

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

BOARD MEETING AGENDA

October 11, 2012

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, October 11, 2012, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Patricia K. Williams
Assistant District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of September 7, 2012 (Special), and September 13, 2012 (Special).* Board requested to authorize.
- B. Audit of Directors' Use of District Property for Fiscal Year 2012.* Board requested to accept.

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

- A. CONFERENCE WITH LABOR NEGOTIATORS - PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Agency Negotiators: Directors McPartland, Radulovich, and Sweet
Titles: General Manager, General Counsel, Controller-Treasurer, District Secretary, and Independent Police Auditor
Government Code Sections: 54957 and 54957.6

4. BOARD MATTERS

- A. Training Session: Training in General Ethics Principles and Ethics Laws Relevant to Public Service, in Accordance with California Government Code Section 53235.* For information. (2 hours)

5. ADMINISTRATION ITEMS

Director Sweet, Chairperson
NO ITEMS.

6. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. Implementation of California Assembly Bill 716 Authorizing Prohibition Orders.* Board requested to authorize.
- B. Oakland Airport Connector Project.
 - a. Quarterly Update.* For information.

- b. Change Order to Contract No. 01ZK-110, Oakland Airport Connector, with Flatiron/Parsons Joint Venture, for Procurement and Installation of a Standby Power Generator (C.O. No. 37).* Board requested to authorize.
- c. Agreements with Artists for Oakland Airport Connector Project.* Board requested to authorize.

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

Director Blalock, Chairperson

- A. Policy on Sister Transit Agency Affiliations.* Board requested to authorize.
- B. Resolution Authorizing Development of a Sister Transit Agency Affiliation with Shanghai Metro and Appointment of Board Liaison.* Board requested to adopt. (Director Fang's request.)

8. GENERAL MANAGER'S REPORT

NO REPORT.

9. BOARD MATTERS

- A. Board Member Reports. For information.
(An opportunity for Board members to provide brief reports on meetings attended at District expense.)
- 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.)

10. GENERAL DISCUSSION AND PUBLIC COMMENT

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

- A. (CONTINUED from September 13, 2012, Board Meeting)
CONFERENCE WITH REAL PROPERTY NEGOTIATOR
- | | |
|--------------------------|--|
| Property: | 43 of 44 BART Stations (excluding San Francisco International Airport Station) in Alameda, Contra Costa, San Francisco, and San Mateo Counties |
| District Negotiators: | Carter Mau, Executive Manager, Planning & Budget; and Jeffrey P. Ordway, Manager, Real Estate & Property Development |
| Negotiating Parties: | TransMart, Inc., and San Francisco Bay Area Rapid Transit District |
| Under Negotiation: | Price and Terms of Lease |
| Government Code Section: | 54956.8 |

- B. THREAT TO PUBLIC SERVICES OR FACILITIES. (President McPartland's request.)
Consultation with: Acting Manager, Rail Security Programs; and
Assistant General Manager, Operations
Government Code Section: 54957(a)

- C. CONFERENCE WITH LABOR NEGOTIATORS - PUBLIC EMPLOYEE
PERFORMANCE EVALUATION
Agency Negotiators: Directors McPartland, Radulovich, and Sweet
Titles: General Manager and Independent Police Auditor
Government Code Sections: 54957 and 54957.6

12. OPEN SESSION

- A. Agreement with TransMart, Inc. for Station Retail Development at BART Stations in Alameda, Contra Costa, San Francisco and San Mateo Counties (excluding San Francisco International Airport Station). Board requested to authorize.

- B. Compensation and Benefits for General Manager and Independent Police Auditor. Board requested to authorize.

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

Board of Directors
Minutes of the 1,661st Meeting
September 7, 2012

A special meeting of the Board of Directors was held September 7, 2012. The meeting was a Board Workshop. The first session, convening at 9:00 a.m., was held at Thompson Metal Fabricators, Inc., 3000 S.E. Hidden Way (Bldg 40), Vancouver, Washington 98661.

Directors present: Directors Blalock, Keller, Raburn, and Radulovich.

Absent: Directors Fang, King, Murray, Sweet, and McPartland.

Although there was not a quorum, the Workshop was held.

The Workshop recessed at 10:43 a.m.

The Workshop reconvened at 11:30 a.m. at United Streetcar/Oregon Iron Works Inc., 9700 SE Lawnfield Road, Clackamas, Oregon 97015.

Directors present: Directors Blalock, Keller, Raburn, and Radulovich.

Absent: Directors Fang, King, Murray, Sweet, and McPartland.

The Workshop was adjourned at 2:45 p.m.

Kenneth A. Duron
District Secretary

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

Board of Directors
Minutes of the 1,663rd Meeting
September 13, 2012

A special meeting of the Board of Directors was held September 13, 2012, convening at 12:00 p.m., in the Board Room, 344 20th Street, Oakland, California. Vice President Radulovich presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Keller, King, Murray, Raburn, Radulovich, and Sweet.

Absent: None. Directors Fang and McPartland entered the Meeting later.

Vice President Radulovich called for Public Comment on Item 3 only. No comments were received.

Director Fang entered the Meeting.

Vice President Radulovich brought the matter of Reimbursement for Members of the Citizen Review Board for Travel to the National Association for Civilian Oversight of Law Enforcement (NACOLE) 18th Annual Conference.

Mr. Mark Smith, Independent Police Auditor, presented the item. The item was discussed.

Director Sweet moved that the Controller/Treasurer or his designee be authorized to process travel reimbursement, in accordance with the parameters of BART Management Procedure No. 20 as it relates to District employees, up to two Citizen Review Board (CRB) members for their attendance as CRB representatives at the NACOLE 2012 Annual Conference in San Diego, California, from October 14, 2012, to October 18, 2012; and that if more than two members of the CRB desire to obtain reimbursement for their attendance at the NACOLE 2012 Annual Conference, two of them shall be selected at random out of all of those interested to determine which ones will receive the reimbursement. Director King seconded the motion.

Discussion continued.

President McPartland entered the Meeting.

Director Keller made a substitute motion, that the matter be referred to the CRB for their advice on whether or not to send anyone to NACOLE prior to the Board taking action. Director Blalock seconded the substitute motion. Discussion continued. The substitute motion failed by electronic vote. Ayes – 4: Directors Blalock, Fang, Keller, and Murray. Noes – 4: Directors King, Raburn, Radulovich, and Sweet. Abstain – 1: Director McPartland.

Vice President Radulovich returned to the main motion.

The main motion carried by electronic vote. Ayes – 6: Directors King, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 3: Directors Blalock, Fang, and Keller.

The Special Board Meeting was adjourned at 1:05 p.m.

Kenneth A. Duron
District Secretary

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

To: Board of Directors

Date: October 4, 2012

From: General Manager

Subject: Audit of Directors' Use of District Property

Attached is the Internal Audit Department's final audit report – *Audit of Directors' Use of District Property*. The audit will appear on the October 11, 2012 Board Consent Calendar.

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


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

*Audit of Directors' Use of District Property
for Fiscal Year 2012*

BACKGROUND

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

Board Rule 5-3.5 requires that:

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

The purpose of our audit was to determine whether the District complied with the requirements of Board Rule 5-3.5 for the fiscal year ended June 30, 2012. To accomplish our purpose, we reviewed the requirements of the Board Rule, reviewed the report for the audit of compliance with the Board Rule done for the previous year, examined records maintained by the District Secretary, notified Directors of the property recorded in the District's records as issued to each Director, and conducted discussions with the staff of the District Secretary's Office.

