for unusual circumstances, employees will not be granted time off from their regular work schedule to attend courses taken under this Section.

Courses must be approved by the employee's Department Head prior to enrollment. Reimbursement shall be made after presentation of proper receipts and upon completion of the course with at least a "C" grade or its equivalent.

At the employee's option, an advance may be secured by payroll deduction of the amount of the advance if:

1. Satisfactory evidence of completion of the course taken is not provided to the District within thirty (30) days following completion of the course, or
2. The course is not completed with at least a grade "C" or its equivalent, or
3. The course is failed, or
4. The employee voluntarily drops the course for any reason, including voluntary shift change or termination of employment with the District.

If the employee's course is not completed due to a District required shift change or reduction in force, repayment of the advance will not be required.

### **Definitions**

- a. District required shift change: a reorganization or

District mandated classification rebid resulting in an involuntary shift change due to the seniority of an employee or as the result of a promotion.

- b. District required reduction in force: reduction in force action as described in Section 69 of this Agreement, resulting in employee being placed in lay-off status with recall rights.
- c. Voluntary shift change: any shift change in which the individual has the ability to control movement affecting him/her adversely, i.e., advance bid, promotion, reverting to his/her former position, system bids, line/yard bids, lateral bids, etc.

## DISTRICT PROPOSAL - AUGUST 1, 2013

### 39. RETIREMENT BENEFITS

- The District shall continue its present participation in the Public Employees' Retirement System (PERS) to provide the two percent (2%) at 55 retirement option for miscellaneous members who commenced employment with the District prior to January 1, 2013 and for those employees who are eligible as "classic" members as defined by PERS at existing levels.
- A. Employees commencing employment with the District on or after January 1, 2013, and who have not previously been employed by a PERS agency or an agency for whom reciprocal rights are provided, shall be provided the two percent (2%) as age 62 retirement formula.
- B. Effective January 17, 1982, the District discontinued Employer-paid additional contributions to PERS. Effective January 18, 1982, the District began contributions of one point six hundred twenty-seven thousandth's percent (1.627%) of payroll to the District's Money Purchase Pension Plan.
- C. ~~The District shall continue to contract with the Public Employees' Retirement System (PERS) to provide the two percent (2%) at 55 retirement option. To partially offset the cost of the 2% at 55 retirement benefit, effective July 1, 1992, the District shall retain its contribution of one and six hundred twenty-seven thousandth's percent (1.627%) of payroll to the District's Money Purchase Pension Plan on behalf of members in the bargaining unit. The retention of the one and six hundred twenty-seven thousandth's percent (1.627%) contribution shall remain in effect to and including June 30, 2012.~~
- D. Additional PERS Option. Upon execution of this Agreement, the District will permit employees to purchase up to four (4) years of service credit for any continuous active military service prior to employment with BART pursuant to Government Code Sections 20930.3 and 20930.33. The employees will bear all costs for this PERS option.

47.8 ~~Salary and Lump-Sum Payments~~

A. ~~Fiscal Year 201014 (first year):~~

~~Effective upon ratification of this contract the base salary August 1, 2009 and continuing until June 30, 2010, the base salary for bargaining unit Supervisory Unit employees shall remain the same as the Fiscal Year 2008-2009 base rate of pay members shall be increased by two percent (2%) over the prior base rate of pay. The prior base rate of pay includes the one percent (1%) conditional wage increase, provided for in the 2009-2013 Agreement, effective July 1, 2013.~~

B. ~~Fiscal Years 2015, 2016 and 2017 2011 (second year):~~

~~Effective July 1 of FY 2015, 2016 and 2017, the base salary for bargaining unit members shall be increased by two percent (2%)., 2010 and continuing until June 30, 2011, the base salary rate for Supervisory Unit employees shall remain the same as the 2008-2009 base rate of pay.~~

C. ~~Fiscal Year 2012 (third year): Effective July 1, 2011, and continuing until June 30, 2012, the base salary for Supervisory Unit employees shall remain the same as the 2008-2009 base rate of pay.~~

~~1. No later than July 1, 2011, the District shall pay each Supervisory Unit employee in active paid status on June 1, 2011, a one-time lump sum payment of one thousand dollars (\$1,000). The District shall have no obligation to make a similar payment on any future date.~~

D. ~~Fiscal Year 2013 (fourth year): Effective July 1, 2012, and continuing until June 30, 2013, the base salary rate for Supervisory Unit employees shall remain the same as the 2008-2009 base rate of pay.~~

~~A. No later than July 1, 2012, the District shall pay each Supervisory Unit employee in active paid status on June 1, 2012, a one-time, lump sum payment of one thousand and five hundred dollars (\$1,500). The District shall have no obligation to make a similar payment on any future date.~~

47.9 ~~Potential One Percent (1%) Schedule Improvement~~

~~A. Potential One Percent (1%) Schedule Improvement~~

~~If all criteria set forth in Subsection 47.9B are met and no extraordinary unplanned expenses as set forth in Subsection 47.9C have occurred, then effective at the end of this Agreement on June 30, 2013, the District shall increase the salary/wage schedule by one percent (1%) over the 2008-2009 salary schedule. These calculations shall be made on or before March 31, 2013, and shall be effective on July 1, 2013 (FY 14). The calculations for FY 13 will be based on the data available on March 31, 2013. All references to FY 13 in Section 47.9 shall include only the period of July 1, 2012 through March 31, 2013.~~

~~B. On or before March 31, 2013, the District shall calculate and apply the following criteria:~~

~~1. Sales Tax Revenue Growth Rates:~~

~~Determine the FY 11, FY 12 and FY 13 percentage increase in annual sales tax growth over the prior Fiscal Year. To meet this criterion, the 3-year average annual increase in sales tax growth for FY 11, FY 12 and FY 13 must be 5.0% or more growth in sales tax revenue funded and received.~~

~~2. Ridership Growth Rates:~~

~~Determine the FY 11, FY 12 and FY 13 percentage increase in annual ridership growth over the prior Fiscal Year ridership. To meet this criterion, the 3-year average annual increase in ridership for FY 11, FY 12 and FY 13 must be 4.7% or more growth.~~

