

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

BOARD MEETING AGENDA

January 23, 2014

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, January 23, 2014, in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of January 2, 2014 (Special), and January 9, 2014 (Regular).\* Board requested to authorize.
- B. BART Accessibility Task Force New Member Appointment.\* Board requested to authorize.
- C. (CONTINUED from January 9, 2014, Board Meeting)  
Award of Contract No. 15SV-110, Site Restoration at Various Locations.\* Board requested to authorize.
- D. Award of Invitation for Bid No. 8917, Dump Truck With Over the Cab Loader.\* Board requested to authorize.
- E. Reject all Bids for Contract No. 15EI-230, Procurement of 75KVA, 34.5KV/208Y-120C Control Transformer.\* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Saltzman, Chairperson

- A. Resolution Fixing the Employer's Contribution under the California Public Employees Retirement System for employees represented by Amalgamated Transit Union Local 1555 and Service Employees International Union Local 1021 under the Public Employees' Medical and Hospital Care Act.\* Board requested to adopt.
- B. Resolution for Employer Paid Member Contribution under the California Public Employees Retirement System for employees represented by Amalgamated Transit Union Local 1555, American Federation of State, County and Municipal Employees, Local 3993, Service Employees International Union Local 1021 and Non-Represented Employees.\* Board requested to adopt.

- C. Amendment to the San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan for employees represented by Amalgamated Transit Union, Local 1555, American Federation of State, County and Municipal Employees, Local 3993, Service Employees International Union, Local 1021, and Non-Represented Employees.\* Board requested to authorize.
- D. On-Call Economic and Property Development Consultant Services: Agreement with Economic & Planning Systems Inc. (Agreement No. 6M4283A); Agreement with Keyser Marston Associates, Inc. (Agreement No. 6M4357); Agreement with Bard Consulting, Inc. (Agreement No. 6M4358); and Agreement with Savvy City/Charles A. Long (Joint Venture) (Agreement No. 6M4359).\* Board requested to authorize.
- E. Independent Auditor's Report on Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2013.\* Board requested to accept.
- F. Title VI of the Civil Rights Act of 1964: District Civil Rights Program 2013 Triennial Update.\* Board requested to approve.

4. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Change Order No. 8 to Contract No. 15EK-210, Procurement of Traction Power Substations, Phase 1, Addition of RRY substation.\* Board requested to authorize.

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

Director Raburn, Chairperson

- A. 2014 State & Federal Legislative Goals.\* Board requested to authorize.
- B. Sister Transit Agency: Shanghai Metro Memorandum of Understanding.\* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

7. BOARD MATTERS

- A. Board Member Reports.  
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary.)
- B. Roll Call for Introductions.  
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)
- C. In Memorium.  
(An opportunity for Board members to introduce individuals to be commemorated.)

D. (CONTINUED from October 10, 2013, Board Meeting)  
Board Meeting Schedule. For discussion. (Directors Mallett and Saltzman's request.)

E. Resolution In the Matter of Directing the General Counsel to Take all Necessary and Appropriate Steps to File an Amicus Curiae Brief in the Matter of the State of California, acting by and through CalTrans, et. al.. vs. United States Department of Labor.\* Board requested to adopt. (Director Mallett's request)

8. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia delBueno</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>1/15/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Franklin Dept: Customer Access	General Counsel	Controller/Treasurer	District Secretary	BARC
<i>Robert Franklin</i> Signature/Date: <i>1/14/14</i>	<i>Robert Franklin</i> Signature/Date: <i>1/14/14</i>	<i>Robert Franklin</i> Signature/Date: <i>1/14/14</i>	[ ]	[ ]
Status: Routed		Date Created: 01/09/2014		

TITLE:

### BART Accessibility Task Force New Member Appointment

#### NARRATIVE:

##### Purpose:

For the BART Board of Directors to consider appointing a newly nominated member, Ms. Megan O'Brien, to the BART Accessibility Task Force (BATF).

##### Discussion:

BATF has been in existence since 1975 to advise staff and the Board regarding accessibility issues at BART. In 1998 the Board voted to restructure the BATF to be an advisory body appointed by the Board, and in 2001 approved by-laws developed by staff and the BATF. The BATF by-laws adopted in 2001 provided for the BATF to be composed of up to eighteen members and five alternates who live or work in the BART service area selected by a committee of the BART Board and BATF members. In 2009, the by-laws were amended to allow more flexibility in recruiting and appointing members. These changes also included the elimination of alternates. The changes were approved by the General Manager as authorized by the Board.

##### Candidate for BATF Membership:

Megan O'Brien, a candidate for membership to the BATF, was endorsed by a unanimous vote by the members of the BATF that were present on December 11, 2013, and her membership request is now being submitted to the BART Board for possible appointment.

The process for new membership is as follows: The by-laws require that out of four consecutive meetings, an interested applicant must attend three and then apply for membership. Applicants must be endorsed by the members of the BATF through a majority vote. Their names are submitted by the BATF staff liaison to the BART Board of Directors for action.

Ms. O'Brien has met the above qualifications. This prospective candidate, if approved by the BART Board for BATF membership, will be officially seated as a member of the BATF on January 23, 2014 to serve until June 30, 2015, or when the BART Board announces appointments and/or reappointments for a new term, whichever occurs later.

If approved, the BATF will include 16 members.

##### Fiscal impact:

There is a \$15 monthly stipend for travel for each regularly scheduled monthly meeting that members attend. Additionally, members are eligible to be reimbursed for the actual cost of travel for additional, pre-approved meetings. The funding source is the operating budget of the Customer Access and Accessibility Department.

##### Recommendation:

Appoint Ms. Megan O'Brien to the BATF.

Alternatives:

Do not make the appointment.

Motion:

The BART Board accepts the recommendation of the BATF and appoints the nominated candidate, Megan O'Brien, for membership to the BATF for a term effective January 23, 2014 to June 30, 2015, or until the Board makes new appointments and/or reappointments for a new term, whichever occurs later.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Margaret DeBenedictis</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 1/2/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Hong Mei Dept: Planning and Development Earthquake Safety Program <i>Hong Mei</i> Signature/Date: 12/30/13	General Counsel <i>Andrew Rosen</i> 12/31/13 [ ]	Controller/Treasurer <i>[Signature]</i> [ ]	District Secretary [ ]	BART <i>Paul C. [Signature]</i> 1/2/14 [ ]
Status: Routed		Date Created: 12/17/2013		

TITLE:

### Contract No. 15SV-110 Earthquake Safety Program Site Restoration at Various Locations

NARRATIVE:

#### **PURPOSE:**

To obtain the Board's authorization for awarding Contract No. 15SV-110, Earthquake Safety Program, Site Restoration at Various Locations to California Restoration On-Call, Inc. dba Avalon Construction Co.

#### **DISCUSSION:**

As part of BART's Earthquake Safety Program, Contract No. 15SV-110 will provide:

1. Construction of asphalt pavement along an existing pathway located at north of Pleasant Hill Station near Las Juntas Way, approximately between bents P-241 and P-255;
2. Installation of slope drains at twenty one (21) locations at bents B-2, P-21, P-23, P-34, P-38, P-48, P-52 and P-54 along the North Oakland aerial guideway;
3. Repair of landscape irrigation at two locations at West Oakland Station.

An Advance Notice to Bidders was mailed on October 3, 2013 to 246 firms. The Contract was advertised on October 7, 2013 and Contract Books were sent to 23 plan rooms. A total of 18 firms purchased copies of the Bid Documents. A Pre-Bid meeting and job site tour were conducted on Thursday, October 24, 2013 with a total of 11 potential Bidders in attendance. A total of one (1) Addenda was issued during the bid period. Three Bids were received and publicly opened on Tuesday, November 19, 2013.

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

<b><u>BIDDER</u></b>	<b><u>LOCATION</u></b>	<b><u>TOTAL AMOUNT</u></b>
1. California Restoration On-Call, Inc. dba Avalon Construction Co.	San Francisco, CA	\$345,680.00
2. Sposeto Engineering, Inc.	Livermore, CA	\$595,925.00
3. Golden Bay Construction, Inc.	Hayward, CA	\$789,585.00

Engineer's Estimate

\$308,000.00

The apparent low bid submitted by California Restoration On-Call, Inc. dba Avalon Construction Co. was deemed responsive to the solicitation. The Bid Price was determined to be fair and reasonable. Examination of the Bidder's business experience and financial capabilities has resulted in a determination that the Bidder is responsible.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this contract are 23% for MBEs and 12% for WBEs. The selected bidder will not be subcontracting any work and it will perform all the work with its own forces. Therefore, the Non-Discrimination in Subcontracting Program does not apply.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% prime bid preference for this contract for Small Businesses certified by the California Department of General Services. The responsive low bidder, California Restoration On-Call, Inc. dba Avalon Construction Co. is not a certified Small Business and therefore it is not eligible for the 5% prime bid preference. All other bidders are Small Businesses certified by the California Department of General Services. After application of the prime bid preference, California Restoration On-Call, Inc. dba Avalon Construction Co. remains the lowest bidder.

**FISCAL IMPACT:**

Funding of \$345,680 for award of Contract No. 15SV-110 is included in the total project budget for the FMS #15SV000, ESP- Site Restoration Outside Core. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of 12/16/2013, \$14,068,197 is available for commitment for this project from the following sources:

F/G 801F - ESP GO Bond	\$7,568,197
F/G 801J - ESP GO Bond	\$6,500,000
Total	<b>\$14,068,197</b>

BART has expended \$6,414,088 and committed \$2,701,102 and reserved \$1,600,000 to date for other actions. This action will commit \$345,680 leaving an available fund balance of \$3,007,327.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board may reject all Bids and ask for the Contract to be re-bid. A re-bid is not likely to result in better pricing and will result in the deferral of executing the required work. There is no



assurance that the bids on a re-solicitation would be lower than those now available for award.