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

*Audit of Directors' Use of District Property
for Fiscal Year 2012*

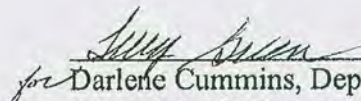
**BACKGROUND
(Con'd)**

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

We provided Kenneth A. Duron, District Secretary, with a draft copy of our audit report on September 11, 2012. We discussed the draft audit report with him on September 11, 2012, and he had no additional comments.

**SUMMARY OF
AUDIT RESULTS**

We found that in fiscal year 2012 the District complied in all material respects with the requirements of Board Rule 5-3.5. A list of property issued to each Director as recorded in the District's records is shown in Exhibit A.


for Darlene Cummins, Department Manager
Internal Audit Department

*Audit of Directors' Use of District Property
for Fiscal Year 2012*

Exhibit A

Schedule of District Property in Directors' Custody
As of June 30, 2012

DIRECTOR	PROPERTY DESCRIPTION
Gail Murray 1st District	Blackberry Tour Wireless Handheld
Joel Keller 2nd District	Droid Cellular Telephone
Vacant 3rd District	
Robert Raburn 4th District	Computer Phone Card
John McPartland 5th District	Apple iPhone Dell Laptop Computer Phone Card
Thomas M. Blalock 6th District	Motorola Cellular Telephone HP Fax Machine
Lynette Sweet 7th District	Blackberry Bold Wireless Handheld Dell Vistro Laptop Computer HP Officejet Printer
James Fang 8th District	Apple Macbook Laptop Computer with Verizon Aircard Modem HP Color Laserjet Printer
Tom Radulovich 9th District	Apple Macbook Laptop Computer HP Deskjet Printer Droid Cellular Telephone

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: September 28, 2012

FROM: District Secretary

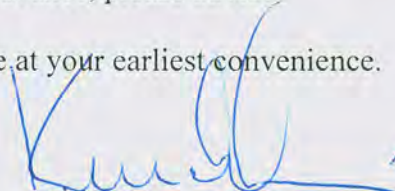
SUBJECT: State Mandated Ethics Training (AB1234) October 11, 2012

Assembly Bill 1234 was passed by the State legislature and signed by the Governor in late 2005. The statute requires that all local agencies provide no less than two hours of training in general ethics principles and ethics laws to local agency officials by January 1, 2007 and every two years thereafter. Our 2012 training session is scheduled for October 11.

As in previous years, the law firm of Liebert Cassidy Whitmore has been retained to provide the training. Liebert Cassidy Whitmore was involved in the development of the training program with the California Special Districts Association (CSDA), and in compliance with the requirements of the statute, has consulted the Fair Political Practices Commission and State Attorney General regarding the sufficiency of the course content. Liebert Cassidy Whitmore has conducted training for municipalities and local agencies and conducts courses for the CSDA and its members. The District has successfully utilized the legal services of Liebert Cassidy Whitmore in the past.

Copies of the Conflict of Interest, Ethics and Open Government Workbook will be available at the Board Meeting. If you would like a copy in advance, please advise.

Should you have any questions, please contact me at your earliest convenience.



Kenneth A. Duron

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Associate General Counsel



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 10/4/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Daniel Hartwig Dept. Police <i>[Signature]</i> Signature/Date:	General Counsel <i>[Signature]</i> 10/4/12 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> 10/4/12 []
Status: Routed		Date Created: 07/09/2012		

TITLE:

Implementation of California Assembly Bill 716 - Authority to Issue Prohibition Orders

NARRATIVE:

PURPOSE

To authorize the General Manager to implement California Assembly Bill 716 allowing the District to issue prohibition orders, and to request appointment by the Board to the AB 716 Advisory Committee, and adoption by the Board of written procedures governing the issuance of prohibition orders.

DISCUSSION

AB 716 BACKGROUND

The District has received an increasing number of complaints from riders and employees regarding safety on BART trains, in parking lots, stations and passenger waiting areas. In an effort to better protect its riders and employees, BART requested and received new authority from the California legislature to implement additional security measures to reduce passenger misconduct and disruptions. AB 716, which was enacted into law in 2011, allows BART to issue prohibition orders (also referred to as "exclusion orders" or "exclusion citations") to people who are cited for specified infractions on at least three separate occasions within a period of 90 consecutive days, or who are arrested for or convicted of specified misdemeanors or felonies. A prohibition order prohibits an individual from entering BART property or facilities for a period of time deemed appropriate by the District, not to exceed various periods specified in the statute, depending on the nature of the offense.

APPOINTMENT OF ADVISORY COMMITTEE

AB 716 requires the Board to appoint an Advisory Committee and tasks the Committee with the following functions; (1) Provide recommendations regarding the type and extent of training for District staff involved in issuing and enforcement of prohibition orders; (2) Identify services and programs within the service area of the District to which persons who are homeless or have

psychiatric, developmental, or other disabilities may be referred; (3) Monitor the issuance of prohibition orders to ensure compliance with the Unruh Civil Rights Act; and (4) Provide the Board and the California legislature with an annual report summarizing the number of prohibition orders issued and other data regarding the program. The Advisory Committee must be composed of at least five members, one of whom must have experience working with individuals with psychiatric, developmental, or other disabilities, one must be a youth advocate, and one must have law enforcement experience.

Staff recommends that the Board appoint the following individuals to the Advisory Committee:

Janet Abelson, Accessibility Task Force
Council member, City of El Cerrito

Antoinette C. Bryant, ATU 1555 President
Bay Area Rapid Transit District

Tyrone R. Forte, Police Lieutenant
Bay Area Rapid Transit District

George Holland, Attorney
National Association for the Advancement of Colored People/ Oakland Chapter

Armando Sandoval, Crisis Intervention
Consultant, City of San Mateo

Roy Wilson, Youth Services
Director, Martin Luther King Jr., Freedom Center

Lauren Sugayan, Community Police Services
Bay Area Rapid Transit District

Staff also recommends that the Board adopt the attached AB 716 Advisory Committee Bylaws to govern the Committee.

ADOPTION OF WRITTEN PROCEDURES

AB 716 requires that the Board adopt written procedures governing the issuance of prohibition orders and providing an opportunity contest the orders. The content of the procedures is largely dictated by statute and includes procedures for notice to affected individuals, an opportunity for affected individuals to request an initial review, and an opportunity for affected individuals to request an administrative hearing. Accordingly, staff has prepared Administrative Rules for the Issuance and Processing of Exclusions, and requests that the Board adopt those Administrative Rules by adoption of the attached Resolution.

STAFF IMPLEMENTATION

Staff is requesting that the Board authorize the General Manager or her designee to implement other elements of AB 716. Implementation will include, among other steps, designating staff to perform the initial review and administrative hearing functions, providing notice to riders of the prohibition order program, and establishing any training programs recommended by the advisory committee.

FISCAL IMPACT

- Costs will be minimal and can be absorbed by existing department's respective annual operating budgets for FY13.
- Initial minimal roll out marketing/media expense, will be absorbed by External Affairs. (External Affairs Operating Budget)
- No direct impact to BART Police as duties will be incorporated by current staffing levels.
- All committee members are comprised of volunteers.
- Clipper card \$15 quarterly updated for advisory board members. (For travel purposes to and from meetings)
- Costs for subsequent years fiscal years will be evaluated to determine if expenses require additional funding. Increases in funding, if necessary will be requested in future preliminary operating budget cycles.