~~3. Specific Increased Expenses:~~

~~Determine whether the following specific District expenses have increased on annual basis greater than stated:~~

~~a. District's Employer PERS miscellaneous pension contributions increased by an average of more than 10.5% per year over FY 11, FY 12 and FY 13; or,~~

~~b. District contributions toward medical insurance premiums required by Section 33.B of this Agreement increased by an average of more than 10% annually during FY 11, FY 12 and FY 13.~~

~~4. If either of the average increases listed in Subsection 47.9B3 are exceeded, then the criterion for Section 47.9 has not been met.~~

~~C. Extraordinary, Unplanned Expenses:~~

~~On or before March 31, 2013, the District shall determine whether an extraordinary, unbudgeted and unanticipated expense exceeding 2.5% of the District's adopted operating budget has occurred during Fiscal Years FY 10, FY 11, FY 12 or FY 13, other than those specified~~

~~in Subsection 47.9B above. In the event that such an extraordinary, unbudgeted, unanticipated expense outside the control of the District has occurred during FY 10, FY 11, FY 12 or FY 13, the District shall have no obligation to increase the salary/wage schedule by one percent (1%) as specified above.~~

~~D. All Conditions Must Be Met:~~

~~The District shall have no obligation to increase the salary/wage schedule by one percent (1%) effective on July 1, 2013 or at any time in the future unless all of the conditions set forth in Subsection 47.9B are met and the conditions set forth in Subsections 47.9C do not occur.~~

~~E. One-Time, Non-Precedent Setting Increase /Definition of "Status Quo:"~~

~~The salary increase described in Section 47.9 is provided on a one-time, non-precedent setting basis that does not constitute a past practice. During negotiations for any successor Agreement, the salary/wage criteria described in Section 47.9 shall not define the status quo for salary/wage increases. During the negotiations for succeeding term after June 30, 2013, the District shall not assert that the 1.0% increase is included as part of any increased wage offer made by the District for the succeeding contract.~~

Dist. Proposed

5/22/13

AFSCME PROPOSAL REVISION 1

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**61. WORKDAYS AND WORKWEEK**

**A workweek which has been assigned to an employee will be that employee's scheduled workweek. The five (5) workdays in that workweek, regardless of shift assignment, will be the employee's scheduled workdays and the two (2) days off will be the scheduled days off. No premium shall be paid for Saturday and/or Sunday work if such days are scheduled workdays. All hours worked on the first and second off-duty day shall be compensated at the overtime rate set forth herein; provided that the employee has worked forty (40) straight-time hours during their regularly scheduled workweek,**

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**An employee shall be assigned a workweek which shall consist of five (5) consecutive workdays within a seven (7) day period and two (2) consecutive days off. A workday for Foreworker IIs, Transportation Operations Supervisors and Transportation Senior Operations Supervisors shall consist of eight (8) consecutive hours of work with a scheduled starting time inclusive of meal periods and breaks. All other employees are entitled to an unpaid lunch break of**

VTF

forty-five (45) minutes duration which shall extend the consecutive hours of work by that amount of time except where this agreement otherwise expressly provides ~~expressly for a paid lunch.~~

When any employee is assigned to a shift, he/she shall not thereafter be assigned to another shift which does not permit the employee at least ~~transfer~~ ~~elapse~~ <sup>1210<sup>th</sup></sup> hours elapsed time from the end of the previous work assignment, including overtime.

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Subject to other provisions of this Agreement governing choice of shifts, notice of changes in shift assignment shall be given as far in advance as practicable.

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DISTRICT COUNTER 7/30/13:

69.1 TERMINATION REORGANIZATION/REDUCTION IN FORCE PROCEDURES

An employee may be terminated from employment as a result of a valid reorganization and/or a reduction in force. ~~or discharged for cause. If the District terminates a non-probationary employee for cause as defined in subsection A below, it shall notify the employee of such action by delivering written notice to the employee directly or by mail to his or her last address on record with the District Human Resources Department. If, within one (1) business day after such notice is tendered the union shall deliver a notice of appeal to the Labor Relations Department challenging the termination, the termination shall be stayed for fourteen (14) days from the effective date of termination set forth in the termination notice and shall thereafter take effect.~~

A. ~~Cause shall include but is not limited to:~~

- ~~1. Performance below reasonable expectations.~~
- ~~2. Improper conduct discrediting the District.~~

B. Reorganizations/Reductions-In-Force Terminations as a result of valid reorganizations or reductions in force shall be accomplished in accordance with the following procedure:

1. **Notification**

An employee shall be informed personally by the Department Head or designee as soon as possible after a termination reorganization/reduction in force decision has been made. At that time, the employee will be told ~~the reason for termination~~, the scope and purpose of this procedure, and furnished a copy of the tentative schedule of future events affecting him/her.

2. **Resume**

The employee shall have five ten (510) working days from notification to prepare and submit a current resume for inter-departmental distribution. Assistance in resume preparation may be requested from the District's Human Resources Department staff or a consultant selected by the District.

3. **Distribution**

If a resume is submitted, it will be distributed within three five (35) working days of receipt to all District Department Heads and to Division Managers within large departments along with a letter indicating the name, the functional and pay classifications of the affected employee, and information concerning his/her availability. If no resume is submitted, this procedure shall move directly to step seven (7) as if all responses were negative.

4. **Responses**

Department Heads/Division Managers shall respond within ten (10) working days by returning resumes to the originating Department Head with a response either positive or negative indicated thereon. The responses shall indicate present and foreseeable vacancies which may be developing within the next six (6) months.

5. **Results**

The employee shall be informed within three (3) working days of the result of this process by the originating Department Head or designee.

6. **Positive Response**

If positive responses are received, the employee shall be given five (5) working days to confer with the department(s) involved; and to indicate a preference. The District shall ensure that the conference occurs within that time period.

- a. If the employee selects a position, a personnel action to affect a transfer shall be initiated by the original Department Head. The effective date of transfer shall be as mutually agreed by the Department Heads involved. Salary adjustments, if any, shall be determined through discussion between the receiving Department Head and the Human Resources Department staff prior to any discussion with the employee.
- b. If the employee rejects all positive responses, he/she shall be terminated in the same manner as if all responses were negative.