The Board may reject all bids and not to award a Contract. If no Contract is awarded, BART will be unable to complete the site restorations at the various locations identified at this time.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 15SV-110, Earthquake Safety Program Site Restoration at Various Locations to California Restoration On-Call, Inc. dba Avalon Construction Co. for the bid amount of \$345,680.00 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

## FUNDING SUMMARY - EARTHQUAKE SAFETY PROGRAM

PROJECT ELEMENT	Baseline Budget (2004 GO Bond)	Current Forecast as of 12/30/13	REMARKS
<b>ENVIRONMENTAL, ENGINEERING, AND CONSTRUCTION MANAGEMENT</b>			
GEC (Bechtel Team)	\$105,000,000	\$257,500,000	
Other GEC	\$81,478,000	\$0	
Subtotal GEC	\$186,478,000	\$257,500,000	
CM	\$61,498,000	\$75,100,000	
Environmental	\$1,042,796	\$2,198,237	
<b>TOTAL E, E &amp; CM</b>	<b>\$249,018,796</b>	<b>\$334,798,237</b>	
<b>CONSTRUCTION</b>			
<b>Transbay Tube</b>			
Oakland Ventilation Structure	\$1,033,000	\$1,153,096	
Oakland Landside	\$17,970,000	\$10,699,433	
<b>San Francisco Ferry Plaza</b>			
SFTS (including Tube liner)	\$73,037,000	\$5,655,414	
Marine Vibro Demo	\$101,285,000	\$11,000,000	
Stitching	\$82,962,000	\$0	
Additional TBT Retrofits	\$0	\$166,500,000	
<b>Aerial Guideways</b>			
West Oakland/North Oakland	\$112,923,000	\$72,300,000	
Fremont	\$178,224,000	\$45,700,000	
Concord	\$36,500,000	\$12,370,889	
Richmond	\$80,155,000	\$34,800,000	
San Francisco/Daly City	\$36,590,000	\$9,600,000	
<b>Stations (18)</b>	<b>\$126,961,000</b>	<b>\$78,700,000</b>	
<b>Other Structures</b>			
LMA	\$5,529,000	\$12,100,000	
Yds & Shops	\$12,436,000	\$19,500,000	
Parking Structures	\$14,437,000	\$14,600,000	
Miscellaneous Cleanup		\$345,680	
At Grade Trackway	\$22,361,000	\$0	
34.5kV Replacement		\$42,490,000	
<b>Systems</b>	<b>\$7,066,000</b>	<b>\$17,500,000</b>	
<b>TOTAL CONSTRUCTION</b>	<b>\$909,469,000</b>	<b>\$555,014,512</b>	
<b>PROGRAM COSTS</b>			
Program Costs ( Hazmat, ROW, Consult, Staff)	\$159,894,204	\$220,800,000	
Add Auth to Execute Agrmt w/Public & Private Entities		\$5,000,000	
Contingency	\$32,104,000	\$137,727,408	
<b>TOTAL PROGRAM COSTS</b>	<b>\$191,998,204</b>	<b>\$363,527,408</b>	
<b>BASELINE FUNDING</b>			
	<b>\$1,350,486,000</b>		
<b>REVISED FUNDING</b>			
		<b>\$1,253,340,157</b>	
		<b>\$1,221,275,376</b>	Adopted Funding
		<b>\$32,064,781</b>	Outside Adopted Funding



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeVaughn</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>1/16/14</i>	BOARD INITIATED ITEM: No			
Originator/Prepared by: Luis Leon Dept:	General Counsel <i>Andre Rawls</i> <i>1/13/14</i>	Controller/Treasurer <i>Joseph SS</i> <i>1/13/14</i>	District Secretary	BARC <i>Paul Cramer</i> <i>1/16/14</i>
Signature/Date: <i>1/13/14</i>	[ ]	[ ]	[ ]	[ ]

Status: Approved	Date Created: 12/12/2013
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TITLE: **Award IFB No. 8917, Dump Truck with Over the Cab Loader**

NARRATIVE:

**PURPOSE:**

To authorize the General Manager to award Invitation For Bid No. 8917, for the purchase of a dump truck over the cab loader, to Golden Gate Truck Center, of Oakland, California.

**DISCUSSION:**

The District's Way and Facilities Division, Grounds Section, collects debris from various locations throughout the District. This requires loading, hauling and dumping leaves, dirt, trash and other materials as necessary for the maintenance of District property. The crew must separately haul a skip loader on a trailer, a heavy piece of construction equipment, or they must load the material manually. Purchasing this dump truck with an over-the-cab loader will improve safety, reduce injuries, and will reduce operating costs by combining dump truck and skip loader functions into one piece of equipment, thereby optimizing the utilization of equipment and personnel.

A notice requesting Bids was published on April 19, 2013, and Bid requests were mailed to ten (10) prospective Bidders. Bids were opened on May 14, 2013, and one (1) Bid was received.

**BIDDER:**

<u>BIDDER:</u>	<u>Quantity</u>	<u>Grand Total (Including 9% sales tax)</u>
Golden Gate Truck Center	1 each	\$179,588
Oakland, CA		

Staff has determined that the apparent low Bidder, Golden Gate Truck Center, submitted a responsive Bid and that the equipment price, warranty and other pricing is fair and reasonable according to prevailing labor and equipment rates in effect at the time of this purchase.

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

Rights set a 5% prime preference for this contract. The responsive Bidder is not a certified small business and therefore is not eligible for the 5% small business preference.

**Estimate:**

Engineering estimate: \$ 182,000.00

**FISCAL IMPACT:**

Funding of \$179,588 for executing this Purchase Order will come from project budget 79BJ000, Replace Non-Revenue Vehicles. The office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. As of January 7, 2014, \$25,318,157 is available for this project from the following fund sources:

659E	ALAMEDA CCMA/BAAQMD	24,750.84
8202	SLS TX REVN BOND FND(1	542,782.00
8205	1995 SALES TAX REV BON	2,651,723.00
8301	98 BOND INTEREST(06E-5	1,000,000.00
850N	CAPITAL IMPROVEMENT AL	3,622,381.00
850W	FY00-06 CAPITAL ALLOCA	8,211,220.16
850Z	CAPITAL MAINTEN. ALLOC	2,733,000.00
851W	FY07-11 CAPITAL ALLOCA	3,632,300.00
8524	FY2012 Operating Capital Alloc	2,900,000.00
TOTAL		25,318,157.00

BART has expended \$23,656,315.31 and committed \$328,140.64 to date for other actions. This action will commit an additional \$179,588 leaving an uncommitted balance of \$1,154,113.05, in these fund sources.

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

**ALTERNATIVE:**

The alternative is to reject the Bid and re-advertise the IFB. However, this equipment is essential to the

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award IFB NO. 8917, for the procurement of a dump truck with an over the cab loader, to Golden Gate Truck Center for the bid amount of \$179,588.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Marcia DeKudger</i>		GENERAL MANAGER ACTION REQ'D: Reject all Bids for Contract No. 15EI-230		
DATE: <i>1/15/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Reza Hessabi Dept: Maintenance & Engineering <i>Reza Hessabi</i> Signature/Date: <i>1/10/14</i>	General Counsel <i>Andrew Rava</i> Signature/Date: <i>1/14/14</i>	Controller/Treasurer <i>Apprite for S.S.</i> Signature/Date: <i>1/13/14</i>	District Secretary [ ]	BARC <i>Tau</i> Signature/Date: <i>1/13/14</i>
Status: Routed		Date Created: 01/08/2014		

TITLE:

### Reject all Bids for Contract No. 15EI-230 for Procurement of 75KVA, 34.5KV/208Y-120V Control Transformers

NARRATIVE:

#### PURPOSE:

To obtain Board authorization to reject all Bids for Contract No. 15EI-230, for Procurement of 75KVA, 34.5KV/208Y-120V Control Transformers.

#### DISCUSSION:

Contract No. 15EI-230 will procure six ("6") Control Transformers. These Control Transformers are located at the traction power substations. The Control Transformer provides power for control instrument and way side auxiliary loads. The new Control Transformers will replace four (4) failed Control Transformers and provide two (2) spare Control Transformers. The new Control Transformers will be consistent with the latest BART requirements for better field operation and more efficient power and will fit in the existing control transformer enclosure.

The Contract was advertised on October 17, 2013. The District sent advance notices to three (3) prospective Bidders and Contract Documents were sent to twenty-three (23) plan rooms

A pre-Bid meeting was held on November 5, 2013 and there were no attendees. Two (2) Addenda were subsequently issued. The following sole Bid was received and publically opened on January 7, 2014.

#### Bidder

#### Total Bid Price

All Power, Inc.

\$ 349,248.00

Engineer's Estimate

\$ 228,690.00

The Engineer's Estimate was based on recent quotes and estimating cost data with specific cost factors as they relate to special BART requirements. Staff has reviewed the Bid and considers the price quoted in the Bid to be exceptionally high. Therefore District staff recommends rejection of this Bid and re-advertisement under a different procurement process to solicit more competition and a better price.

This contract was advertised pursuant to the revised DBE Program requirements. The Office of Civil Rights reviewed the scope of work for this contract and determined that there were no subcontracting opportunities; therefore, no DBE participation goal was set for this contract.

**FISCAL IMPACT:**

As a result of rejecting the Bids, no funding will be committed for this Contract at this time. There will be no impact to the District's reserves by this action.

**ALTERNATIVE:**

Awarding this Contract will expend approximately \$121,000.00 above the Engineer's Estimate and thereby reduce the scope of other Traction Power projects due to the reallocation of funding.

**RECOMMENDATIONS:**

Based on the analysis and evaluation by staff, it is recommended that the Board adopt the following Motion.

**MOTION:**

All Bids for the Contract No. 15EI-230 for Procurement of 75KVA, 34.5KV/208Y-120V Control Transformers are rejected.

3. ADMINISTRATION ITEMS

Director Saltzman, Chairperson

- A. Resolution Fixing the Employer's Contribution under the California Public Employees Retirement System for employees represented by Amalgamated Transit Union Local 1555 and Service Employees International Union Local 1021 under the Public Employees' Medical and Hospital Care Act.\* Board requested to adopt
- B. Resolution for Employer Paid Member Contribution under the California Public Employees Retirement System for employees represented by Amalgamated Transit Union Local 1555, American Federation of State, County and Municipal Employees, Local 3993, Service Employees International Union Local 1021 and Non-Represented Employees.\* Board requested to adopt.
- C. Amendment to the San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan for employees represented by Amalgamated Transit Union, Local 1555, American Federation of State, County and Municipal Employees, Local 3993, Service Employees International Union, Local 1021, and Non-Represented Employees.\* Board requested to authorize.
- D. On-Call Economic and Property Development Consultant Services: Agreement with Economic & Planning Systems Inc. (Agreement No. 6M4283A); Agreement with Keyser Marston Associates, Inc. (Agreement No. 6M4357); Agreement with Bard Consulting, Inc. (Agreement No. 6M4358); and Agreement with Savvy City/Charles A. Long (Joint Venture) (Agreement No. 6M4359).\* Board requested to authorize.
- E. Independent Auditor's Report on Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2013.\* Board requested to accept.
- F. Title VI of the Civil Rights Act of 1964: District Civil Rights Program 2013 Triennial Update.\* Board requested to approve.