MOTIONS

The Board;

Appoints the following individuals to the AB 716 Advisory Committee: Janet Abelson, Antoinette C. Bryant, Tyrone R. Forte, George Holland, Armando Sandoval, Roy Wilson, Lauren Sugayan;

Adopts the attached AB 716 Advisory Committee Bylaws;

Adopts the attached Resolution In the Matter of Adopting the San Francisco Bay Area Rapid Transit District Administrative Rules for Issuance and Processing of Exclusions; and

Authorizes the General Manager or her designee to implement AB 716, including designation of staff to perform the initial review and administrative hearing functions, provision of notice to riders of the prohibition order program, and establishment of any training programs recommended by the AB 716 Advisory Committee.

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

**In the Matter of Adopting the San Francisco Bay Area Rapid Transit District
Administrative Rules for Issuance and Processing Exclusions**

Resolution No

WHEREAS, there has been an increase in attacks on front-line staff of the San Francisco Bay Area Rapid Transit District (hereafter referred to as the District), including station agents and train operators; and

WHEREAS, Assembly Bill 716 (Dickinson), authorizes the District to issue prohibitive orders (also referred to as exclusion citations or exclusion orders) to individuals who are cited for certain specified infractions on three separate occasions within 90 consecutive days, or who are arrested for or convicted of certain specified misdemeanor or felonies.

WHEREAS, upon citation of the specified infractions on three separate occasions within 90 consecutive days. Assembly Bill AB 716 establishes a maximum exclusion from District properties not to exceed 30 days (1st prohibition order), 60 days (2nd prohibition order) and 180 days (3rd prohibition order). Upon conviction of a specified misdemeanor, the prohibition order may be extended for an additional period not to exceed a total of 180 days when added to the initial period of exclusion. Upon conviction of a specified felony, the prohibition order may be extended for a period not to exceed one year, when added to the initial period of exclusion.

WHEREAS, AB 716 requires the Board of Directors to adopt procedures governing the issuance of prohibition orders and providing an opportunity to contest the orders through an initial review and, if the initial review results in a determination that the prohibition order should be upheld, an opportunity to request an administrative hearing; and

WHEREAS, attacks on District staff are prosecuted by the District Attorneys of the counties where such attacks take place; and

WHEREAS, District front-line staff are on duty in the following counties: Alameda, Contra Costa, San Francisco, and San Mateo Counties; and

WHEREAS, the District has asked the District Attorneys of Alameda, Contra Costa, San Francisco, and San Mateo Counties to prosecute any attacks on District front-line staff to the fullest extent of the law; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors adopts the San Francisco Bay Area Rapid Transit District Administrative Rules for Issuance and Processing of Exclusions, attached hereto as Exhibit A, in accordance with the California Public Utilities Code 99171 .

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SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
AB 716 Advisory Committee Bylaws

ARTICLE I - NAME

The name of this committee shall be TRANSIT SECURITY ADVISORY COMMITTEE, "TSAC".

ARTICLE II – OBJECT

This committee shall serve to provide recommendations to the BART Board of Directors and BART staff. The purpose of the committee is to evaluate the procedures for and issuance of prohibition orders and recommends a course of training for personnel charged with issuance and enforcement of prohibition orders.

Specifically, in accordance with Section 99171 of the Public Utilities Code, the TSAC shall:

1. Provide recommendations, in consultation with the County Mental Health Director, regarding the type and extent of training that should be undertaken by individuals with responsibility for issuance and enforcement of prohibition orders, with an emphasis on training designed to assist in identifying and interacting with persons who are homeless or who have psychiatric, developmental, or other disabilities;
2. Identify, in consultation with the County Mental Health Director, services and programs to which persons who are homeless or who have psychiatric, developmental, or other disabilities maybe referred by transit district personnel prior to or in conjunction with issuance of a prohibition order;
3. Monitor the issuance of prohibition orders to assist BART in ensuring compliance with Section 51 of the Civil Code; and
4. Provide BART's Board of Directors and the California State Legislature with an annual report summarizing the number of prohibition orders issued by BART during the preceding year, including, but not limited to, the types and numbers of citations by category, and the number of exclusion orders appealed, the appeals granted, the reasons granted, and other relevant information directly related to those orders.

ARTICLE III – MEMBERS

Section 1. Maximum Membership

The membership of this Committee shall be composed of no less than five (5) and no greater than seven (7) representatives. Each member shall be appointed by the BART BOARD of DIRECTORS.

Section 2. Membership Representation

Representation will be composed of the following categories:

- A. Mental Health Representative: At least one (1) member with experience working with individuals with psychiatric, developmental, or other disabilities.
- B. Youth Advocates Representative: At least one (1) member with experience as a youth advocate within the region of the BART system.
- C. Law Enforcement: At least one (1) member with experience as a sworn peace officer within the region of the BART system.
- D. At-Large Representatives: There shall be three (3) or four (4) at large representatives, preferably users of the BART system.

Section 3. Composition of Committee

Other than Mental Health Representative, the Youth Advocates Representative, and the Law Enforcement Representative, which are mandated by Section 99172 of the Public Utilities Code, no group shall be entitled to representation on the TSAC.

Section 4. Resignations

Any member may resign by filing a written resignation with the BART Board of Directors.

Section 4. Term of Membership

The term of each member shall be two years (2) years. Terms shall begin on January 1, 2013 and end on December 31, 2014 unless Section 99172 is amended to apply to BART beyond the January 1, 2015 sunset date. Members may be considered for re-appointment if the Section 99172 of the Public Utilities Code is so amended.

Section 5. Removal of Members

BART's Board of Directors may remove any member of the TSAC with or without cause.

Section 6. Appointment of Vacancies

In the event of a vacancy, the BART Board of Directors shall appoint a replacement member to fill the term of the vacancy.

ARTICLE IV – OFFICERS

Section 1. Officers and Duties

The officers of the TSAC shall be a Chair and a Vice Chair. These officers shall perform the duties prescribed by these Bylaws and by the parliamentary authority adopted by the TSAC. The officers may serve as liaisons to the BART Board of Directors.

- A. Chair. The TSAC shall elect from its membership a Chair who shall preside at all meetings of the TSAC. The Chair or his designee shall act as the preliminary spokesperson for the TSAC and will perform such other duties applicable to the office as prescribed by the parliamentary authority adopted by the TSAC.
- B. Vice Chair. The Committee shall elect from its membership a Vice Chair who, in the absence or inability of the Chair to serve, shall have all of the powers of the Chair and shall perform all of those duties. The Vice Chair will perform such other duties from time to time as may be requested by the Chair.

Section 2. Nomination Procedure

At the first regular Committee meeting, a Chair and a Vice Chair shall be selected. It shall be the duty of this Committee to nominate candidates who are members of the TSAC for the officers of Chair and Vice Chair.

Section 3. Election of Officers

The Chair and Vice Chair shall be elected by majority vote to serve for one (1) year. Those elected may serve beyond one (1) year if successors have not been elected.

Section 4. Removal

The Chair and Vice Chair can be removed from office upon a vote of two-thirds of the TSAC. The removal vote shall be by secret ballot.

ARTICLE V – MEETINGS

Section 1. Committee Meetings

Regular meetings will be held as frequently as necessary to achieve the objectives set forth in Section II above, but in no event shall the committee hold less than 4 regular meetings in a calendar year. Notice of the times and locations of the meetings will be set by the BART staff liaison at least 72 hours prior to the meeting.