7. **Negative Responses**

If all responses are negative, the employee shall be given notice that the District is unable to place him/her in another position and that he/she will be terminated at the end of ten (10) working days, in accordance with the District's separation procedures.

8. **Termination Severance Compensation**

Employees shall receive, in addition to compensation for accrued and unused vacation and accrued compensatory time, severance compensation based on two (2) weeks' pay for each full year of service with the District. Final compensation, calculated pursuant to this subsection shall be paid in lump sum.

Employees shall not be permitted to remain on the payroll for any periods based on factors in that calculation and continuous service with the District shall terminate concurrent with issuance of the lump sum final compensation.

9. **Placement Assistance and Employment Counseling**

Placement assistance and employment counseling shall be provided employees to include reproducing a reasonable number of resumes at the District expense, arranging for letters of recommendation, if requested, and counseling by the District's Human Resources Department staff as to the local and transit industry job market. This phase shall be completed within the ten (10) working day period in Paragraph 7 above.

10. Employees ~~terminated~~ laid-off as a direct result of valid reorganizations or reduction in force, shall be entitled to reinstatement to open positions for which they are qualified for a period not to exceed eighteen (18) months from the date of ~~termination~~ lay-off. Laid off employees are responsible for checking job openings with the District and advising the District of their interest in positions for which they believe they are qualified by the posted closing date. However, if within the eighteen (18) months from the date of lay off an internal-only posting is created the District will contact laid off employees to determine their interest in applying for the job.

~~Reinstatement consideration shall be limited to those specific positions of interest identified by the employee, in writing, prior to the date of termination.~~ The District's obligations under this subsection shall cease immediately upon rejection of any offer of reinstatement and/or employment by the District.

This procedure may be altered by mutual agreement of the parties.

**74. SPECIAL PROVISIONS APPLICABLE TO OPERATIONS CONTROL CENTER - EXTRA BOARD**

- A. There shall be a day/night Extra Board. Extra Board shift and rest days will be selected in conjunction with regular shift selections.
- B. Day Extra Board personnel shall be those who perform work starting between 0001 and 1200 hours; night Extra Board personnel shall be those who perform work starting between 1201 and 2400 hours.
- C. The next day's Extra Board assignments, if different from the Extra Board person's normal shift, will be posted in the Operations Control Center no later than 1200 hours for the day Extra Board and no later than 2200 hours for the night Extra Board.
- D. The Extra Board shall be posted no later than 1300 hours each Friday. Once posted the RDOs cannot be changed.
- E. Extra Board personnel may be transferred from their selected Extra Board position (day or night) only to fill temporary job vacancies on a work week basis. To fill such vacancies, the Extra Board will be polled in classification seniority for volunteers. In the event there are no volunteers, assignments will be made by inverse classification seniority.
- F. Extra Board personnel will first be used to fill vacancies in the Operations Control Center. If no vacancies exist in the Operations Control Center, Extra Board personnel may be utilized elsewhere in any appropriate manner. If a vacancy occurs in the Operations Control Center after a shift starts, every effort will be made to fill it with an appropriate Extra Board person.
- G. Extra Board personnel will fill vacancies on a one-for-one basis; that is, if a Train Controller position is vacant, the Extra Board person will fill that position. Reasonable effort will be made to schedule Extra Board personnel as close as possible to their bidded start times.
- H. Extra Board positions will be titled as to primary purpose, i.e., day-to-day, vacation, training relief, special assignment (Central Liaison), if appropriate. Persons in vacation and training relief positions shall be free

to work any shift.

- I. The District shall create a bank of no less than forty (40) hours of compensatory time per quarter (bid). Twenty (20) of these hours shall be reserved for the day Extra Board and twenty (20) for the night Extra Board. The purpose of this bank is to pay the Extra Board four (4) hours of compensatory time for each sixth (6) and/or seventh (7) day worked. Time will be drawn from the appropriate bank until that bank is exhausted. In the event there remains any unused hours at the end of a quarter (bid), that time will be used to compensate any Extra Board who worked a sixth (6) and/or seventh (7) day but whose respective bank was exhausted. Any remaining hours not used in the quarter (bid) after the above steps have been followed, will expire. If the Extra Board increases in size (above five [5] positions) an additional eight (8) hours of compensatory time will be added to the appropriate day and/or night Extra Board, per additional position.

DISTRICT'S COUNTER PROPOSAL 7/26/2013

**85. SPECIAL PROVISIONS APPLICABLE TO LINE/YARD SENIOR OPERATIONS/ OPERATIONS SUPERVISORS - UNIFORMS**

- A. A Uniform Committee ~~will consist~~consisting of two (2) AFSCME representatives appointed by the Union and two (2) District representatives appointed by the District, ~~will meet within one hundred twenty days (120) after ratification of the contract to~~ The Uniform Committee will develop recommendations to the Chief Transportation Officer ("CTO") or Transportation Manager designee concerning the number, design, replacement schedule, and cost of uniforms that afor Line/Yard Senior Operations/Operations Supervisors needs, their design, functional requirements, and the replacement schedule and cost that would be required for such uniforms. The Chief Transportation Officer or Transportation Manager CTO or designee will consider such recommendations and provide each January will submit a uUniform budget amount to the Uniform Committee to establish a payment process to for Operations Supervisors and Senior Operations Supervisors, hHowever, the initial final decision on such mattersuniforms and the right to revise such decisions from time to time shall is remain within his or her the CTO's or designee's exclusive discretion.
- B. ~~Uniforms provided pursuant to section A, above will become the property of the employee after six (6) months of active service.~~
- C.B. Line/Yard Senior Operations Supervisors/Operations Supervisors shall maintain their uniforms in a neat and clean condition, except in circumstances not reasonably within their control.
- D.C. Line/Yard Senior Operations Supervisors/Operations Supervisors who are required by the District to wear uniforms shall will be provided a uniform maintenance allowance of twenty-five dollars (\$25)thirty-five (\$35) per month to be included as a separate line item in the employee's paycheck each month.
- D. Employees receiving a uniform under this Section shall beare required to wear the complete District-approved uniform and/or professional attire, as deemed appropriate by the District's Transportation management, at all times while on duty. Employees who fail to comply with this regulation Section may be subject to disciplinary action. Such employees may also be relieved from duty, and if relieved, shall forfeit compensation for the balance of that shift.