## **ADMINISTRATION MATERIAL**

January 23, 2014





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malcolm DeBourgen</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>1/16/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept. Human Resources <i>Diane Iwata</i> Signature/Date:	General Counsel <i>Michael Kayes</i> <i>1/16/14</i>	Controller/Treasurer <i>[Signature]</i> <i>1/16/2014</i>	District Secretary [ ]	BARC <i>[Signature]</i> <i>1-16-14</i>

TITLE:

### Resolution Fixing the Employer's Contribution to CalPERS Medical Premium - Board Requested to Adopt and Sign

NARRATIVE:

#### PURPOSE

To obtain Board approval to adopt the resolutions which are required by the Public Employees' Medical and Hospital Care Act (PEMHCA) in order to implement the District and Employee/Annuitant premium contribution amounts for Amalgamated Transit Union Local 1555 ("ATU") and Service Employees International Union Local 1021 ("SEIU"), based on collective bargaining agreements that have been previously ratified by the Board.

#### DISCUSSION:

Collective bargaining agreements (CBAs) with ATU and SEIU have been ratified. The CBAs provide that the maximum that the District will contribute for employee and annuitant medical premiums will be based on the more costly of the CalPERS Bay Area HMO Blue Shield Access+ basic plan or the CalPERS Bay Area HMO Kaiser basic plan for the applicable level of plan participation for the employee (as previously negotiated in 2009), less employee/annuitant new monthly contributions of \$132.01 in calendar year 2014, \$134.86 in calendar year 2015, \$137.79 in calendar year 2016, and \$140.82 in calendar year 2017. Employees and annuitants who choose more costly plans will be responsible for the additional premium cost. For 2014, the earliest this can be effective is March 2014. All future changes will be effective in January of the respective year.

The General Manager also intends to make the same changes in the amount of the medical premium contribution for non-represented employees and eligible retirees as have been agreed to with these represented groups. Therefore, the Board is also being asked to adopt the attached resolution pertaining to non-represented employees and eligible retirees in order to implement that change on the same schedule.

The District Code will be amended to reflect these changes.

#### FISCAL IMPACT:

For the 2,542 ATU, SEIU and non-represented employees currently enrolled in health care coverage and 1,806 current retirees, the \$37/month employee contribution increase is estimated to produce \$6.1M in savings over the four year term of the agreement. The savings in FY14 are

estimated to be \$0.6M. For ATU and SEIU, the employee contribution increase will be deducted from the District's contribution of the 1.627% of eligible compensation to the Money Purchase Pension Plan. For non-represented employees, the employee contribution increase will be deducted from wages. For retirees, the contribution increase will be deducted from their annuity by CalPERS. Cost savings for retirees are estimated and will be updated by a future actuarial valuation.

ALTERNATIVES:

This is a negotiated benefit for represented employees which the Board approved when it ratified the 2013-2017 collective bargaining agreements with ATU and SEIU. As a matter of policy, the General Manager has recommended that medical benefits for non-represented employees be offered on the same terms.

RECOMMENDATION:

That the Board adopts the following motion.

MOTION:

To adopt the attached resolutions pertaining to ATU, SEIU, and non-represented employees and eligible retirees regarding "Fixing the Employer's Contributions under the Public Employees' Medical and Hospital Care Act" and authorize the Board President to sign the resolutions on behalf of the Board.

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

In the Matter of Fixing The  
Employer's Contribution Under  
the Public Employees' Medical  
and Hospital Care Act for  
Employees represented  
by SEIU:

Resolution No. \_\_\_\_\_

**RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

WHEREAS, (1) Government Code Section 22892(a) provides that a local agency contracting under the Public Employees' Medical and Hospital Care Act shall fix the amount of the employer's contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

WHEREAS, (2) The San Francisco Bay Area Rapid Transit District, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by its employees who are represented by the Service Employees International Union Local 1021 ("SEIU"); now, therefore be it

RESOLVED, (a) That, effective March 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$132.01 employee/annuitant share each month for the year 2014, increasing to \$134.86 in January 2015, \$137.79 in January 2016, and \$140.82 in January 2017, plus administrative fees and Contingency Reserve Fund Assessments; and

RESOLVED, (b) That the San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

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

In the Matter of Fixing The  
Employer's Contribution Under  
the Public Employees' Medical  
and Hospital Care Act for  
Employees represented  
by ATU:

Resolution No. \_\_\_\_\_

**RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

WHEREAS, (1) Government Code Section 22892(a) provides that a local agency contracting under the Public Employees' Medical and Hospital Care Act shall fix the amount of the employer's contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

WHEREAS, (2) The San Francisco Bay Area Rapid Transit District, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by its employees who are represented by the Amalgamated Transit Union Local 1555 ("ATU"); now, therefore be it

RESOLVED, (a) That, effective March 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$132.01 employee/annuitant share each month for the year 2014, increasing to \$134.86 in January 2015, \$137.79 in January 2016, and \$140.82 in January 2017, plus administrative fees and Contingency Reserve Fund Assessments; and

RESOLVED, (b) That the San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

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

In the Matter of Fixing The  
Employer's Contribution Under  
the Public Employees' Medical  
and Hospital Care Act for  
Non-Represented Employees:

Resolution No. \_\_\_\_\_

**RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

WHEREAS, (1) Government Code Section 22892(a) provides that a local agency contracting under the Public Employees' Medical and Hospital Care Act shall fix the amount of the employer's contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

WHEREAS, (2) The San Francisco Bay Area Rapid Transit District, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by its employees who are non-represented; now, therefore be it

RESOLVED, (a) That, effective March 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$132.01 employee/annuitant share each month for the year 2014, increasing to \$134.86 in January 2015, \$137.79 in January 2016, and \$140.82 in January 2017, plus administrative fees and Contingency Reserve Fund Assessments; and

RESOLVED, (b) That the San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/16/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept:	General Counsel <i>[Signature]</i> 1/16/14	Controller/Treasurer <i>[Signature]</i> 1/16/14	District Secretary [ ]	BARC <i>[Signature]</i> 1-16-14 [ ]
Signature/Date:				
Status: Routed		Date Created: 01/13/2014		

TITLE:  
**Resolution for Employer Paid Member Contribution to CalPERS – Board Requested to Adopt and Sign**

NARRATIVE:

NARRATIVE:

PURPOSE

To obtain Board approval to adopt resolutions which are required by the California Public Employees Retirement System (CalPERS) in order to amend the Employer Paid Member Contribution for Amalgamated Transit Union Local 1555 (“ATU”), Service Employees International Union Local 1021 (“SEIU”) and American Federation of State, County, and Municipal Employees Local 3993 (“AFSCME”), based on collective bargaining agreements (CBAs) that have been previously ratified by the Board.

DISCUSSION:

CBAs with ATU, SEIU, and AFSCME have been ratified. Under the prior CBAs, the District paid 100 percent of employees’ normal member contributions to CalPERS. The normal member contribution for the District’s miscellaneous employees defined by CalPERS as “classic” is 7 percent of reportable earnings.

For ATU, SEIU and AFSCME the District shall pay a percentage of the normal member contribution for classic employees as follows:

- Effective July 1, 2013, the District shall pay 92.857 percent (6.5/7) of the normal member contribution.
- Effective January 1, 2014, the District shall pay 85.714 percent (6/7) of the normal member contribution.
- Effective January 1, 2015, the District shall pay 71.429 percent (5/7) of the normal member contribution.
- Effective January 1, 2016, the District shall pay 57.143 percent (4/7) of the normal member contribution.
- Effective January 1, 2017, the District shall pay 42.857 percent (3/7) of the normal

member contribution.

The General Manager also intends to make similar changes to employee pension contributions for non-represented employees as have been agreed to with the represented groups. Therefore, the Board is also being asked to adopt the attached resolution pertaining to non-represented miscellaneous employees. The increase in employee pension contributions will correspond with wage increases.

For non-represented, miscellaneous employees, the District shall pay a percentage of the normal member contribution for classic employees as follows:

- Effective January 1, 2014, the District shall pay 92.857 percent (6.5/7) of the normal member contribution.
- Effective July 1, 2014, the District shall pay 85.714 percent (6/7) of the normal member contribution.
- Effective July 1, 2015, the District shall pay 71.429 percent (5/7) of the normal member contribution.
- Effective July 1, 2016, the District shall pay 57.143 percent (4/7) of the normal member contribution.
- Effective July 1, 2017, the District shall pay 42.857 percent (3/7) of the normal member contribution.

The Office of the General Counsel will amend the District Code to reflect these changes.

FISCAL IMPACT:

The net operating savings from employee pension contributions for these groups are estimated to be \$17.3 million over the four year term of the agreement. The net operating savings from employee pension contributions are estimated to be \$1.4 million in FY14.

RECOMMENDATION:

That the Board adopts the following motion.

MOTION:

To adopt the attached "Resolution for Employer Paid Member Contributions" for ATU, SEIU, AFSCME, and non-represented employees and authorize the Board President to sign the resolutions on behalf of the Board.

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

In the Matter of The  
Employer Paid Member Contributions  
Under the California Public Employees  
Retirement System for  
Non-Represented Miscellaneous Employees:

Resolution No. \_\_\_\_\_

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has the authority to implement Government Code Section 20691;

WHEREAS, The San Francisco Bay Area Rapid Transit District wishes to provide for a percentage of the normal member contributions of classic non-represented miscellaneous employees to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of The San Francisco Bay Area Rapid Transit District of a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has identified the following conditions for the purpose of its election to pay EPMC:

- The benefit shall apply to all employees who are non-represented.
- This benefit shall consist of paying 92.857% of the normal member contribution as EPMC effective on January 1, 2014; 85.714% of the normal member contribution as EPMC effective on July 1, 2014; 71.429% of the normal member contribution as EPMC effective on July 1, 2015; 57.143% of the normal member contribution as EPMC effective on July 1, 2016; and 42.857% of the normal member contribution as EPMC effective on July 1, 2017.
- The effective date of this Resolution shall be January 1, 2014.

NOW, THEREFORE, BE IT RESOLVED, the governing body of the San Francisco Bay Area Rapid Transit District elects to pay EPMC, as set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
Board President

Attest: \_\_\_\_\_  
District Secretary



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

In the Matter of The  
Employer Paid Member Contributions  
Under the California Public Employees  
Retirement System for  
Employees represented  
by ATU:

Resolution No. \_\_\_\_\_

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has the authority to implement Government Code Section 20691;

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has a written collective bargaining agreement with the Amalgamated Transit Union Local 1555 ("ATU") which specifically provides for a percentage of the normal member contributions to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of The San Francisco Bay Area Rapid Transit District of a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has identified the following conditions for the purpose of its election to pay EPMC:

- The benefit shall apply to all employees represented by ATU.
- This benefit shall consist of paying 92.857% of the normal member contribution as EPMC effective on July 1, 2013, 85.714% of the normal member contribution as EPMC effective on January 1, 2014; 71.429% of the normal member contribution as EPMC effective on January 1, 2015; 57.143% of the normal member contribution as EPMC effective on January 1, 2016; and 42.857% of the normal member contribution as EPMC effective on January 1, 2017.
- The effective date of this Resolution shall be July 1, 2013.