Section 2. Special Meetings

Special meetings may be called at any time by the Chair or by a majority of the TSAC members. BART staff will provide written notice required for all special meetings, with such notice may be discussed by the Committee at a special meeting.

Section 3. Meetings Open to the Public

All regular and special meetings of the BSAC shall be conducted in accordance with the requirements of the Ralph M. Brown Act (Government Code 54950 et seq.). Meeting agendas shall be posted by BART staff in a public place and distributed to all members at least 72 hours before the meeting for regular meetings and 24 hours before the meeting for special meetings.

Section 4. Quorum

A majority of the members then appointed to the TSAC shall constitute a quorum for the purposes of conducting business.

Section 5. Voting

Each member of the TSAC has a single vote.

Section 6. Actions

All actions of the TSAC shall be by motion passed by a majority of the members present and voting.

Section 7. Adjournment

The TSAC may adjourn any meeting to a time and place specified in the motion of adjournment, but not beyond the next regular meeting, if any.

ARTICLE VIII – LIAISON WITH BART

There shall be an ongoing liaison between BART staff and the TSAC. The BART General Manager shall designate a BART staff person to serve as liaison. The staff liaison shall prepare meeting notices, agendas, and minutes as required. BART staff shall provide information, technical assistance, and facilitation assistance during all TSAC meetings. The BART staff liaison shall serve as the custodian of records.

ARTICLE IX – PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of order Newly Revised shall govern the TSAC in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the TSAC may adopt.

ARTICLE X – AMENDMENT OF BYLAWS

These Bylaws may be amended or repealed at any time by majority vote of the BART Board of Directors after consultation with, or by recommendation of, the TSAC.

ARTICLE XI – TERM OF COUNCIL

The TSAC shall remain in existence until discharged by action of the BART Board of Directors or the sunset of Section 99172 of the Public Utilities Code.

EXHIBIT A
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
ADMINISTRATIVE RULES
For Issuance and Processing of Exclusions

The following Administrative Rules (Rules) shall govern the issuance and processing of prohibition orders by Bay Area Rapid Transit (BART) District, in accordance with Public Utilities Code (PUC) §99171.

Nothing in these Rules or the existence of these Rules shall prevent BART from taking any lawful steps to protect its employees, passengers and the BART Transit System. Specifically, nothing in these Rules affects the right of BART or law enforcement to request the immediate departure of any person posing a safety threat to system users, BART personnel or any other persons, or who is in violation of any provision of criminal law or BART's administrative rules or procedures. Further, nothing in these Rules affects the right of law enforcement to accomplish the forceful removal of any person posing an imminent threat, so long as the law authorizes such action.

A. DEFINITIONS

As used in these Rules, the following terms shall mean:

Business Day. The term "business day" shall mean Monday through Friday, with the exception of BART Holidays: Christmas Day, New Year's Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day. When the last business day of any time period set forth in these Rules falls on a BART Holiday, an additional day shall be added to any time provisions set forth in these Rules by virtue of the holiday, excluding all weekend days.

Calendar Day. The term "calendar day" shall include all week days. When a calendar day falls on the following holidays: Christmas Day, New Year's Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day an additional day shall be added to any time provisions set forth in these Rules by virtue of the holiday.

Exclusion Administrator. The term "Exclusion Administrator" shall include all BART employees appointed by the General Manager to conduct an initial review of a Prohibition Order issued pursuant to these Rules.

Exclusion Officer. The term "Exclusion Officer" includes all BART Police Officers authorized to issue Prohibition Orders under these Rules.

Hearing Officer. The term "Hearing Officer" shall include those persons appointed by the General Manager to conduct an Administrative Hearing following an initial review of a Prohibition Order issued pursuant to these Rules. Hearing Officers may be a BART employee or agents, however, the Hearing Officer's continued service, performance, evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to his or her

findings related to the number of prohibition orders upheld by the Hearing Officer.

Transit Dependent. The term "Transit Dependent" means a person who has no independent source of transportation and relies solely on public transit for trips of necessity, including but not limited to, travel to and from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing and necessary household items.

BART System. The term "BART System" shall include the property, vehicles, equipment and improvements of whatever nature, owned, leased, maintained, controlled or operated by BART to provide mass transportation for passengers or to provide for the movement of people, and includes any BART vehicle, bus stop on District property, parking facility, track way and BART right of way.

B. ISSUANCE OF PROHIBITION ORDER

1. Authority for Prohibition Order

BART may exclude an individual from any or all parts of the BART System, as permitted by Public Utilities Code (PUC) §99171 or other applicable law. In accordance with this authority, a person subject to a prohibition order may not during the period of exclusion, enter or remain upon any part of the BART System from which the person is excluded, except as permitted by the terms of the prohibition order or by applicable law.

A Notice of Prohibition Order may be issued by any authorized person that has received training from BART, as required by PUC §99171 including, but not limited to, law enforcement officers, and BART Police Officers.

2. Designation of Violations Eligible for Prohibition Order

The violations eligible for a Prohibition Order and the corresponding length of exclusion is established by PUC §99171. A Prohibition Order may be issued to any person who:

- (A) On at least three (3) separate occasions within a period of ninety (90) consecutive days, is cited for an infraction committed in or on the Transit System for any act that constitutes a violation of any of the following:
 - (1) *Penal Code §640(d) (1)* - Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.
 - (2) *Penal Code §640(d) (2)* – Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.
 - (3) *Penal Code §640(d) (3)* – Urinating or defecating in a system facility or vehicle, except in a lavatory. (This section does not apply to a person who cannot comply with this section as the result of a disability, age or medical condition.).

(4) *Penal Code §640(d) (4)* – Willfully blocking the free movement of another person in a system facility or vehicle.

(5) *Penal Code §640.5(a) (1)* – Defacing with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a public transit system.

(6) *Public Utilities Code 99170(a) (2)* – Interfering with the operator or operation of a transit vehicle, or impeding the safe boarding or alighting of passengers.

(7) *Public Utilities Code 99170(a) (5)* – Committing an act or engaging in a behavior that may, with reasonable foreseeability, cause harm to injury to any person or property.

OR

(B) The person is arrested or convicted for a misdemeanor or felony committed in a vehicle, bus stop, or parking lot on BART property for acts involving violence or threats of violence upon passengers and transit employees, lewd or lascivious behavior, or possession for sale of a controlled substance.

OR

(C) The person is convicted of a violation of one of the following offenses:

(1) *Health and Safety Code §11532(a)* – Loitering in a public place in a manner and under circumstances manifesting an intent to engage in drug-related activity.

(2) *Penal Code §653.22(a)* – Loitering in a public place with the intent to commit prostitution.

3. Length and Scope of Exclusions

The length of any Prohibition Order shall be no greater than those permitted under PUC §99171(a) (2).

(A) If issued pursuant to section 2(A) above, the period of exclusion shall be:

- (1) For a period not to exceed thirty (30) days for the first prohibition order,
- (2) For a period not to exceed 90 days for the second prohibition order issued within one year from the date of the first prohibition order: and

- (3) For a period not to exceed 180 days for a third or subsequent prohibition order issued within one year from the date of the first prohibition order.
- (B) If issued pursuant to section 2. (B) or (C) above, the period of exclusion shall be as follows:
 - (1) For a period not to exceed thirty (30) days if issued pursuant to an arrest.
 - (2) Upon conviction of a misdemeanor, the duration of the prohibition order for the conviction, when added to the duration of the prohibition order shall not exceed 180 days.
 - (3) Upon conviction of a felony, duration of the prohibition order for the conviction, when added to the duration of the prohibition order for the initial shall not exceed one year.