E. Uniform Allotment: Initial Issue of a Uniform Voucher

1. A uniform allotmentThe Initial Issue of a Uniform Voucher will be given to each Line/Yard Senior Operations Supervisor/ and Operations Supervisor under this provision commencing. The allotment will commence fiscal year July 1, 2013 fiscal year 2014. The allotment consists of an Initial Issue in subsequent years of the contract, employees will receive followed with by a monetary \$250 check the each subsequent years of the contract. and no uniform issue.

2. Initial Issue\*:The Initial Issue for fiscal year 2014 shall consist of a uniform voucher for each Line/Yard Senior Operations Supervisor/Operations Supervisor for the purchase of uniforms from a vendor selected by the District. The employee is responsible for obtaining the following items from the District approved vendor:

- a. Two (2) Blazers with BART logo
- b. Seven (7) pants/skirts - navy/black
- c. Eight (8) dress shirts for men/blouses for women with BART logo
- d. Two (2) sweater sets (for women or navy vests with BART logo
- e. One (1) all weather outer jacket with BART logo
- f. Two (2) name tags
- g. No \$250 check

\*Initial Issue is only a guide, and may be adjusted by the Uniform Committee as needed.

E.

F. Fiscal Years 2015, 2016, and 2017 Payment:

An annual payment for the purchase of additional replacement uniform/professional attire garments in the amount of \$250 will be made in the month of November of each subsequent fiscal year on a separate check.

**AFSCME/3993**

**PROPOSALS TO BART**

### AFSCME REMAINING ISSUES AS OF 8/6/13

- Classifications: Members receive work before contracting out work that is “currently or historically performed by AFSCME...” If contracted out work exceeds three months, “consideration should be given to the need for additional staff,” but in no event shall a contract exceed six months.
- Union Representatives: Contract language securing 12 union representatives’ paid time off to attend monthly Executive Board meetings and quarterly General Membership Meetings.
- Training: Training for employees. The parties began discussing this item under the IBB model, but it was abandoned by the union. No proposals have been exchanged.
- Educational Assistance Program: Increase amounts available for classes, conferences, workshops, and certifications.
- Classification and Compensation: Develop and implement a Classification and Compensation program that moves employees through steps within their pay band that has an estimated cost in excess of \$15 million over four years.
- Workdays and Workweek: Include meal periods and breaks in the calculation of a work day. Increase the amount of rest time between shifts.
- Reduction-in-Force: Institute a contractual order of layoffs within a classification starting with contractors and part-time employees, then employees on a voluntary basis, and finally employees in seniority order. Other changes to the application and recall process for affected employees.
- Special Provisions Applicable to OCC – Extra Board: Transfer of Extra Board assignments to be made on a work week basis.
- Special Provisions Applicable to Line/Yard SOS/OS – Uniforms: Increase uniform maintenance allowance, change distribution of uniforms to voucher system, and annual payment for uniform replacement in subsequent years of the contract.
- No counterproposals have been made to the District’s proposals on wages, health/medical, and pension.

### 3.2 CLASSIFICATIONS

~~A. The job classifications covered by the AFSCME bargaining unit include the following:~~

A. The Bargaining Unit represented by the Union includes the following job classifications. The District shall provide the Union with a copy of the current job descriptions for classifications, no later than sixty (60) calendar days after signing of the Agreement:

<b>Classifications</b>	<b>Pay Band</b>
Access Administrator	7
Access Coordinator	6
Applications Analyst	5
<u>Asset Coordinator</u>	<u>6</u>
Assistant Logistics Program Manager	7
Assistant Manager of Revenue Control	9
Automotive and Equipment Maintenance Supervisor	5
Central Maintenance Supervisor	7
Coordinator, Technical Maintenance Support	7
Data Base Administrator	7
District Real Estate Surveyor	8
District Right-of-Way Surveyor	8
Employee Patron Safety Administrator	7
Energy Analyst	4
<u>Enterprise Information Project Specialist</u>	<u>9</u>
Environmental Administrator	8
Facilities/Utility Location Coordinator	7
Facilities Maintenance Supervisor	5
Financial Analyst I	2
Financial Analyst II	4
Government & Community Relations Representative I	2
Government & Community Relations Representative II	4
Hazardous Material/Environmental Compliance Program Manager	7
Industrial Hygienist	7
Information Systems Security Officer	7
Insurance Analyst	5
Lead Marketing Representative	6

Legal Office Supervisor	4
Liability Risk Analyst	5
Logistics Program Administrator	7
Logistics Supervisor	5
Maintenance Support Administrator	6
Manager of Access Programs	8
Manager of Accounting	8
Manager of Automatic Fare Collection Maintenance	9
Manager of Automotive and Equipment Maintenance	9
Manager of Credit/Debit Fare Programs	9
Manager of Customer Services	8
Manager of Drafting & Configuration	9
Manager of Employee/Patron Safety	8
Manager of Inventory Management	8
Manager of Operations Safety	8
Manager of Paratransit Programs	8
Manager of Parking Programs	8
Manager of Quality Assurance	8
Manager of Special Projects	8
Manager of Special Projects, Analysis	8
Manager of Special Projects, TSD	8
Manager of Technical Resources, Publications & Graphics	7
Manager of Time and Labor Administration	8
Manager of Track Geometry	6
Manager of Transit Vehicle Cleaning	8
Marketing Representative I	2
Marketing Representative II	3
Material Control Systems Supervisor	6
Operations Supervisor	6
Operations Supervisor – Operations Liaisons	6
<u>Planner</u>	<u>4</u>
Power & Way Controller	7
Principal Administrative Analyst	7
Principal Financial Analyst	7
<u>Principal Enterprise G.I.S. Analyst</u>	<u>7</u>
Principal Government and Community Relations Representative	7
Principal Legislative Analyst	7
Principal Marketing Representative	7
Principal Planner	7
Principal Property Development Officer	7
Principal Real Estate Officer	7