NOW, THEREFORE, BE IT RESOLVED, the governing body of the San Francisco Bay Area Rapid Transit District elects to pay EPMC, as set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
Board President

Attest: \_\_\_\_\_  
District Secretary

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

In the Matter of The  
Employer Paid Member Contributions  
Under the California Public Employees  
Retirement System for  
Employees represented  
by SEIU:

Resolution No. \_\_\_\_\_

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has the authority to implement Government Code Section 20691;

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has a written collective bargaining agreement with the Service Employees International Union Local 1021 ("SEIU") which specifically provides for a percentage of the normal member contributions to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of The San Francisco Bay Area Rapid Transit District of a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has identified the following conditions for the purpose of its election to pay EPMC:

- The benefit shall apply to all employees represented by SEIU
- This benefit shall consist of paying 92.857% of the normal member contribution as EPMC effective on July 1, 2013, 85.714% of the normal member contribution as EPMC effective on January 1, 2014; 71.429% of the normal member contribution as EPMC effective on January 1, 2015; 57.143% of the normal member contribution as EPMC effective on January 1, 2016; and 42.857% of the normal member contribution as EPMC effective on January 1, 2017.
- The effective date of this Resolution shall be July 1, 2013.

NOW, THEREFORE, BE IT RESOLVED, the governing body of the San Francisco Bay Area Rapid Transit District elects to pay EPMC, as set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
Board President

Attest: \_\_\_\_\_  
District Secretary

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

In the Matter of The  
Employer Paid Member Contributions  
Under the California Public Employees  
Retirement System for  
Employees represented  
by AFSCME:

Resolution No. \_\_\_\_\_

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has the authority to implement Government Code Section 20691;

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has a written collective bargaining agreement with the American Federation of State, County and Municipal Employees Local 3993 (AFSCME) which specifically provides for a percentage of the normal member contributions to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of The San Francisco Bay Area Rapid Transit District of a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the San Francisco Bay Area Rapid Transit District has identified the following conditions for the purpose of its election to pay EPMC:

- The benefit shall apply to all employees represented by the American Federation of State, County and Municipal Employees Local 3993 (AFSCME).
- This benefit shall consist of paying 92.857% of the normal member contribution as EPMC effective on July 1, 2013, 85.714% of the normal member contribution as EPMC effective on January 1, 2014; 71.429% of the normal member contribution as EPMC effective on January 1, 2015; 57.143% of the normal member contribution as EPMC effective on January 1, 2016; and 42.857% of the normal member contribution as EPMC effective on January 1, 2017.
- The effective date of this Resolution shall be July 1, 2013.

NOW, THEREFORE, BE IT RESOLVED, the governing body of the San Francisco Bay Area Rapid Transit District elects to pay EPMC, as set forth above.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this \_\_\_\_ day of \_\_\_\_\_ 2014.

Signed: \_\_\_\_\_  
Board President

Attest: \_\_\_\_\_  
District Secretary



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeLuca</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>1/16/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Human Resources <i>Diane Iwata</i>	General Counsel <i>Andrew...</i>	Controller/Treasurer <i>M...</i>	District Secretary [ ]	BARC <i>Bar...</i>
Signature/Date:				
Status: Routed		Date Created: 01/16/2014		

### Adopt Amendment to Money Purchase Pension Plan

NARRATIVE:

#### PURPOSE

To obtain Board approval of an amendment to the San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan (the "MPPP") to implement collective bargaining agreements with Amalgamated Transit Union, Local 1555 ("ATU"), Service Employees International Union, Local 1021 ("SEIU"), and American Federation of State, County and Municipal Employees, Local Union 3993 ("AFSCME"), and to authorize the Board President to sign the amendment on behalf of the Board.

#### DISCUSSION

In 1981, the District established, and has continued to sponsor, a defined contribution plan, i.e., the MPPP. This supplemental retirement plan is intended to qualify under 401(a) of the Internal Revenue Code of 1986. The MPPP is funded on an individual employee account basis through District contributions and voluntary after-tax employee contributions.

#### 2013-2017 Collective Bargaining Agreements

Under the current terms of the MPPP, since July 1, 2013, the District has been contributing 1.627% of Payroll to the MPPP for all eligible employees except sworn members of the BART Police Officers Association (BPOA) and the BART Police Managers Association (BPMA), and the BART Chief of Police. Under the recently ratified 2013-2017 collective bargaining agreements with ATU, SEIU, and AFSCME, the District will deduct \$37 per month from the 1.627% contribution for those employees enrolled in a District medical plan, and will deduct an additional 0.0888% of Payroll from this contribution for all employees. The \$37 per month deduction serves as an increased contribution for medical insurance. The General Manager has also extended the 0.0888% deduction to non-represented employees. (For non-represented employees enrolled in District medical plans, the District will make a monthly \$37 deduction directly from wages rather than from the 1.627% MPPP contribution.) For members of AFSCME, these deductions from the 1.627% MPPP contribution begin effective February 1, 2014. For members of ATU and SEIU and for non-represented employees, these deductions

from the 1.627% MPPP contribution begin effective March 1, 2014.

The District is still negotiating contracts with BPOA and the BPMA. Accordingly, the amendment maintains the status quo with respect to members of these unions.

Although the parties have already agreed to these changes through ratification of the applicable collective bargaining agreements, it is necessary to amend the MPPP to incorporate these changes. The Office of the General Counsel has approved the amendment as to form.

### **FISCAL IMPACT**

For the approximately 2,350 ATU, SEIU and AFSCME members enrolled in medical coverage, the \$37/month deduction from the 1.627% MPPP contribution is estimated to produce net operating savings of \$3.3M over the four years of the agreement and \$0.3M for FY14. For all employees in ATU, AFSCME, SEIU, and non-represented employees, the 0.0888% deduction from the 1.627% MPPP contribution is estimated to produce net operating savings of \$0.6M over the four years and \$61K in FY14.

### **ALTERNATIVE**

The amendment of the MPPP reflects negotiated benefits for ATU, SEIU, and AFSCME that the Board approved when it ratified the 2013-2017 collective bargaining agreements with these unions. The General Manager has notified non-represented employees that the deduction of .0888% of Payroll from the 1.627% MPPP contribution will also be applied to them.

### **RECOMMENDATION**

Adopt the following motion.

### **MOTION**

That the Board approves and authorizes the Board President to execute an amendment to the 2013 Restatement of the San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan (MPPP) that provides for: (1) a deduction of \$37 per month from the contribution of 1.627% of Payroll for members of ATU, SEIU, and AFSCME enrolled in District medical plans; and (2) a deduction of 0.0888% of Payroll from the contribution of 1.627% of Payroll for members of ATU, SEIU, and AFSCME, and for non-represented employees.

AMENDMENT SIX TO THE  
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
MONEY PURCHASE PENSION PLAN  
(As Restated Effective February 1, 2013)

The San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan (as Restated Effective February 1, 2013) (the "Plan") is hereby amended, effective February 1, 2014, as follows:

Subsection (b) of Section 3.01 is superseded by the following:

- (b) 1.627% of Payroll, provided, however, that in determining this portion of the contribution, the following shall not be taken into account:
  - (i) \$37 per month on or after March 1, 2014 and before July 1, 2017 for participants who are members of Amalgamated Transit Union, Local 1555 or Service Employees International Union, Local 1021 and who participate in a District medical plan;
  - (ii) \$37 per month on or after February 1, 2014 and before July 1, 2017 for participants who are members of American Federation of State, County and Municipal Employees, Local Union 3993 and who participate in a District medical plan;
  - (iii) An additional .0888% of Payroll on or after March 1, 2014 and before July 1, 2017 for Participants who are members of Amalgamated Transit Union, Local 1555 or Service Employees International Union, Local 1021;
  - (iv) An additional .0888% of Payroll on or after February 1, 2014 and before July 1, 2017 for Participants who are members of American Federation of State, County and Municipal Employees, Local Union 3993;
  - (v) Payroll of Participants who are members of the BART Police Officers Association and are sworn police officers with full peace officer powers pursuant to the California Penal Code;
  - (vi) Payroll of Participants who are either the BART Chief of Police or are represented by the BART Police Managers Association and are sworn police officers with full peace officer powers pursuant to the California Penal Code;
  - (vii) Payroll on or after July 1, 1992 and before July 1, 2013 of Participants who are members of the BART Police Managers Association, other than sworn police officers with full peace officer powers pursuant to the California Penal Code;

- (viii) Payroll on or after July 1, 1992 and before July 1, 2013 of Participants who are represented by the BART Police Officers Association other than sworn police officers with full peace officer powers pursuant to the California Penal Code;
- (ix) .0888% of Payroll on or after March 1, 2014 and before July 1, 2017 for non-represented Participants; and

The foregoing amendment No. Six to the Plan is adopted this \_\_\_\_ day of January, 2014.

SAN FRANCISCO BAY AREA  
RAPID TRANSIT DISTRICT

By: \_\_\_\_\_  
Board President



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa de la Cruz</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board		
DATE: c <i>1/15/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Susan Shaffer Dept: Real Estate and Property Development, ext. 6936 <i>Susan Shaffer</i>	General Counsel <i>Audrey...</i>	Controller/Treasurer <i>...</i>	District Secretary [ ]	BARC <i>...</i>
Signature/Date: <i>1/13/14</i>	<i>1/13/14</i>	<i>1/14/14</i>	[ ]	[ ]

TITLE:

### ON-CALL ECONOMIC AND PROPERTY DEVELOPMENT CONSULTANT SERVICES AGREEMENTS

**NARRATIVE:**

**PURPOSE:** To authorize the General Manager or her designee to award separate Professional Services Agreements to the following four firms to provide On-Call Economic and Property Development Consultant Services to support the District's Property Development Program: Economic & Planning Systems, Inc., Keyser Marston Associates, Inc., Bard Consulting LLC, and the joint venture of Savvy City/Charles A. Long.