A Notice of Prohibition Order shall identify the violation supporting the exclusion and must state the length of exclusion. No person is permitted to vary the length of exclusion, except:

- a. In accordance with the findings of the Exclusion Administrator or the Hearing Officer: The Exclusion Administrator or the Hearing Officer may vary the length or scope of exclusion in accordance with his or her authority.
- b. In response to changed conditions: The Exclusion Administrator or the Hearing Officer may modify a prohibition order.
- c. In response to a finding by the Exclusion Administrator or the Hearing Officer, that exclusion is not warranted or does not comport with BART policy: The Exclusion Administrator or the Hearing Officer may invalidate or modify a prohibition order, based upon a review of all the facts and circumstances, as provided in these Rules.

4. Enforcement Requirements

a. Sufficiency of Facts and Cause for Citation or Exclusion

All citations and exclusions issued for prohibited conduct must be based upon probable cause. In determining whether there is enough evidence to justify a prohibition order or citation, peace officers and exclusion officers may rely upon facts resulting from their own personal observations or reliable facts provided by witnesses or others.

b. Notice of Exclusion

Every person alleged to have engaged in conduct prohibited by PUC §99171(a) (1) (A)-(C) and sought to be excluded for such a violation(s), shall be issued a Notice of Prohibition Order. The Notice of Prohibition Order to be used for exclusions is incorporated by reference.

The exclusion officer alleging the violation shall complete the Notice of Prohibition Order in its entirety and provide a copy of the notice to the individual sought to be excluded.

In order to be deemed valid, the Notice of Prohibition Order must accurately denote the violating conduct and reference the applicable provision or statute that was violated, in accordance with PUC §99171(a).

The Notice of Prohibition Order may be issued to the person sought to be excluded contemporaneously with the course of conduct supporting the exclusion or at some time period after the violating conduct has occurred. When the Notice of Prohibition Order is issued to the person sought to be excluded at some time period after the violating conduct has occurred, the Notice of Prohibition Order must be personally served upon the person sought to be excluded as set forth in PUC §99171 (b)(2)(A)-(C). Service may be accomplished by in-person delivery, registered mail, overnight delivery (with confirmation of delivery) or any other means agreed to in writing by BART and the person being served.

At no time may a Notice of Prohibition Order be served to a person sought to be excluded more than six (6) months after the violating conduct has occurred, unless agreed to in writing by the person being served.

Service of the Notice of Prohibition Order shall be deemed to be complete on one of the following dates:

- (1) On the date of delivery, if delivered in person.
- (2) On the date of confirmed delivery, for any delivery by mail.
- (3) For any alternative method of service, as provided in writing specifying the alternative method.

Proof of service shall be filed with the BART Exclusion Administrator.

5. Multiple Penalties

An exclusion will not be issued for the same act or omission committed by a single person during a single interaction. However, multiple citations, or a citation and a prohibition order, may be issued to a single person who during a single interaction engages in multiple acts or omissions that constitute violations of those provisions delineated in PUC §99171(a)(1)(A)-(C). The issuance of a citation or Notice of Prohibition Order to a person shall not prevent the arrest, prosecution or conviction of that person for violation of criminal laws for the same or different act or omission.

6. Stay of Prohibition Order

In accordance with PUC 99171(b) (6), all prohibition orders will be subject to an automatic stay of ten (10) calendar days following the date of service. Thus, exclusions will not take effect until the eleventh (11th) calendar day following the date of issuance, or if review has been requested, the date on which the Exclusion Administrator or Hearing Officer's final order takes effect in accordance with review process set forth in these Rules, but no less than eleven (11) calendar days after service of the final order.

C. REVIEW AND APPEAL PROCEDURES

1. Initial Review of Notice of Prohibition Order

An initial review may be requested by the person issued a Notice of Prohibition Order within ten (10) days after personal service to a BART Exclusion Administrator. There shall be no charge for the initial review. The request may be made by telephone at (510) 464-7000, in writing to P.O. Box 12688, Oakland CA 94604-2688, or in person at: 300 Lakeside Drive, Oakland CA 94604-2688. If an initial review is requested, the Notice of Prohibition Order shall be reviewed by a BART Exclusion Administrator. The Exclusion Administrator shall determine:

- (a) Whether the Prohibition Order meets the requirements of PUC 99171 (a) and;
- (b) Unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence.
- (c) Whether the exclusion has been issued to a person not eligible for a complete exclusion under the circumstance outlined in Section 9. Circumstances Affecting Applicability of Exclusion.

If the Exclusion Administrator determines, based on the initial review, that the Prohibition Order is not adequately supported or that extenuating circumstances make dismissal of the Prohibition Order appropriate in the interest of justice, the Exclusion Administrator shall cancel the notice of Prohibition Order. The Exclusion Administrator shall cancel a prohibition order if it determines that the person did not understand the nature and extent of his or her actions or did not have the ability to control his or her actions. The cancellation of a Prohibition Order shall be effective immediately and the excluded person may continue to use the BART System subject all rules and regulations regarding its use.

If the Exclusion Administrator determines that the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the Exclusion Administrator shall modify the Prohibition Order to reasonably allow for those trips under the conditions established by the Exclusion Administrator. Any person entitled to such a modification of the prohibition order shall remain subject to all applicable laws, rules and regulations regarding the use of the BART System, including but not limited to, providing proof of fare payment.

If the Exclusion Administrator determines that the Prohibition Order is valid, either in whole or in part, the Exclusion Administrator shall issue a written statement to that effect and may include any modification to the period or scope of the Prohibition Order.

The burden of proof to establish the conditions for cancellation or modification, as provided

above, is on the party seeking the cancellation or modification. The party seeking to establish the qualifying circumstances must do so by a preponderance of the evidence.

The Exclusion Administrator shall serve the results of the initial review to the person contesting the notice by personal service. This decision shall become final after the expiration of ten (10) days after service, unless the person is dissatisfied with the results of the initial review and requests an administrative hearing within the ten (10) days. If an administrative hearing is requested, the excluded individual shall be entitled to further review in the form of a hearing as provided below.

2. Right to an Administrative Hearing following the Initial Review

Every person issued a Notice of Prohibition Order is entitled to a hearing as a matter of right upon issuance of the results of the initial review. The purpose of the hearing is: (a) to review and determine whether the Prohibition Order meets the requirements of PUC 991719A0; (b) unless the person has been convicted of the offense or offenses, to determine whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence; (c) to determine whether the length and scope of the exclusion is commensurate with the nature of the violation; (d) to consider any mitigating and aggravating factors relevant to the scope and length of the exclusion; and (e) issue a final decision to sustain, modify, or set aside a Notice of Prohibition Order. All persons receiving a prohibition order shall receive notice of their right to a hearing on the Notice of Prohibition Order.

3. Initiation of Hearing Proceedings

An individual who has received a Notice of Prohibition Order following an initial review, must contact BART by 5:00 p.m. no later than the tenth (10th) calendar day following service of the Exclusion Administrator's decision in order to request a hearing. The Exclusion Administrator may be reached by phone at **(510)464-7000**; in writing to **P.O. Box 12688, Oakland, CA 94604-2688**; or in person at **300 Lakeside Drive, Oakland, CA. 94604-2688**.