Principal Right of Way Officer	7
Procurement Analyst	3
Program Control Administrator, Telecommunications Revenue	8
Public Information Officer	7
Purchasing Support Supervisor	7
Quality Assurance Supervisor	6
Query & Reports Specialist	7
<u>Safety Specialist</u>	<u>5</u>
<u>Scheduling Supervisor</u>	<u>6</u>
Section Manager, Automatic Fare Collection Maintenance	7
Section Manager, Elevator/Escalator Maintenance	7
Section Manager, Power and Mechanical Maintenance	7
Section Manager, Structures Inspection and Maintenance	7
Section Manager, Structures Maintenance	7
Section Manager, Systems Maintenance	7
Section Manager, Track Maintenance	7
Section Manager, Track Maintenance and Wreckmaster	8
Senior Administrative Analyst	5
Senior Applications Analyst	7
Senior Budget Analyst	4
Senior Central Maintenance Supervisor	8
Senior Energy Analyst	7
Senior Environmental Compliance Specialist	6
Senior Financial Analyst	5
Senior Government and Community Relations Representative	5
Senior Inventory Control Analyst	4
Senior Logistics Supervisor	6
Senior Marketing Representative	5
Senior Operations Safety Specialist	7
Senior Operations Supervisor	8
Senior Operations Supervisor – Operations Liaisons	8
Senior Planner	5
Senior Real Estate Officer	6
Senior Right-of-Way Officer	6
Senior Safety Specialist	6
Senior Systems Programmer	7
Senior Projects Coordinator	5

Senior Time and Labor Administrative Analyst	5
Special Projects Manager, Systems Maintenance	7
Special Projects Manager, Track and Structures	7
Supervising Power and Way Controller	8
Supervisor, Business Systems Operations	8
Supervisor, Data Center Operations	5
Supervisor, Facilities Maintenance Contract	5
Supervisor, LAN Administration	8
Supervisor, Technical Support and Graphics	6
Systems Programmer	6
System Service Supervisor	5
Technical Documentation Administrator	5
Technical Maintenance Support Administrator	7
Train Controller	8
Treasury Analyst	5
Vehicle Performance Analyst	7

Job descriptions shall be provided by the District to the Union by classification.

- B. If the District creates a new job classification or substantially revises an existing job classification, it shall provide AFSCME with a copy of the classification description at least fifteen (15) workdays prior to posting to fill a vacant position in the classification the first vacancy in the new classification. If the classification is not designated by the District as an AFSCME represented classification and AFSCME believes that the classification should be AFSCME represented it shall notify the District in writing within fifteen (15) workdays after the union's receipt of the classification description. This provision shall pertain to classifications both inside and outside the bargaining unit.
- C. If the District performs an analysis of the duties of a position within a classification in the bargaining unit and determines that those duties are described more accurately by a classification description of a classification in another bargaining unit or in a non-represented status, the union may challenge the accuracy or that determination.
- D. If the District revises substantially an AFSCME represented classification or creates a new classification from a pre-existing AFSCME classification(s) and the District proposes to remove the classification from the bargaining unit, the

union may proceed immediately to the State Department of Industrial Relations to resolve whether the classification should remain in the AFSCME bargaining unit.

- E. The District or AFSCME may petition the State Department of Industrial Relations to resolve whether the classification or positions therein are to be included in the AFSCME bargaining unit. However, if the classification encompasses duties performed, in whole or in part, by employees in the job classifications already assigned to another bargaining agent under the terms of the then-existing collective bargaining agreement between the District and the other bargaining agent, AFSCME may challenge such assignment only as provided under applicable state law.
- F. If the State Department of Industrial Relations decides or the parties mutually agree that the affected classification(s) or position(s) shall be AFSCME represented, any affected employee's dues, initiation fees and other terms and conditions of employment specified under the AFSCME agreement shall take effect on the first of the month following the date such determination is announced.
- G. The Union President shall be notified whenever the District is considering contracting work which is usually done by an AFSCME classification. The associated Department Manager shall fax a Contract Notification Form to the President of AFSCME prior to awarding the contract. The Contract Notification Form will identify the date it is faxed. The Union shall have seven (7) workdays after the Contract Notification Form is faxed to provide any comments to the associated Department Manager. If comments are received within the seven (7) workday period, the Department Manager shall meet with the Union to discuss concerns which will be considered before making a decision to contract. The Department Manager's decision shall be final.
- H. Prior to contracting out ASFCME bargaining unit work that is currently or historically performed by AFSCME members, the District will first utilize any qualified AFSCME members available to perform the necessary work will minimal training and cost to the District. Should the contract exceed three (3) months, consideration should be given to the need for additional staff. In no event shall the duration of the contract

exceed six (6): This section shall apply to all consulting contracts including, but not limited to, independent contracts, temporary agency agreements and "On-Call" service agreements.

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### **~~3.2.1 EVALUATION, ASSESSMENT AND REVISION OF JOB DESCRIPTIONS AND CLASSIFICATIONS~~**

~~The parties agree, beginning September 2009, to meet in an effort to reach mutual agreement regarding an evaluation, assessment and revision of the job descriptions and classifications as outlined within the Siegel-based Classification & Compensation Study of 2007-2009 as it relates to the AFSCME bargaining unit, to be completed by no later than the end of 2009, and retroactive from July 1, 2009.~~

## 8. UNION REPRESENTATIVES

Twelve (12) Union representatives shall be recognized to assist employees in resolving grievances at the lowest possible administrative level, provided, however, the parties agree that three (3) of the twelve (12) representatives shall be area representatives. The Union agrees to select one (1) area representative from members working at each of the following three (3) locations: A/L/R line, C line and M/W line. If an area representative assignment is vacant for any reason the total number of twelve (12) representatives is temporarily reduced accordingly until the area representative vacancy is filled. Representatives employed by the District shall be afforded reasonable time for the conduct of the Union business, e.g., investigation and processing of grievances, meetings with Management, Executive Board meetings the 2<sup>nd</sup> Wednesday of each month and Quarterly General Membership Meetings without loss of pay or benefits provided advance notification is given to, and approved by, their immediate supervisor.