**DISCUSSION:** For several years, the District has utilized on-call economic and property development services to support District projects. The District's three previous five-year services agreements expired in October 2012. The previous agreements were with Economic & Planning Systems, Inc. (No. 6M6017), Keyser Marston Associates, Inc. (No. 6M6019), and Coldwell Banker Real Estate (No. 6M6006A).

On October 18, 2013, the District advertised Request for Proposals (RFP) No. 6M4283A for On-Call Economic and Property Development Consultant Services. The advertisement was published in various publications, including minority-targeted publications. The RFP indicated that the District would select up to four (4) consultants to provide services on an as-needed, on-call basis. The services that will be requested will include, but not be limited to, identification of development opportunities, analyses of feasibility of development proposals, analyses of financial return to the District, assessment of the extent to which development proposals will fulfill the District's Transit-Oriented Development objectives, assessment of local zoning impacts, assessment of site design issues impacting development, and financial evaluation of the leasing of space for District purposes. Each consultant team is required to include a developer.

The RFP was transmitted to approximately 62 firms, and a pre-proposal meeting was conducted on October 30, 2013. On November 12, 2013, proposals were received from the following four firms: Economic & Planning Systems, Inc., Keyser Marston Associates, Inc., Bard Consulting LLC, and the joint venture of Savvy City/Charles A. Long.

The proposals were reviewed by a Source Selection Committee (the "Committee") consisting of staff from the Office of Civil Rights, Contract Management, Strategic and Policy Planning, and Real Estate and Property Development. Each proposal was initially evaluated by Contract



Management to assure responsiveness to the submittal requirements of the RFP. Subsequently, the proposals were evaluated by the Committee for professional qualifications, specialized experience, technical competence and other criteria as set forth in the RFP to assure compliance with the District's minimum requirements. All proposals were found to be responsive and were advanced to the scored portion of the selection process.

The proposals, including cost proposals, submitted with the written proposals, were next evaluated and scored in accordance with the criteria set forth in the RFP and the scoring methodology established in the Source Selection Plan. Using the best value methodology, the Committee reached a consensus in selecting all four Proposers for recommendation for award of individual Agreements. Oral presentations were deemed unnecessary.

Assignments under the Agreements will be defined on a project-by-project basis and will be dependent on annual operating budget appropriations and capital funds received for individual District projects. Multiple Agreements are being recommended to enable the District to secure, on a timely and cost effective basis, necessary consultant support on a project-by-project basis using the District's Work Directive process. Also, the District would have more than one firm to choose from in the event of potential conflicts of interest. Each of the four Agreements will have a total not to exceed amount of \$250,000 for the five-year term, but there is no guaranteed minimum level of compensation.

Pursuant to the District's Disadvantaged Business Enterprise (DBE) Program, the Office of Civil Rights is utilizing race and gender neutral efforts for professional services contracts. Therefore, no DBE participation goal was set for this contract. However, all Proposers are either certified DBEs or Small Businesses (SB), and have included DBE and/or SB subconsultants in their teams as indicated below. Developer subconsultants for each Proposer are also identified below.

1. Economic & Planning Systems, Inc. (SB)
  - Communitas (developer)
  - Century Urban (developer)
  - Community Design + Architecture (SB)
  - ELS Architecture
  - Saylor Consulting (SB)
  - Nelson/Nygaard
  - Stevens & Associates (DBE)
2. Keyser Marston Associates, Inc. (SB)
  - Bay West Development (developer)
  - Van Meter Williams Pollack
  - M. Lee Corporation (DBE)
3. Bard Consulting LLC (SB)
  - TMG Partners (developer)
  - Perkins + Will
  - The Planning Center
  - The PFM Group
  - James Kennedy Consulting Services

- Mack 5 (SB)
- 4. Savvy City (DBE)/Charles A. Long (Joint Venture)
  - Charles A. Long (developer)

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

**FISCAL IMPACT:** The estimated total annual cost for all four Agreements is in the range of \$100,000 to \$200,000. The Real Estate and Property Development Department's annual operating budget and the 91GL capital funds account funded by developer negotiating fees will be the sources of funds to pay for the consultant services on a Work Directive basis over the five-year period of the Agreements. The 91GL capital funds account will be the primary source of funds for the consultant services if the operating budget is insufficient to cover costs. No additional operating funds will be required in FY14 or subsequent Fiscal Years.

**ALTERNATIVES:** The District could reject all proposals and solicit new proposals, or award to fewer than the recommended four Proposers. This could adversely impact the District's projects that require economic and property development services, and would limit the District's options in the event of potential conflicts of interest.

**RECOMMENDATION:** Adoption of the following motion.

**MOTION:** The General Manager or her designee is authorized to award the following Professional Services Agreements to provide On-Call Economic and Property Development Consultant Services for a five- year period (or to the completion date of any Work Directive issued within such five-year period, if later), each in an amount not to exceed \$250,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA requirements related to protests:

1. Agreement No. 6M4283A - Economic & Planning Systems, Inc.
2. Agreement No. 6M4357 - Keyser Marston Associates, Inc.
3. Agreement No. 6M4358 - Bard Consulting LLC
4. Agreement No. 6M4359 - Savvy City/Charles A. Long (Joint Venture)



### EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa Selinger</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/15/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Christopher Gan Dept:	General Counsel	Controller/Treasurer	District Secretary	BARC
<i>Chris Gan</i> 1/13/14	<i>Andrew Pearce</i> 1/15/14	<i>John White Jr.</i> 1/17/14	[ ]	<i>Paul [unclear]</i> 1-15-14
Signature/Date:				

Status: Routed	Date Created: 01/06/2014
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TITLE:  
**INDEPENDENT AUDITOR'S REPORTS ON THE BASIC FINANCIAL STATEMENTS AND INTERNAL CONTROL FOR THE FISCAL YEAR ENDED JUNE 30, 2013**

NARRATIVE:  
 Section 28769 of the Public Utilities Code requires that an annual audit be made of all books and accounts of the District. For fiscal year 2013, the independent certified public accounting firm of Macias, Gini and O'Connell conducted the audit and issued their report on December 31, 2013.

The District's annual financial report provides information on the District's Enterprise Fund and Fiduciary Fund. The Enterprise Fund includes all revenues, expenses, assets, liabilities and net assets related to the District's transit operations. The Fiduciary Fund shows all financial transactions of the Retiree Health Benefit Trust, which was created by the District to administer and account for assets which are restricted for the payment of retiree health premiums, as well as payments by the District for current medical premiums for retirees and surviving spouses (pay-as-you-go). The results of the audit concluded that the District's basic financial statements for the year ended June 30, 2013 present fairly, in all material respects, the financial position of the Enterprise Fund and the Fiduciary Fund, and are in conformity with accounting principles generally accepted in the United States of America.

As part of the examination, the auditors performed a review and evaluation of the District's internal accounting controls. The results of the evaluation are discussed in the Independent Auditor's Report on Internal Control.

In fiscal year 2011, there were five areas of deficiencies that the auditors have identified in the District's internal control of the Enterprise Fund which were all related to the recent implementation of the new PeopleSoft (BAP) financial system; the combination of such deficiencies resulted in a material weakness finding in fiscal year 2011. During fiscal year 2012, the District had made progress in addressing the deficiencies identified, however, since all of the corrective action plan had not yet been fully implemented, the material weakness finding was not removed. For fiscal year 2013, the independent audit report on internal control indicates that the severity of the weakness in internal control has been reduced to a significant deficiency, from a material weakness finding. A significant deficiency is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness yet important enough

to merit attention by those charged with governance. The improvement in 2013 was attributable to the completion in June 2013 of the corrective actions needed to address two of the remaining major deficiencies: the full review of funds distribution used in the project costing module and the complete risk assessments of internal controls. The results of the risk assessments of internal controls conducted by the District's Internal Audit Department identified some control deficiencies associated with the newly implemented accounting system that need to be addressed.

To remove the significant deficiency finding, the District must demonstrate that the control deficiencies identified in the risk assessments on internal controls are corrected or mitigated. In addition, the District's policies and procedures also need to be updated to incorporate the changes in procedures associated with the newly implemented PeopleSoft (BAP) financial management system. Although the District has already addressed and mitigated some of the deficiencies identified during the risk assessment process, the implementation of other corrective actions to address all of the remaining deficiencies are still in progress.

#### **FISCAL IMPACT**

None

#### **ALTERNATIVE**

None. The District is required by law to have its books and accounts audited every year by an independent certified public accountant.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malca Delaney</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/15/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Rachel Russell Dept:	General Counsel <i>Rachel Russell</i> 1/15/14 [ ]	Controller/Treasurer <i>John White</i> 1/15/14 [ ]	District Secretary [ ]	BARC <i>Carol Ann</i> 1-15-14 [ ]
Signature/Date: <i>Rachel Russell</i> 1/15/14				
Status: Routed		Date Created: 01/08/2014		

TITLE:

### Title VI Civil Rights Program 2013 Triennial Update

NARRATIVE:

#### Purpose:

To request Board approval of the District's Title VI Civil Rights Program 2013 Triennial Update, including System-wide Service Monitoring Results.

#### Background:

Pursuant to Federal Transit Administration (FTA) Title VI Circular 4702.1B Title VI Requirements and Guidelines for Federal Transit Administration Recipients, effective October 2012 (Circular), BART is required to submit a Title VI Civil Rights Program (Title VI Program) to the FTA once every three years. The Title VI Program must be approved by the recipient's Board of Directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. In addition, Board approval is also required for the System-wide Service Monitoring Results which is included in the 2013 Title VI Program.

#### Discussion:

BART, as a direct and primary recipient of federal funding, is required by the FTA to conform to Title VI of the Civil Rights Act of 1964 (Act) and its amendments. The Title VI Program documents that services and benefits are provided in a non-discriminatory basis. BART's 2013 Title VI Program covers the period January 1, 2012 to December 31, 2013 and complies with the new requirements outlined in the Circular. BART's previous Title VI Program, dated 2011, which covered four years due to the FTA Corrective Action Plan, was approved by the FTA.

BART's Title VI Program consists of the following general requirements and guidelines:

- Notification to Beneficiaries of Protection under Title VI.
- Title VI Complaint Procedures and Complaint Form.
- Recording and Reporting of Title VI Investigations, Complaints, and Lawsuits.
- Promoting Inclusive Public Participation.
- Providing Meaningful Access to LEP Persons.
- Minority Representation on Planning and Advisory Bodies.
- Assisting and Monitoring Subrecipients.
- Determination of Site or Location of Facilities.

In addition, the Circular also requires that all fixed route transit providers, such as BART,

comply with the following requirements:

- System-Wide Service Standards and Policies.
- Monitoring Transit Service.
- Collection and Reporting of Demographic Data.
- Major Service Change Policy.
- Disparate Impact and Disproportionate Burden Policy.
- Equity Analysis of Service and Fare Changes.