The request may be made by phone, in writing or in-person, but must be received by the Exclusion Administrator by the tenth (10th) calendar day following the date of personal service of the Exclusion Administrator's decision. An individual requesting a hearing need not demonstrate cause for the hearing, and the Exclusion Administrator shall immediately forward a copy of the Notice of Prohibition Order and any supporting documentation to the designated Hearing Officer.

The Hearing Officer, or his/her designee, will contact the individual by phone or mail to schedule a hearing within three (3) business days of receipt of the Notice of Exclusion. The Hearing Officer shall provide notice to the Exclusion Officer that issued the Notice of Prohibition Order of the date and time of the hearing in accordance with the Hearing Officer's procedures for issuing such notice.

The person requesting the hearing shall have the choice of a hearing by mail or in person. An

in-person hearing shall be conducted at a location selected by the Hearing Officer, within the boundaries of the BART District.

4. Scheduling of Hearings

- a. Hearing Date: Each hearing shall be scheduled directly with the Hearing Officer or his/her designee within thirty (30) calendar days of the request. To the extent possible, the Hearing Officer shall make every attempt to schedule each hearing at a time that is convenient for appearance by the excluded individual, BART, and any witnesses, including exclusion officers. All hearings shall be scheduled on a weekday, Monday through Friday, during normal business hours.
- b. Continuance: The Hearing Officer may grant one continuance, on its own motion or the motion of one of the Parties, of no more than seven (7) calendar days. The Hearing Officer has the sole discretion to grant or deny a continuance. Further, the Hearing Officer has the discretion to impose a stay, pending the later hearing date.

5. Treatment of Evidence

In conducting a hearing and reaching a decision, the Hearing Officer may rely upon any evidence that a reasonable person would rely upon in making an important decision or conducting personal business. Hearsay is admissible, except where its admission would offend due process. The Hearing Officer shall have the authority to compel testimony or evidence deemed necessary; in the Hearing Officer's sole discretion, to a fair decision. The Hearing Officer may receive testimony concerning the interpretation of the Administrative Rules from any BART representative.

The Notice of Prohibition Order shall be prima facie evidence of the violation or violations pursuant to PUC 99171(a) establishing a rebuttable presumption affecting the burden of producing evidence. The person who issued the Notice of Prohibition Order shall not be required to participate in an administrative hearing, unless their participation has been requested by the person requesting the hearing no less than five (5) calendar days prior to the hearing. Requests for such participation shall be made to the Hearing Officer by telephone, in writing or in person through the Exclusion Administrator.

6. Statement of Rights by Hearing Officer

The Hearing Officer shall advise all parties, through written correspondence or personally when parties appear for the hearing, of the following rights:

- Hearings shall be informal and shall be conducted so as to facilitate the parties' ability to present their respective positions to the Hearing Officer. BART shall present its reasons for the exclusion first, and then the person contesting the exclusion shall present his or her reasons in support of rescission or modification of the exclusion.
- The Hearing Officer may question the parties and witnesses, and shall review

- all evidence submitted by the parties.
- The hearing shall be electronically recorded.
 - An aggrieved party has the right to seek Administrative Mandamus from any County Superior Court within the boundaries of the BART District in accordance with Cal. Code Civ. Proc. 10946.
 - A party has the right to representation by an attorney at their sole cost.
 - BART has the burden of proof, based upon a presentation of substantial evidence, to establish that it is more probable than not that the conduct justifying the exclusion occurred and that no factors are present to nevertheless warrant setting aside the exclusion.

7. Length and Scope of Exclusions

The length and scope of the Prohibition Order shall be determined in light of all the facts and circumstances giving rise to the exclusion. After consideration of the evidence presented, the Hearing Officer may sustain the exclusion, modify the exclusion or set aside the exclusion. The Hearing Officer shall make a finding on whether it is more probable than not that the excluded individual engaged in the conduct supporting the exclusion. In addition, the Hearing Officer shall consider any mitigating or aggravating factors in determining the appropriate scope and length of the exclusion, that the Hearing Officer determines relevant, in his or her sole discretion.

If the Hearing Officer determines that the exclusion will be sustained but the scope or length of the exclusion is not commensurate with the seriousness of the violation, the Hearing Officer may modify the exclusion. An order modifying the exclusion should discuss the Hearing Officer's basis for the modification of the exclusion, including a discussion of findings related to the factors listed above.

8. Final Order by the Hearing Officer

Within five (5) business days following the conclusion of a hearing, the Hearing Officer shall issue a final order setting forth all findings and a decision on the exclusion, unless issuance of a final order within five (5) business days is not practicable. If a final order cannot be issued within five (5) business days of the hearing, the Hearing Officer shall extend the stay on the exclusion until the final order is effective. The Hearing Officer's decision following the administrative hearing shall be delivered by personal service.

The final order shall set forth the findings of the Hearing Officer and the basis for such findings. If the final order sustains or modifies the Notice of Prohibition Order, the final order shall clearly set forth the period of exclusion, including the exact starting and ending date. The final order shall notify the person excluded of the right to seek judicial review with any Superior Court within the boundaries of the BART District within 90 days of delivery by personal service, in accordance with Cal. Code Civ. Proc. 1094.6. The final order shall be effective ten (10) days after personal service.

9. Circumstances Affecting the Applicability of Exclusions

If the Hearing Officer determines that BART has established that the violation was more probable than not, and that consideration of the factors justifies sustaining the exclusion, the Hearing Officer must nevertheless modify or set aside the exclusion in the circumstances defined below. Any person asserting the right to a qualified prohibition order on the basis of the factors set forth below shall have the burden of establishing their applicability by a preponderance of the evidence.

a. Exclusions Issued to Persons Who Did Not Understand the Nature and Extent of Actions or Did Not Have Ability to Control Actions

The Hearing Officer shall cancel a Prohibition Order if he or she determines that the person did not understand the nature and extent of his or her actions or did not have the ability to control his or her actions.

b. Exclusions Issued to Disabled Persons

An individual with a disability shall not be issued a complete exclusion from the BART System unless the person engaged in violent conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearing Officer determines that a violation was more probable than not, the Hearing Officer shall order a qualified Prohibition Order to permit an individual with a disability to use the system for trips of necessity (e.g., travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.).

b. Exclusions Issued to Transit Dependent Persons

If the person issued the Prohibition Order is dependent on the BART system for trips of necessity, including, but not limited to, travel to and from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing and necessary household items, the Hearing Officer shall order a qualified prohibition order to permit a transit dependent person to allow for those trips.

c. Exclusions Issued Based Upon Expressive Conduct Protected by the First Amendment

A person issued a Notice of Exclusion for conduct determined to be expressive conduct protected by the First Amendment to the U.S. Constitution, shall not be excluded on the basis of such conduct. If the Hearing Officer finds that a violation was more probable than not, but also finds that the conduct involved expressive conduct by the First Amendment to the U.S. Constitution, the Notice of Prohibition Order shall be set aside, unless the Hearing Officer also finds that the effect of the conduct endangered public safety, disrupted service, or interfered with transit operations. For the purposes of this paragraph, the parameters of the free

expression and religious protections afforded under this paragraph shall be coextensive with constitutional guarantees.