The President during his/her respective term of office shall receive grave shift differential in recognition of his/her variable work schedule.

The President, during his/her respective term of office shall have two (2) paid designated days a week time off on Union Business subject to advance notification to his or her supervisor. Requests for additional Union Business time shall not be unreasonably denied.

Upon formal designation by the Union, representatives employed by the District will not be transferred from the assignment, shift or location they hold by reason of their election or appointment, but at no time will the District be under obligation to retain a representative employed by the District because of his/her status for whom there is no work to perform or who cannot perform available work in a qualified and acceptable manner.

Representatives will be given the privilege of utilizing the District's inter-office mail and existing telephone facilities as may reasonably be necessary in the conduct of Union business.

Each member of the duly elected or appointed Union Negotiating Committee (not to exceed twelve (12) who attends the Union-Management contract negotiation meetings will be compensated for actual work time lost as a result of such meetings.

## UNION COUNTER PROPOSAL 7/26/2013

### 36. EDUCATIONAL ASSISTANCE PROGRAM

The District's Educational Assistance Program will be continued during the life of this Agreement. Employees who wish to enroll in job-related and promotion oriented courses which will improve their job knowledge and performance will be compensated by the District for expenses as follows:

- A. When an employee is in the process of acquiring a sixty (60) semester unit or a ninety (90) quarter unit degree (e.g., Associate of Arts Certificate of Achievement), ~~or when an employee is properly authorized to enroll in a Certificate of Achievement Program, correspondence course and/or a specific course of study that may not result in a degree~~, said employee shall be reimbursed ~~up to a maximum of seven hundred fifty dollars (\$750) per fiscal year as follows:~~ In fiscal year 2014, a maximum of nine hundred fifty dollars (\$950.00); in fiscal year 2015, a maximum of one thousand one hundred fifty dollars (\$1,150); in fiscal year 2016, a maximum of one thousand three hundred fifty dollars (\$1,350.00); and in fiscal year 2017, a maximum of one thousand five hundred dollars (\$1,500.00).
- B. When an employee exceeds sixty (60) semester units or ninety (90) quarter units and is enrolled in upper division course work, said employee shall be reimbursed ~~up to a maximum of one thousand dollars (\$1,000) per fiscal year as follows:~~ In fiscal year 2014, a maximum of one thousand two hundred fifty dollars (\$1,250.00); in fiscal year 2015, a maximum of one thousand five hundred dollars (\$1,500); in fiscal year 2016, a maximum of one thousand seven hundred fifty dollars (\$1,750.00); and in fiscal year 2017, a maximum of two thousand dollars (\$2,000.00).
- C. Additionally, the Educational Assistance Program may be used to provide reimbursement of costs associated with professional development activities such as professional conferences or workshops and/or classes required to secure or maintain professional certification. All courses, educational programs, seminars, conferences, etc. must receive prior approval from the employee's supervisor.

The maximum amount that an employee may be reimbursed under this program in any fiscal year is ~~one thousand dollars (\$1,000)~~ three thousand five hundred dollars (\$3,500.00).

Out-of-pocket expenses for required textbooks and course materials may be included for reimbursement within the above dollar limits. Textbooks may be retained by the employee upon completion of the course. Courses must be taken at an accredited institution or through correspondence courses or other approved vendors, whether training is delivered in-person or on-line, ~~if comparable courses are not available in local schools or if the work assignment of the individual is such that it does not permit regular classroom attendance~~. Approval of other vendors under this section and the establishment of criteria for successful completion, when those listed below are inapplicable shall be at the discretion of the Department Manager of Human Resources or designee.

Except for unusual circumstances, employees will not be granted time off from their regular work schedule to attend courses taken under this Section.

Courses must be approved by the employee's Department Head prior to enrollment. Reimbursement shall be made after presentation of proper receipts and upon completion of the course with at least a "C" grade or its equivalent.

At the employee's option, an advance may be secured by payroll deduction of the amount of the advance if:

1. Satisfactory evidence of completion of the course taken is not provided to the District within thirty (30) days following completion of the course, or
2. The course is not completed with at least a grade "C" or its equivalent, or
3. The course is failed, or
4. The employee voluntarily drops the course for any reason, including voluntary shift change or termination of employment with the District.

If the employee's course is not completed due to a District required

## 47. COMPENSATION AFSCME Proposal 8/4/13

### 47.3 Pay Progression

- ~~A. Employees are brought into a pay band at the time they are assigned to a position within a classification in that pay band—whether from the outside or as the result of a promotion—performance evaluation score must be "effective" or better. Eligible employees receive general rate increases as an increase in base pay, subject to the maximum of the pay band.~~
- A. Employees will be brought into the pay band in accordance to with Section 47.2(A), and in further consideration of the provisions of Section 47.1(D) relating to special market adjustments.
- B. This program will utilize the new 30% pay band model proposed by the District, and employees will move to a band with a letter that corresponds to the number of their current pay band or above.
- C. Beginning January 1, 2014, a pay progression system will be put in place to allow AFSCME employees to reach 95% of their pay band over a period of time.
- D. Employees who have been in their current classification for at least 3 years, will be brought up to the midpoint of their pay band immediately.
- E. Employees who have been in their current classification for at least 10 years, will be brought up to 95% of their pay band immediately.
- F. New AFSCME employees will enter the pay progression system at no less than the minimum. On their first anniversary of hire into their classification, they will advance to the 25<sup>th</sup> percentile of their band. On their 2<sup>nd</sup> anniversary, they will advance to the 50<sup>th</sup> percentile, on their 3<sup>rd</sup> anniversary, they will advance to the 75 percentile and on the 4<sup>th</sup> anniversary, they will advance to the 95% of their band. <sup>th</sup> percentile.
- G. Current AFSCME employees will advance to the next highest percentile in their pay band on their next anniversary date. For example, if a current employee is at the midpoint of their pay band because of the corrections described in paragraph C above, on their next anniversary, they will advance to the 75<sup>th</sup> percentile.
- H. Regardless of placement on a pay band, an employee will be paid no less than 10% above any employee he/she supervises.
- ~~I. This pay progression will be calculated prior to any other contractual increases, bonuses or other compensation.~~

## AFSCME PROPOSAL REVISION 2

### **61. WORKDAYS AND WORKWEEK**

A workweek which has been assigned to an employee will be that employee's scheduled workweek. The five (5) workdays in that workweek, regardless of shift assignment, will be the employee's scheduled workdays and the two (2) days off will be the scheduled days off. No premium shall be paid for Saturday and/or Sunday work if such days are scheduled workdays.