A new Circular requirement is Board approval of Title VI related policies and Service and fare equity analyses. The list below summarizes items that require Board approval and the date Board action was taken.

- **Major Service Change Policy:** Establishes a threshold to determine when a service change is considered “major.” The Board adopted this Policy on July 11, 2013.
- **Disparate Impact and Disproportionate Burden Policy:** Establishes a threshold to determine when adverse impacts are borne disproportionately by protected populations or riders. The Board adopted this Policy on July 11, 2013.
- **Title VI Service and Fare Equity Analyses:** BART must conduct an equity analysis for any Fare Change or Major Service Change to determine if the proposed change will have a disparate impact on minority populations or a disproportionate burden on low income populations. BART did not implement any major service changes during this triennial reporting period. BART conducted three Title VI Fare Equity Analyses during the triennial reporting period.
  - Title VI Assessment for the Fare Increase Effective July 1, 2012. (April 30, 2012). Prior to October 2012, Board approval of the report was not required.
  - Title VI Assessment for the Extension of the Productivity-Adjusted Inflation-Based Fare Increase Program. This report was approved by the BART Board of Directors on February 28, 2013.
  - Final Title VI Assessment for the 2014 Inflation-Based Fare Increase, An Update to the February 13, 2013 Draft Title VI Assessment for the Extension of the Productivity-Adjusted Inflation-Based Fare Increase Program. This report was approved by BART’s Board of Directors on November 21, 2013.
- **System-wide Service Standards and Policies:** Establishes a) quantitative standards for the following indicators: i) Vehicle Load; ii) Vehicle Headway; iii) On-time Performance; and iv) Service Availability and b) policy for each of the following service indicators: i) Distribution of Transit Amenities and ii) Vehicle Assignment to address how service is distributed across the BART system. The Board adopted this Policy on January 9, 2014.
- **System-wide Service Monitoring Results:** In accordance with the requirements of the Title VI Program, staff seeks Board approval of the System-wide Service Monitoring Results incorporated into the Title VI Program. As a fixed route transit provider, BART is required to monitor the performance of its transit system relative to its adopted System-wide Service Standards and Policies every three years. The System-wide Service Standards Monitoring Results are divided into four sections: Vehicle Load, Vehicle Headway, On-time Performance, and Service Availability. The System-wide Service Policies Monitoring Results are divided into two sections: Distribution of Transit Amenities and Vehicle Assignment. For all categories except Transit Amenities, BART’s Disparate Impact/Disproportionate Burden (DI/DB) Policy threshold is used as guidance in applying a five (5) percent threshold for assessment of these System-wide Standards and Policies. Transit Amenities are to be distributed equitably, generally in proportion to station ridership and as a function of location (urban/suburban) and station design.

Applying this methodology and threshold to an assessment of BART’s System-wide Service

Standards and Policies, there is no disparate impact in the levels of service BART provides to minority communities.

Staff seeks Board approval of the Title VI Civil Rights Program 2013 Triennial Update, including System-wide Service Monitoring Results. A summary of the Title VI Civil Rights Program 2013 Triennial Update, including System-wide Service Monitoring Results, is attached as Exhibit A, and a complete copy has been made available to the Board for review and is also available at the following link: <http://www.bart.gov/guide/titlevi>.

**Fiscal Impact:**

Approving the Title VI Civil Rights Program 2013 Triennial Update, including System-wide Service Monitoring Results, would allow the District to maintain its eligibility for federal funding.

**Alternatives:**

Do not approve at this time the Title VI Civil Rights Program 2013 Triennial Update, including the System-wide Service Monitoring Results. If the District does not approve the Title VI Program 2013 Triennial Update and System-wide Service Monitoring Results, it will not be in compliance with Title VI requirements and its related regulations and will be at risk of losing federal funding.

**Recommendation:**

Approval of the following motion.

**Motion:**

The Board of Directors approves the District's Title VI Civil Rights Program 2013 Triennial Update, including System-wide Service Monitoring Results.

4. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Change Order No. 8 to Contract No. 15EK-210, Procurement of Traction Power Substations, Phase 1, Addition of RRY substation.\*  
Board requested to authorize.

**ENGINEERING  
AND  
OPERATIONS  
MATERIAL**

January 23, 2014





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeLaughe</i>		GENERAL MANAGER ACTION REQ'D: Approve and place on January 23, 2014 Board Agenda		
DATE: 1/16/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Steve Sims Dept: M&E Traction Power <i>Steve Sims</i> Signature/Date:	General Counsel <i>Paula</i> 1/15/14 [ ]	Controller/Treasurer <i>Paula</i> 1/15/14 [ ]	District Secretary [ ]	BARG <i>Paula</i> <i>Walter</i> 1/16/14 [ ]

Status: Routed	Date Created: 01/08/2014
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TITLE:

### Change Order No. 8 to Contract 15EK-210, Procurement of Traction Power Substations, Phase 1

NARRATIVE:

#### PURPOSE:

To execute Change Order No. 8 to Contract No. 15EK-210, Procurement of Traction Power Substations, Phase 1, in the amount of \$1,612,168.00 for procurement of RRY substation equipment.

#### DISCUSSION:

On July 28, 2013 a dc switchgear fire in the dc house of Richmond Yard Traction Power Substation RRY seriously damaged the dc switchgear and buswork, to an extent that replacement of the dc equipment house was deemed necessary. Temporary disconnect switches were installed to provide traction power to the Richmond Yard and mainline tail tracks, but this stop gap repair is unsuitable as a permanent solution.

The most efficient way to restore traction power to Richmond Yard is to execute a Change Order to BART's existing Contract No. 15EK-210 with Powell Electrical Systems, Inc. This approach provides not only the fastest equipment delivery for these long lead time items, but also provides commonality with the new substations provided under this contract. A repair contract will be issued as an Immediate Remedial Repair contract so that RRY can be repaired as quickly as possible.

The price of this Change Order was aggressively negotiated with the Supplier to provide a price reduction of over \$110K from the supplier's initial proposal. The price is comparable with the base fixed price that was competitively bid, and District staff determined that this price is fair and reasonable.

Powell submitted a proposal for Change Notice 08 in the amount of \$1,724,688.32. After negotiations, a reduced price of \$1,612,168.00 was agreed upon.

The Office of the General Counsel will approve this Change Order as to form, and the Procurement Department will review the Change Order for compliance with the District's procurement guidelines, prior to execution.

Contract No. 15EK-210 is a procurement contract that contains no DBE goal and the contractor made no DBE participation commitment.

**FISCAL IMPACT:**

Funding of \$1,612,168 for the award of Contract 15EK-210 Change Order #8 is included in the total project budget for FMS #15EK200 – Traction Power Substation Renovation - Procurement. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of January 9, 2014, \$33,277,663 is available for this project from the following source:

Fund Number	Fund Description	Fund Source	Funded Amount
226E	1998 S/T REV DEBT SERV2	BART	329,454
3001	CA-05-0253 - FG MOD FY11	FTA	4,800,000
347W	FTA GRANT NO CA03-0729	FTA	758,715
347Z	CA-05-0216 FG MOD FY07	FTA	9,017,775
353G	CA-05-0224-FG MOD FY08	FTA	9,833,230
353K	CA-05-0236 FG MOD-FY09	FTA	2,400,000
353M	CA-05-0248-FG MOD FY10	FTA	50,524
6213	REGIONAL MEAS 2 08382301	Regional	1,956,802
6214	RM2 - Match to 53G, 54G & 54J	Regional	2,128,853
801E	INSTALLMENT RECEIVABLE	BART	189,679
851W	FY07-11 CAPITAL ALLOCA	BART	1,205,698
8523	CAP SURCHRG-STATN 2 ST	BART	606,933
Total			33,277,663

BART has expended \$4,183,035, committed \$16,837,263, and reserved \$0 to date for other actions. This action will commit \$1,612,168 leaving an available fund balance of \$10,645,197 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board can elect not to authorize the General Manager to execute Change Order No. 8 to Contract No. 15EK-210, Procurement of Traction Power Substations, Phase 1. In this case a separate procurement contract could be advertised but it is expected that the cost would be higher and it would certainly take significantly more time to execute. This is not advisable given the vulnerability of the Richmond Yard temporary traction power system configuration.

**RECOMMENDATION:**

Recommend that the Board approve the following motion.

**MOTION:**

The General Manager is authorized to execute Change Order No. 8 to Contract No. 15EK-210, Procurement of Traction Power Substations, Phase 1, in the amount of \$1,612,168.00, plus applicable sales tax, to Powell Electrical Systems, Inc.

5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS  
Director Raburn, Chairperson

- A. 2014 State & Federal Legislative Goals.\* Board requested to authorize.
- B. Sister Transit Agency: Shanghai Metro Memorandum of Understanding.\*  
Board requested to authorize.

**PLANNING,  
PUBLIC AFFAIRS,  
ACCESS, AND  
LEGISLATION  
MATERIAL**

January 23, 2014



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Valca Bester</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/16/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadelli Dept. Office of External Affairs	General Counsel <i>Paul Fadelli</i> 1/15/14	Controller/Treasurer <i>Paul Fadelli</i> 1/15/14	District Secretary	BARC <i>Powers</i> 16 Jan 2014
Signature/Date: <i>Paul Fadelli</i>	[ ]	[ ]	[ ]	[ ]
Status: Routed		Date Created: 12/02/2013		
TITLE:				

### 2014 State and Federal Legislative Advocacy Goals

#### NARRATIVE:

**PURPOSE:** To review and approve the District's 2014 State and Federal Advocacy Program.

**DISCUSSION:** In addition to legislative efforts to address specific BART concerns or problems that might arise in 2014, following is an outline of the proposed state and federal legislative goals and objectives for the year ahead.

#### A. Proposed 2014 State Advocacy Program for BART:

##### (1) Protect Existing State Transit Funding

It is imperative to monitor the state budget and to defend existing transit funding. Even with the passage of Proposition 30 in 2012 – which helped resolve a long time state deficit that often put transit funding up for grabs – transit agencies must make it a primary goal to be present at budget hearings and be ready to respond when the budget is presented in January and revised in May.

##### (2) Continue Involvement and Support for Cap & Trade Fund Support for Transit

While many thought that last year would be the year when Cap & Trade funding would finally be directed toward specific (transit) projects to help diminish the amount of greenhouse gas released into the environment – it was not to be. The two major pieces of legislation which would have appropriated such funds were sidelined because the Brown Administration was not ready to approve a specific direction or acknowledge that funding would be ready. Cap & Trade funds were instead made available as a loan to the General Fund. It is probable in 2014 that there will be legislative or budgetary efforts to again pursue a spending plan for Cap & Trade funds. It should remain a high priority for BART and the California Transit Association (CTA) to advocate for a transit component in any spending plan moving forward.