10. Treatment of Persons Who Do Not Provide a Mailing Address

If a person issued a Notice of Prohibition Order cannot, or will not, provide a mailing address at the time of issuance by an Exclusion Officer, a Notice Letter from an Exclusion Administrator, correspondence from the Hearing Officer, and any other documents concerning the Prohibition Order, shall be made available for pick-up at BART's administrative offices located at **300 Lakeside Drive, Oakland, CA. 94604-2688**. If at any time during the pendency of the initial review or the administrative hearing, an excluded individual, or his or her representative, designates an address for mailing, any correspondence or documents produced subsequent to the date of the request shall be mailed to the address designated by the individual. If an individual is represented by counsel in the exclusion proceedings, all written materials shall be provided to the individual's attorney, at the attorney's mailing address.

An excluded individual without a mailing address may personally appear at the BART administrative offices, to request a hearing, or any other process to which he or she is entitled.

11. Effect of Failure to Provide an Address.

When a person receiving a Notice of Prohibition Order is not able, or refuses, to provide a mailing address at the time of issuance, the Notice of Prohibition Order shall set forth the procedure for picking up any letters, notices or orders produced by an Exclusion Administrator or Hearing Officer, in a manner that is consistent with these Rules.

12. Appointment of Exclusion Administrators and Hearing Officer

The General Manager shall appoint one or more Exclusion Administrators and Hearing Officer(s) based on the individual's qualifications, training and objectivity. Hearing Officers may be BART employees or agents, however, the Hearing Officers continued service, performance, evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to his or her findings related to the number of prohibition orders upheld by the Hearing Officer.

D. WRIT OF ADMINISTRATIVE MANDAMUS

All decisions issued by the Hearing Officer shall be subject to judicial review from any County Superior Court within the boundaries of the BART District as provided by Code of Civil Procedure §1094.6. Judicial review must be filed within 90 calendar days of the delivery of the decision of the Hearing Officer by personal service.

Any judicial review proceedings shall not stay the effective date of the Prohibition Order, unless so ordered by a Judge of the Superior Court. Any and all costs, fees or other expenses related to judicial review shall be borne by each party, unless otherwise ordered by the Superior Court.

E. REQUEST FOR REFUND OF FARE MEDIA.

A person issued a prohibition order under PUC §99171(a) may, within ten (10) calendar days of the date the order goes into effect, request a refund for any prepaid fare media rendered unusable in whole or in part by the prohibition order. The request for refund should be made in writing to the Exclusion Administrator.

If there is a balance of useable fare media of one or more days following the period of the prohibition order, the refund shall be prorated based on the number of days the fare media will be unusable. The issuance of any refund shall be subject to the surrender of the fare media.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: October 3, 2012

FROM: General Manager

SUBJECT: Oakland Airport Connector Quarterly Project Update

The attached presentation for the October 11, 2012 Board meeting provides the quarterly update for the Oakland Airport Connector project. If you have any questions about this presentation, please contact Chris Quinn at 510-464-7539 or Tom Dunscombe at 510-394-6173.



Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Linda Dennis-Mallory</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board		
DATE: 10/4/12		BOARD INITIATED ITEM: No		
Originator/Prepared by: Linda Dennis-Mallory Dept: <i>Engineering</i> Signature/Date: <i>Linda Dennis-Mallory 10/4/12</i>	General Counsel <i>Andrew Rosen 10/4/12</i> []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BART <i>Paul Chenoweth 10/4/12</i> []

Status: Routed	Date Created: 05/31/2012
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TITLE:
AUTHORITY TO EXECUTE A CHANGE ORDER FOR A STANDBY GENERATOR FOR THE OAKLAND AIRPORT CONNECTOR

NARRATIVE:

PURPOSE

To obtain Board authorization to execute Change Order No. 37 to Oakland Airport Connector (OAC) Design-Build Contract No. 01ZK-110. Change Order No. 37 is for the procurement, site construction, installation and testing of a standby generator for the OAC Project, in an amount not to exceed \$1,849,301 (one million eight hundred forty nine thousand, three hundred one dollars).

DISCUSSION

On September 16, 2010, the Board authorized the General Manager to award Contract No. 01ZK-110 for the design and construction of the OAC Project to Flatiron/Parsons, JV (FPJV, or Contractor); and Contract No. 01ZK-120 for the operation and maintenance of the completed system to be performed over a twenty year period to Doppelmayer Cable Car (DCC). On September 23, 2010, the General Manager issued a Notice of Award for the contracts. Notice to Proceed 1-A was issued November 1, 2010 for the design, and Notice to Proceed 1-B was issued March 1, 2011 for the construction. Both design and construction are currently underway.

Contract No. 01ZK-110 for design-build of the OAC Project requires the Contractor to source its electrical propulsion power from two independent feeds from the utility service provider PG&E: a "Primary" source and an "Alternate" source. The system would normally operate on the Primary source and, in the event of an outage of the Primary source, the system would safely stop, switch to the Alternate source, and resume system operation. Without an Alternate source of power, the system would safely stop, but passengers would need to be evacuated from the system using the designated emergency walkways and exit paths along the system guideway.

BART's assumption at the time of project planning and preliminary design was that at least four relatively low capacity Power Distribution Substations (PDS) would be evenly spaced along the alignment. BART staff performed a preliminary investigation of available power in the corridor in 2004 and found that two independent feeds were available at each of the four assumed PDS locations. The contract documents describe the results of the preliminary investigation and state that power is available in specific areas for the Contractor's use. The Contractor based its design

on the assumption that Primary and Alternate feeds would be available as specified in the contract documents. Although the Contractor's design is compliant with the contract documents and based on the power availability assumptions described therein, the power availability in the corridor has changed.

The current OAC system technology (DCC cable propelled) requires a single, high capacity PDS due to the cable propelled system having all of its electrical propulsion power needs at the centrally-located Maintenance and Storage Facility (M&SF) where the drive machinery resides. Although the M&SF was one of the four initially assumed PDS locations, the need for a high capacity feed at that location was not anticipated. Working with PG&E, BART has secured one power feed with enough capacity to operate the system, which will serve as the "Primary" feed. However, because of business growth in the vicinity (and corresponding increased power consumption) and because the single centrally located PDS is larger than was assumed in the contract documents, it is now apparent that other existing PG&E feeders in the area are not adequate to supply the power necessary for the Alternate source.

Earlier this year, staff and Contractor engineers investigated possible solutions for the backup source, including the construction of a new Alternate feed, and the installation of a backup generator.

Staff estimates that the cost to construct a new Alternate feed from a PG&E substation separate from the Primary feed could be as high as \$4,000,000 to \$5,000,000. However, the system would remain susceptible to any wide reaching power outage that would disable both the Primary and Alternate feeds, thereby stranding passengers and requiring evacuation as described above.

Considering the long lead time to procure a standby generator and in order to avoid a delay in the project schedule, staff issued a Notice to Proceed Change Notice to the Contractor in an amount not to exceed \$100,000 to develop the design for a standby generator and associated facilities, based on certain specified performance parameters. The Contractor progressed the design of the operating system, electrical and civil site work enough to develop construction, installation, and testing specifications, which resulted in the scope and proposal for this Change Order 37. Staff has now finalized the negotiation of this design effort at a cost of \$159,496.

Staff recommends the procurement and installation of this standby generator, which would establish an independent source of power and allow an orderly system shutdown to be performed in the event of loss of the PG&E Primary feed. The standby generator would start and restore system power within two minutes of a PG&E power outage. A reduced performance mode would be implemented which would operate trains at a reduced power and speed. This would continue long enough to get passengers to their destination (the stations), evacuate them (and their luggage), shut the system down, and activate a bus bridge contingency plan. It would also be possible to continue operating the system using the generator power source in the reduced performance mode. The Contractor has proposed to implement the standby generator at a negotiated cost of not to exceed \$1,849,301 which price includes, but is not limited to, costs for construction of the generator site pad, electrical raceways and cables, and the supply, installation, and system testing of the standby generator.