An employee shall be assigned a workweek which shall consist of five (5) consecutive workdays within a seven (7) day period and two (2) consecutive days off. A workday for Foreworker Ills, Transportation Operations Supervisors and Transportation Senior Operations Supervisors shall consist of eight (8) consecutive hours of work with a scheduled starting time inclusive of meal periods and breaks. All other employees are entitled to an unpaid lunch break of forty-five (45) minutes duration which shall extend the consecutive hours of work by that amount of time except where this agreement otherwise expressly provides expressly for a paid lunch.

When any employee is assigned to a shift, he/she shall not thereafter be assigned to another shift which does not permit the employee at least eleven ten (1140) hours elapsed time from the end of the previous work assignment, including overtime.

Subject to other provisions of this Agreement governing choice of shifts, notice of changes in shift assignment shall be given as far in advance as practicable.

shift change or reduction in force, repayment of the advance will not be required.

### **Definitions:**

- a. District required shift change: a reorganization or District mandated classification rebid resulting in an involuntary shift change due to the seniority of an employee or as the result of a promotion.
- b. District required reduction in force: reduction in force action as described in Section 69.1 of this Agreement, resulting in employee being placed in lay-off status with recall rights.
- c. Voluntary shift change: any shift change in which the individual has the ability to control movement affecting him/her adversely, i.e., advance bid, promotion, reverting to his/her former position, system bids, line/yard bids, lateral bids, etc.

## AFSCME PROPOSAL REVISION 4

### 69.1 REDUCTION IN FORCE TERMINATION PROCEDURES

~~An employee may be terminated from employment as a result of a valid reorganization or, a reduction in force. Reorganization/Reductions-In-Force shall adhere to the following procedure: or discharged for cause. If the District terminates a non-probationary employee for cause as defined in subsection A below, it shall notify the employee of such action by delivering written notice to the employee directly or by mail to his or her last address on record with the District Human Resources Department. If, within one (1) business day after such notice is tendered the union shall deliver a notice of appeal to the Labor Relations Department challenging the termination, the termination shall be stayed for fourteen (14) days from the effective date of termination set forth in the termination notice and shall thereafter take effect.~~

~~A. Cause shall include but is not limited to:~~

- ~~1. Performance below reasonable expectations.~~
- ~~2. Improper conduct discrediting the District.~~

~~B. Reorganizations/Reductions-In-Force Terminations as a result of valid reorganizations or reductions in force shall be accomplished in accordance with the following procedure:~~

#### A. Order of Layoff

In the event of a layoff, the order of layoff shall be as follows:

1. Temporary and/or contract employees performing AFSCME work within the affected AFSCME classification(s) shall be laid off first.
2. All full-time, non-initial probationary employees, as defined in Section 91, Probationary Period, subsection A., performing work of the affected AFSCME classification(s) will be offered a voluntarily severance package. The details of the severance package are outlined in subsection 9, Severance Compensation of this Section. Volunteers will be chosen based on highest seniority first.

If there are no volunteers, then the reduction in force will proceed in the following order for employees in the AFSCME classifications to be

reduced:

1. Initial probationary employees in inverse order of District seniority;
2. Part-time employees in inverse order of District seniority;
3. Full-time employees in inverse order of District seniority.

In the event of a tie, the employee with the lowest seniority within her/her classification shall be subject to the layoff.

Seniority is established in order by:

1. Date of promotion and/or transfer into the classification
2. Respective date of hire
3. Date of birth
4. If all dates are the same, the matter shall be resolved by "lot" between the employees concerned

A. **B. Notification**

An employee shall be informed personally by the Department Head or designee as soon as possible after a termination reduction in force decision has been made. At that time, the employee will be told the reason for termination, the scope and purpose of this procedure, and furnished a copy of the tentative schedule of future events affecting him/her.

A. **C. Resume**

The employee shall have five (5) ten (10) working days from notification to prepare and submit a current resume for inter-departmental distribution. Assistance in resume preparation may be requested from the District's Human Resources Department staff or a consultant selected by the District.

A. **D. Distribution**

If a resume is submitted, it will be distributed within three (3) five (5) working days of receipt to all District Department Heads and to Division Managers within large departments along with a letter indicating the name, the functional and pay classifications of the affected employee, and information concerning his/her availability. If no resume is submitted, this procedure shall move directly to step seven (7) as if all responses were negative.

A. **E. Responses**

Department Heads/Division Managers shall respond within ten (10) working days by returning resumes to the originating Department

Head with a response either positive or negative indicated thereon. The responses shall indicate present and foreseeable vacancies which may be developing within the next six (6) months.

A. F. Results

The employee shall be informed within three (3) working days of the result of this process by the originating Department Head or designee.

A. G. Positive Response

If positive responses are received, the employee shall be given five (5) working days to confer with the department(s) involved; and to indicate a preference. The District shall ensure that the conference occurs within that time period.

a. 1. If the employee selects a position, a personnel action to affect a transfer shall be initiated by the original Department Head. The effective date of transfer shall be as mutually agreed by the Department Heads involved. Salary adjustments, if any, shall be determined through discussion between the receiving Department Head and the Human Resources Department staff prior to any discussion with the employee.

b. 2. If the employee rejects all positive responses, he/she shall be terminated in the same manner as if all responses were negative.

A. H. Negative Responses

If all responses are negative, the employee shall be given notice that the District is unable to place him/her in another position and that he/she will be terminated at the end of ten (10) working days, in accordance with the District's separation procedures.