##### (3) Work to Secure Dedicated Transit Funding

There was considerable discussion at the beginning of the last legislative session about ways to secure new funding for all transportation modes, including highways, roads, and transit capital &

operations. Both the Governor's California Transportation Improvement Program (CTIP) working group, overseen by Transportation Secretary Brian Kelly, and a second group consisting of the California Alliance for Jobs and Transportation California offered funding proposals that did not find broad support last year. It will be important again in 2014 for BART to work with CTA, TransForm, the Bay Area Council, supportive environmental groups and others to demonstrate how important state funding is to transit operations.

#### **(4) Work to Appropriate Funds from Propositions**

In 2013, BART received \$140 million from the Proposition 1A connectivity funding for its new train cars. There still remains \$73.6 million from Proposition 1A which BART will seek when appropriate from the California Transportation Commission (CTC). BART is also due over \$52 million from Proposition 1B, which passed in 2006, which could be made available in the Governor's budget.

#### **(5) Continue Efforts to Enhance Local Transit Revenue Opportunities**

BART was successful in sponsoring two bills in 2013 to assist transit efforts to raise local revenues. SB 142 (DeSauliner) was signed into law and provides authority for all transit agencies in the state to establish local "benefit assessment districts." SB 628 (Beall) passed the Legislature, but was pulled from the Governor's desk because his office said he had concerns about certain provisions in it and other bills dealing with expediting the development of Infrastructure Finance Districts (IFDs). BART will have to work on this legislation again to ensure that transit priority projects are addressed in ways that will allow tax increment financing (TIF). Also, the BART Board has supported constitutional amendments that would allow any local special tax by a local government for the purpose of providing funding for transportation projects to be approved by 55% of voters, rather than the currently required super majority vote of 66.67 percent. Last year, legislative leadership made it clear that these state constitutional amendments (SCA 4 and SCA 8) would not move until possibly this session.

#### **(6) Monitor and Respond to Legislation Related to Labor Matters**

There will be legislation introduced this year in the state capitol to respond to certain aspects of BART collective bargaining agreements. An amendment to the Public Employees' Health and Medical Care Act (PEHMCA) will be required to increase the number of years needed, from 5 to 15 years, BART employees hired after January 1, 2014 to become eligible for retiree health insurance. The safety concerns raised during the contract negotiations and the tragic death of two BART workers on October 19, which resulted in an informational hearing last November 7 by the Assembly Labor & Employment Committee, could result in new legislation to deal with specific safety issues. Also, a legislative possibility is the on-going issue of whether transit employees in the Bay Area or state should retain the right to strike, and under what circumstances.

**(7) Investigate/Pursue Issues Raised by BART Police**

BART Police Chief Rainey has raised issues that he suggests could be resolved through legislation. These issues include seeking more distinct placement of serial identification numbers on smart phones to improve the identification of stolen property; and determining whether BART should seek authority to make it unlawful to sit or lie down on the floor in BART stations. As a result of implementing AB 716, which allows BART Police to issue prohibition orders to disruptive members of the public on BART property, the Chief has also suggested that BART Police should seek authority through legislation to better assist victims of domestic violence. Domestic violence has been shown to be one of the most frequent problems now facing BART police when implementing the recent law. Unlike most other police in the state, BART does not have authority to assist such victims -- which could include confiscation of a firearm and providing information about emergency protection and subsequent court proceedings.

**(8) Support Efforts to Further Modernize CEQA to Benefit Transit Projects**

Last session, SB 731 (Steinberg) was the much anticipated legislation to “modernize” the California Environmental Quality Act (CEQA). It did not pass because the author decided to focus instead on a bill to expedite the CEQA process for a specific Sacramento arena. Two of SB 731’s provisions, however, which BART and other transit agencies supported, were incorporated into the alternative bill. There has been discussion that there may be yet another attempt to update the CEQA process, and if so, BART should participate in ways that might help expedite transit projects that do not harm the environment.

**(9) Pursue Goal to Place Transit Operator on MTC**

The BART Board has supported efforts in the past to encourage the MTC to assign a Bay Area transit agency that isn't also a city or county designee as a voting member of its Commission. In 2012, BART wrote to Executive Director Heminger on this issue, and submitted comments to the Federal Transit Administration (FTA) on its request for guidance comments resulting from new direction for MPOs in the MAP-21 legislation passed into law in 2012. The BART Board may wish to prioritize staff efforts to seek legislation which could move MTC further in the direction of including an actual transit representative to be the “Specifically Designated Representative.”

**(10) Monitor State Implementation of Pension Reform Laws**

AB 1222 (Bloom) was the compromise bill which passed and was signed into law the last week of the 2013 legislative session to deal with transit union opposition to the Governor’s pension reform bill, the Public Employees Pension Reform Act (PEPRA). The bill exempts unionized transit workers from PEPRA so that federal formula funds can be distributed to California transit agencies while a federal court determines if PEPRA’s application to unionized workers violates the conditions of federal grants to transit agencies. There are, however, a lot of implementation issues over the next year which might need to be addressed by new legislation.

## **B. Proposed 2014 *Federal* Advocacy Program for BART**

The two-year \$105 billion Moving Ahead for Progress in the 21st Century Act (MAP-21) will expire in September 2014 -- before many of the programs will have been fully implemented. Hearings on a new multi-year reauthorization will be moving into full gear in the coming weeks and most discussions will center on identifying a source of revenue to support highway and transit projects as the Highway Trust Fund moves closer to insolvency. MAP-21, which passed in 2012, eliminated earmarks, lessened the number of discretionary grant programs, consolidated many other programs and put a new emphasis on asset management, performance and safety.

### **(1) Continue Monitoring the Implementation of MAP-21**

- **State of Good Repair (SOGR) & Formula Funding.** BART should continue to closely monitor implementation of MAP-21 provisions and support SOGR funding and efforts by the Federal Transit Administration (FTA) to increase SOGR funding for the nation's metropolitan rail systems.
- **Core Capacity.** As part of the MAP-21 reforms, the New Starts Program has been renamed the "Capital Investment Grant" Program and now includes a "core capacity" provision which allows for the renovation of an existing system with discretionary funding if the focused project increases corridor capacity by 10%. BART has commented on core capacity program guidelines and will work with the MTC when appropriate to ensure that a BART project is one of the priorities in the region, and therefore eligible to apply for grant funding.
- **Safety.** MAP-21 gave FTA the authority to monitor the safety of the nation's passenger rail systems and restrict federal funding as a means of enforcement, and regulations are still being formulated. In light of recent safety issues at BART, specific federal regulations should be monitored and commented on, as appropriate.

### **(2) Participate in Next Reauthorization Effort**

Because MAP-21 is only authorized for two years, discussions on the next authorization legislation will begin to shift into high gear this year. The new House Committee Chair for Transportation and Infrastructure (Rep. Bill Shuster Jr.-PA) has said he would like his committee to put a draft reauthorization bill for consideration before his committee early this year. The new chairman has said that all revenue options will be on the table to address shortfalls in the Highway Trust Fund. BART currently participates in the CTA federal reauthorization task force and will be actively involved during the APTA annual legislative conference in efforts to influence the following issues:

- **Overall Funding.** BART should continue to support a “full funding” reauthorization bill signed into law. BART should continue to oppose proposals which would cut formula funding by a significant percentage.
- **Transportation Enhancements /Livability.** BART should continue to support the Obama Administration’s efforts to maintain “livability” programs which assist transit access goals, and the enhancement of bicycle and pedestrian projects. Under Map-21, funds for such enhancement programs have been shifted back to the states. BART is involved in the state’s direction of such funds and should be involved in efforts to ensure that federal funds continue to be spent on "livability" programs.

**(3) Seek Assistance, as Necessary, for New BART Railcars**

BART has continued to educate the Bay Area Congressional Delegation and US Senators regarding the need to replace its 40 + year old fleet, and has achieved legislative assistance on specific issues relating to the cars. BART should continue to pursue assistance for the cars if needed.

**(4) Seek Funding for Security Needs**

In August 2013, BART received a \$12.8 million transit security grant from the Department of Homeland Security (DHS) to assist in making part of the Transbay Tube more secure. BART will need to seek similar grant funding in 2014 to complete the effort to make the vital asset of the Transbay Tube less vulnerable. Also last year, BART supported a successful amendment by Rep. Eric Swalwell (CA) that increased the overall level of funding for transit security grants; BART should continue that support during the FY15 appropriations process.

**(5) Support Re-Establishment of Transit Commuter Benefits**

In recent years, federal transit commuter benefits have needed to be extended and restored in order to equalize the transportation fringe benefits for parking and transit. The BART Board has consistently supported the passage of legislation to establish permanent parity between the parking and transit portions of the commuter tax benefit. Certain legislative approaches would establish a permanent parity between the parking and transit portions of the commuter benefit, thus allowing employers to offer their employees who use transit the same level of a per month pre-tax benefit. This provision is again set to expire at the end of the year which would reduce the transit benefit by almost half (to \$125 per month) – a level that will not provide a competitive incentive for commuters to take transit.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

That the Board approves the following motions.



**ALTERNATIVE:**

The Board could decline to support the specific state and federal goals.

**MOTIONS:**

The Board approves the state advocacy program, as recommended by staff.

The Board approves the federal advocacy program, as recommended by staff.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia deBurger</i>		GENERAL MANAGER ACTION REQ'D:			
DATE: 1/15/14		BOARD INITIATED ITEM: Yes			
Originator/Prepared by: Roddrick Lee Dept: Government and Community Relations <i>Roddrick Lee</i> Signature/Date: 1-14-14	General Counsel <i>MB</i> 1/15/14	Controller/Treasurer <i>[Signature]</i> 1/14/14	District Secretary [ ]	BARC <i>Powers</i> 14 JAN 2014 [ ]	
Status: Approved		Date Created: 09/24/2013			

TITLE:

### Memorandum of Understanding between BART and Shanghai Metro

NARRATIVE:

#### Purpose

To seek authorization from the BART Board of Directors for the General Manager or her designee to execute a Memorandum of Understanding (MOU) between BART and Shanghai Metro, the subway system in Shanghai, China pursuant to the District's Sister Transit Agency Policy.

#### Discussion

On October 11, 2012, the BART Board of Directors adopted a Policy on Sister Transit Agency Affiliations and a resolution to authorize the development of a Sister Transit Agency Affiliation with Shanghai Metro. The Board ratified the appointment of Director James Fang as the Board liaison to represent the Board in development of the Sister Transit Agency Affiliation with Shanghai Metro.

The resolution authorizing the development of a Sister Transit Agency Affiliation with Shanghai Metro requires that any formal agreement to establish a Sister Transit Agency Affiliation with Shanghai Metro shall be subject to approval by the BART Board of Directors.

BART and Shanghai Metro have cooperatively developed an MOU to promote bilateral exchange related to the administration and operation of public rail transit systems. Within the MOU, the following elements are detailed for mutual benefit and information sharing.

- **Smart Card Technology** - Shanghai Metro and BART agree to exchange experiences on new electronic payment technologies, emerging business trends, and anti-fraud measures. Both sides will aim to increase the use of smart cards to help ensure convenience and reliability for passengers.
- **Communications Based Train Control System** - Shanghai Metro and BART agree to exchange experiences in vendor products, design, manufacture, daily operation of this technology; especially in terms of mutual learning related to security, reliability, and system performance.
- **Station Retail Shop Management** - Shanghai Metro and BART agree to share experiences

in property management with an emphasis on mutual learning in the emerging market demand, station capacity, safety, and practical demand.

- *Passenger Information System* - Shanghai Metro and BART agree to exchange experiences related to the development of design standards, content management, smart technology, and real-time information.
- *High Volume Passenger Flow Management* - Shanghai Metro and BART agree to exchange information on effective passenger flow management models to improve operational efficiency.

The MOU outlines bilateral cooperation between BART and Shanghai Metro and may include exchange of site visits between various departments as well as topic focused workshops or forums. Both agencies agree all costs related to sister transit agency activities shall be borne by the agency incurring them. The parties further agree that video, telephone, and internet based communications shall be used to the maximum extent to minimize costs.

#### **Fiscal Impact**

There may be travel related expenses for the Board liaison and the staff liaison. Staff liaison travel expenses will be paid for through the existing department budget of the staff liaison. The Board liaison may expend personal funds for related travel or pay for such travel expenses through the financial assistance of a private entity or non-profit association established for the purpose of hosting inter-agency exchange travel. The Board liaison may also use his or her Director's Travel Allowance for affiliation related travel.

#### **Alternative**

Do not authorize the General Manager nor her designee to execute a Sister Transit Agency Memorandum of Understanding between BART and Shanghai Metro.

#### **Recommendation**

Adoption of the following motion.

#### **Motion**

The Board hereby authorizes the General Manager or her designee to execute a Sister Transit Agency Memorandum of Understanding between BART and Shanghai Metro.

**Shanghai Shentong Metro Group Co. Ltd, China (Shanghai Metro)**  
**and**  
**San Francisco Bay Area Rapid Transit District, USA (BART)**

**Memorandum of Understanding on the Establishment of Strategic Cooperation on the Best Practices in Urban Rail Transit Operation**

This Memorandum of Understanding (MOU) is based on the Shanghai and San Francisco Sister City cooperation framework, serving as the foundation for the establishment of long-term strategic cooperation between Shanghai Metro and the San Francisco Bay Area Rapid Transit District (BART). It is intended to promote bilateral exchange on successful urban rail transit operating modes, as well as to set up a platform for the exchange of experiences in the best professional practices within the industry. To advance this process, both sides will participate in related activities, including the development of related issues and projects, on the principle of fairness, justice and mutual benefit, to strengthen and improve the management capacity and operational efficiency of both cooperating parties.

**A. EXCHANGE ISSUES**

Shanghai Metro and BART have agreed on the following content for mutual benefit and sharing as well as bilateral exchange and exploration:

**1. Smart Card Technology**

The current fare systems of both the Shanghai Metro and BART are based on the calculation of the distance and payment of fees via a smart card. Shanghai Metro and BART have agreed to exchange and swap experiences on new electronic payment technologies, emerging business trends, and anti-fraud measures. Both sides will aim to increase the use of smart cards to help ensure convenience and reliability for passengers at each purchase.

**2. Communications Based Train Control System (CBTC)**

The operational system of rail transit is complex. The availability of experienced engineers is relatively limited. It is particularly prominent with Communications Based Train Control Systems CBTC. Both Shanghai Metro and BART have experience in the development and application of CBTC. Both sides have agreed to exchange experiences in vendor products, design, manufacture, and daily operation of this technology, especially in terms of mutual learning related to security, reliability and system performance.

**3. Station Retail Shop Management**

A majority of the Shanghai Metro stations have a wide variety of modern shops and various BART stations have a very limited number of shops. BART intends to expand its retail leasing business. Shanghai Metro and BART have agreed to share management experience in property management, with an emphasis on mutual learning in the emerging market demand, station capacity, safety and practical demand.

#### **4. Passenger Information System**

In relation to the overall operation of Shanghai Metro and BART, cooperative exchange of information will be more inclined toward development of design standards, content management, intelligent communication technology, and real-time information, as well as personal experiences of passengers in the station and the internet.

#### **5. High Volume Passenger Flow Management**

In relation to the special feature of urban rail transit, it is indeed a great challenge to manage a station with massive passenger flows. The goal of both is to improve operational efficiency and manage the overall passenger flow at the station during peak hours as well as the Transportation Demand Management (TDM) strategies and resource distribution modes for passenger trains. Shanghai Metro and BART have agreed to exchange information on effective passenger flow management models.

### **B. MODEL OF COOPERATION**

The bilateral cooperation between Shanghai Metro and BART may include exchange of site visits between various departments as well as topic focused workshops or forums. Both sides have agreed that each sister agency is responsible for the expenses involved in all the activities related to its operation. The parties further agreed that video, telephone, and internet based communications shall be used to the maximum extent to minimize costs.

### **C. TEXT FORMAT**

This MOU has been provided in duplicate with Chinese and English versions. Both Shanghai Metro and BART hold one copy of this MOU.

### **D. CONFIDENTIALITY**

During the cooperation exchange between the parties, both parties shall mutually protect each other's confidential information. Without the expressed consent by the other party, neither party can disclose such information to any third parties.

### **E. RELATED PRINCIPLES**

Shanghai Metro and BART have agreed that the cooperation of the sister agencies on both sides shall abide by all applicable laws and regulations and other provisions and regulations agreed upon. In the event of conflict, both parties shall resolve such conflict amiably. The terms of the final MOU are subject to approval by both Shanghai Metro and the BART Board of Directors.

Shanghai Shentong Metro Group Co., Ltd.

San Francisco Bay Area Rapid Transit District

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

8. BOARD MATTERS

- E. Resolution In the Matter of Directing the General Counsel to Take all Necessary and Appropriate Steps to File an Amicus Curiae Brief in the Matter of the State of California, acting by and through CalTrans, et. al.. vs. United States Department of Labor.\* Board requested to adopt. (Director Mallett's request)


**BOARD  
MATERIAL**

January 24, 2014

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** January 16, 2014  
**FROM:** General Counsel   
**SUBJECT:** Matter of the Filing of an Amicus Curiae brief with U.S. District Court

At the request of Director Mallett, I have drafted the attached Resolution for the Board's consideration. It directs me to file an Amicus Curiae brief with the United States District Court, for the Eastern District of California, on behalf of the District in support of the position that a transit agency's coverage by the 2013 California Pension Reform statute does not preclude it from being certified as a grant recipient for federal transit funds.

The Plaintiffs in this matter are both the State of California (by and through its Department of Transportation) and Sacramento Regional Transit District. The Defendant is the United States Department of Labor.

Upon approval by the Board, in order to file an Amicus Curiae brief in this matter, I must get permission from the District Court itself. We would seek such permission by means of a motion to the Court.

MOTION:  
That the Board approves the attached Resolution.

*Attachment*





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

In the Matter of Directing the General  
Counsel to Take all Necessary and Appropriate  
Steps to File an Amicus Curiae Brief in the Matter  
*State of California vs. United States Dept. of Labor*  
(Case no. 2:13-CV-02069)/

Resolution No. \_\_\_\_\_

**WHEREAS**, the San Francisco Bay Area Rapid Transit District (the "District") relies on federal grants to improve its transportation system; and

**WHEREAS**, before the Federal Transit Administration ("FTA") may issue federal grants to local transit agencies such as the District, federal law (U.S.C. §5333(b)) requires the United States Department of Labor ("DOL") to certify that fair and equitable labor protection is in place for transit employees; and

**WHEREAS**, that fair and equitable labor protection upon which such certification is based (generally referred to as a "13(c) agreement or 13(c) arrangement"), requires the inclusion of provisions that may be necessary for among other things, "the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements" and "the continuation of collective bargaining rights."; and

**WHEREAS**, the DOL has declined to certify critical transit grants based on its position that California's landmark pension reform law, the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), impermissibly diminishes the collective bargaining rights of transit employees in violation of these federal requirements; and

**WHEREAS**, on October 4, 2013, the Governor of California signed into law Assembly Bill No. 1222 (Bloom and Dickinson) which provides a temporary exemption from PEPRA of transit workers' pension plans, pending judicial resolution of the DOL's determinations denying 13(c) certifications to recent grant applications; and

**WHEREAS**, this temporary exemption expires on the earlier of a judicial ruling that the United States Secretary of Labor, or his or her designee, erred in determining that the application of PEPR A precluded certification under 13(c), or January 1, 2015. The exemption becomes permanent upon a judicial ruling upholding the determination of the United States Secretary of Labor, or his or her designee, that the application of PEPR A precludes certification under 13(c); and

**WHEREAS**, Sacramento Rapid Transit District and the California Department of Transportation have initiated litigation in the United States District Court for the Eastern District of California, seeking a judicial ruling that the United States Secretary of Labor, or his or her designee, erred in determining that the application of PEPR A precluded certification of grants sought by these agencies; and

**WHEREAS**, the District is similarly situated to both Sacramento Regional Transit District and Caltrans in that it too will continue to require 13(c) certification of its federal grants by the DOL; and

**WHEREAS**, the Board of Directors seeks to have its General Counsel file an amicus curiae brief with the United States District Court for the Eastern District of California, arguing in favor of the position that that the United States Secretary of Labor, or his or her designee, erred in determining that the application of PEPR A to transit employees in California precluded certification of these grants.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors hereby directs its General Counsel to take all necessary and appropriate steps to seek leave from the United States District Court for the Eastern District of California, to file an amicus brief in support of the Plaintiffs, Sacramento Regional Transit District and the California Department of Transportation, and if such leave is granted, to file such a brief on behalf of the District.

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Adopted \_\_\_\_\_, 2014