A. I. Termination Severance Compensation

Employees shall receive, in addition to compensation for accrued and unused vacation and accrued compensatory time, severance compensation based on two (2) weeks' pay for each full year of service with the District. Final compensation, calculated pursuant to this subsection shall be paid in lump sum.

Employees shall not be permitted to remain on the payroll for any periods based on factors in that calculation and continuous service with the District shall terminate concurrent with issuance of the lump sum final compensation.

A. J. Placement Assistance and Employment Counseling

Placement assistance and employment counseling shall be provided

employees to include reproducing a reasonable number of resumes at the District expense, arranging for letters of recommendation, if requested, and counseling by the District's Human Resources Department staff as to the local and transit industry job market. This phase shall be completed within the ten (10) working day period in Paragraph 7 above.

Recall Rights

A.

Employees ~~terminated~~ laid-off as a direct result of valid reorganizations or reduction in force, shall be entitled to reinstatement to open positions for which they are qualified for a period not to exceed eighteen (18) months from the date of ~~termination~~ lay off. Employees are responsible for checking job openings with the District and applying for jobs for which they are qualified. However, if within the eighteen (18) months from the date of lay off an internal-only posting is created the District will contact laid off employees to determine their interest in applying for the job.

~~Reinstatement consideration shall be limited to those specific positions of interest identified by the employee, in writing, prior to the date of termination.~~ The District's obligations under this subsection shall cease immediately upon rejection of any offer of reinstatement and/or employment by the District.

2.

This procedure may be altered by mutual agreement of the parties.

AFSCME PROPOSAL REVISION 32

**74. SPECIAL PROVISIONS APPLICABLE TO OPERATIONS CONTROL CENTER - EXTRA BOARD**

- A. There shall be a day/night Extra Board. Extra Board shift and rest days will be selected in conjunction with regular shift selections.
- B. Day Extra Board personnel shall be those who perform work starting between 0001 and 1200 hours; night Extra Board personnel shall be those who perform work starting between 1201 and 2400 hours.
- C. The next day's Extra Board assignments, if different from the Extra Board person's normal shift, will be posted in the Operations Control Center no later than 1200 hours for the day Extra Board and no later than 2200 hours for the night Extra Board.
- D. The Extra Board shall be posted no later than 1300 hours each Friday. Once posted the RDOs cannot be changed.
- E. Extra Board personnel may be transferred from their selected Extra Board position (day or night) only to fill temporary job vacancies on a work week basis. To fill such vacancies, the Extra Board will be polled in classification seniority for volunteers. In the event there are no volunteers, assignments will be made by inverse classification seniority.
- F. Extra Board personnel will first be used to fill vacancies in the Operations Control Center. If no vacancies exist in the Operations Control Center, Extra Board personnel may be utilized elsewhere in any appropriate manner. If a vacancy occurs in the Operations Control Center after a shift starts, every effort will be made to fill it with an appropriate Extra Board person.
- G. Extra Board personnel will fill vacancies on a one-for-one basis; that is, if a Train Controller position is vacant, the Extra Board person will fill that position. Reasonable effort will be made to schedule Extra Board personnel as close as possible to their bidded start times.
- H. Extra Board positions will be titled as to primary purpose, i.e., day-to-day, vacation, training relief, special assignment (Central Liaison), if appropriate. Persons in vacation and training relief positions shall be free to work any shift.

AFSCME PROPOSAL REVISION 7

**85. SPECIAL PROVISIONS APPLICABLE TO LINE/ YARD SENIOR OPERATIONS/ OPERATIONS SUPERVISORS - UNIFORMS**

- A. A Uniform Committee ~~will consist~~consisting of two (2) AFSCME representatives appointed by the Union and two (2) District representatives appointed by the District, ~~will meet within one hundred twenty days (120) after ratification of the contract.~~ The Uniform Committee will to develop recommendations to the Chief Transportation Officer ("CTO") or Transportation Manager designee concerning the number, design, replacement schedule, and cost of uniforms that a for Line/-Yard Senior Operations/Operations Supervisors needs, their design, functional requirements, and the replacement schedule and cost that would be required for such uniforms. The CTO Chief Transportation Officer or Transportation Manager designee will consider such recommendations and provide each January, and will submit a Uniform-uniform budget amount to the Uniform Committee, to establish a payment process to Operations Supervisors and Senior Operations Supervisors, however, theThe initial decision on such matters and the right to revise such decisions from time to time shall remainis within the CTO or designee's his or her exclusive discretion.
- B. Uniforms provided pursuant to Section A above will become the property of the employee after six (6) months of active service.
- C. Line/-Yard Senior Operations Supervisors/-Operations Supervisors shall maintain their uniforms in a neat and clean condition, except in circumstances not reasonably within their control.
- D. Line/-Yard Senior Operations Supervisors/-Operations Supervisors who are required by the District to wear uniforms ~~shall will~~ be provided a uniform maintenance allowance of ~~twenty-five dollars (\$25)~~thirty-five (\$35) per month to be included as a separate line item in the employee's paycheck each month.
- E. Employees receiving a uniform under this Section shall beare required to wear the uniform and/or professional attire, as deemed appropriate by District management, at all times while on duty. Employees who fail to comply with this regulation-Section may be subject to disciplinary action. Such employees may also be relieved from duty and if relieved shall forfeit

compensation for the balance of that shift.

F. Uniform Allotment: A uniform allotment will be given to each Senior Operations Supervisor and Operations Supervisor under this provision. The allotment will commence fiscal year July 1, 2013. The allotment consists of an Initial Issue followed with a monetary check the subsequent years of the contract.

G. Initial Issue:

- a. Two (2) Blazers with BART logo
- b. Seven (7) pants/skirts - navy/black
- c. Eight (8) dress shirts for men/blouses for women with BART logo
- d. Two (2) sweater sets (for women) or navy vests (for men) with BART logo
- e. One (1) all weather outer jacket with BART logo
- f. Two (2) name tags
- g. No \$250 check

E.

H. An annual payment for the purchase of additional replacement uniform/professional attire garments in the amount of \$250 will be made in the month of November of each subsequent fiscal year on a separate check.