Pursuant to Board Rule 5-2.4, for construction and procurement contracts greater than \$200,000,000, Change Orders involving expenditures greater than \$500,000 require Board approval.

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

DBE Participation:

This EDD requests authority for the General Manager to approve a change order not to exceed \$1,849,301 including professional services, equipment procurement, and construction/trucking work categories. There is no DBE participation goal or proposed commitment under this change order in the professional services or equipment procurement areas. The Contractor’s proposal, however, includes \$92,890 for DBE participation in construction/trucking, representing 32.4% of the construction/trucking work, which level exceeds the 18% overall contract goal in that category. The Contractor is on target to achieve or exceed the overall DBE participation commitments established at the time of Contract award.

FISCAL IMPACT

Funding of \$1,849,301 for the award of change order for a standby generator for the Oakland Airport Connector is included in the total project budget for FMS #01ZK – Oakland Airport Connector Construction. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of September 28, 2012, \$373,854,842 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
6203	Local	Regional Measure II	98,999,000
541A	State	CTC - PTA	20,000,000
535S	State	FY07/08 - PTMISEA Prop 1B	3,676,302
5903	State	CTC - SLPP	11,098,000
342B	Federal	CA-03-0791 - Oakland Airport Connector	24,999,999
659K	Local	ACTC - Measure B	71,300,000
6131	Local	Regional Measure I	29,881,541
663S	Local	Port of Oakland	43,900,000
Bond	BART	Bond Funds	70,000,000
		Total	373,854,842

BART has expended \$208,529,511, committed \$156,084,066 and reserved \$0 to date for other actions. This action will commit \$1,849,301 leaving an available fund balance of \$7,391,964 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVES

There are two alternatives:

1. Take no action. This is the least expensive option, but the most inconvenient to passengers. In the event of a power outage of the Primary feed, the system would safely stop and passengers would need to be evacuated from the system using the emergency walkways and exit paths designated along the system guideway.
2. Install a new independent Alternate feed from a PG&E substation separate from the Primary feed. In the event of an outage of the Primary source, the system would safely stop, switch to the Alternate source, and resume operation. The system, however, would remain susceptible to any wide-reaching power outage that would disable both feeds. Moreover, staff estimates that the cost to construct a new Alternate feed from a PG&E substation could be as much as \$4,000,000 to \$5,000,000.

RECOMMENDATION

Staff recommends approval of the following motion:

Motion: The General Manager is authorized to execute change order No. 37 to Contract No. 01ZK-110, Oakland Airport Connector, with Flatiron/Parsons Joint Venture, for procurement and installation of a standby power generator to supply backup system traction power, in an amount not to exceed \$1,849,301.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Delaune</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>10/3/12</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Molly McArthur Dept: <i>External Affairs</i> <i>Molly McArthur</i> 9/26/12	General Counsel <i>Andrea Rojas</i> 9/26/12	Controller/Treasurer []	District Secretary []	BARC <i>Paul C. ...</i> 10/3/12
Signature/Date:		[]	[]	[]

TITLE:

Approval of Agreements with Artists for Oakland Airport Connector Project

NARRATIVE:

Purpose:

To obtain Board approval for the General Manager to enter into agreements with the two selected artists for the Oakland Airport Connector Coliseum connector station and the Oakland International Airport terminus station.

Discussion:

The Oakland Airport Connector (OAC) Project has undertaken an art acquisition effort, following guidelines provided by the Federal Transit Administration (FTA) for the incorporation of art into mass transit projects. The OAC will include artwork at the two stations currently under construction: the Coliseum connector station and the Oakland International Airport terminus station. The FTA Policy states that the visual quality of the nation's mass transit systems has a profound impact on transit patrons, improves the appearance and safety of a facility, gives vibrancy to public spaces and contributes to the creation of livable communities.

The goals of the OAC Art Program are to provide a strong visual identity for each station, attract new riders by creating a more inviting and welcoming station, and to elevate the new stations as unique new spaces within the community.

To begin the process, public meetings and presentations were conducted to receive public input and to involve the City of Oakland as a key stakeholder. The selection committee was composed of five individuals: one representing the city of Oakland, one representing the Oakland International Airport, one representing the community at large, one representing BART and one arts professional from the Oakland Museum. The City of Oakland indicated that a former Chair of the Oakland Cultural Arts Commission would represent them in the process, and also selected a local citizen to represent the community. The Oakland International Airport selected the Director of Aviation to represent the airport in the process.

BART solicited qualifications from professional artists to consider for the commissioning of artwork in a two-step process.

The first step was issuance of a Request for Qualifications (RFQ) on May 11, 2012. Artists were

expected to create a significant original artwork for one of the stations and were required to have demonstrated previous experience in carrying out commissions of similar size and complexity. Artists who met the minimum qualifications were advanced to a pre-qualified pool of artists for review by the selection committee. The committee reviewed the pool of qualified artists and selected six to short-list.

The next step was the issuance of a Request for Proposal (RFP) on June 26, 2012 to the short-listed artists inviting them to submit proposals for final consideration.

Community input was sought to provide information about Oakland and the neighborhoods surrounding each station to the short-listed artists as they developed their design concepts for artwork. Notices were placed in galleries, libraries, community halls and meeting rooms across Oakland, advertisements were placed in the Oakland Tribune and the Oakland Post, and emails were sent to BART lists, City of Oakland lists and Oakland International Airport lists to advise the public of the Community Meeting. Notices advised that public input would be accepted via email, traditional mail, phone call and text for an additional 30 days. The meeting was held on January 19, 2012 and the information gathered was provided to artists for use in the development of their proposals.

The short-listed artists prepared their proposals for a two-phased evaluation process.

Phase one was a technical submission. Each artist prepared a package of technical specifications describing the intended fabrication methods, the technical attributes of the proposed art materials, the exact size, height, width and weight of the piece, details of the installation requirements and mounting mechanisms, as well as a description of the relationship of the art to the building. These technical packages were reviewed by a technical review team that included BART engineering staff, the station architect of record, members of the design team, the station constructor and a professional art conservator with expertise in the evaluation of architectural materials. Feedback from this review was provided to the artists so they could incorporate any required technical changes into their design proposals. This step ensured that the proposed artwork would meet BART's standards for operations and maintenance and allowed the final evaluation of the proposals to be based on aesthetic criteria alone.

The second phase was the final evaluation of each proposal by the selection committee. Each artist presented a mock up of his or her proposal accompanied by a narrative explanation and supporting images, slides or other materials that presented a complete understanding of the proposed artwork.

The selection committee unanimously chose Tom Patti of Pittsfield, Massachusetts to treat the glass windscreen walls at the Oakland International Airport terminus station with large expanses of colored glass enhanced with dichroic glass and curvilinear metal inlays. The committee unanimously chose Gordon Huether of Napa, California to treat the windscreen walls at the Coliseum connector station with colored art glass and fused glass roundels that represent aerial views of Oakland. The artists will each be commissioned via an agreement with BART. The office of General Counsel will approve the Agreements as to form. Board action is required

because of the size of each agreement.

Fiscal Impact:

Funding of \$700,000 for the award of artwork contracts for the Oakland Airport Connector is included in the total project budget for FMS #01ZL000 – Oakland Airport Connector Construction Management. The office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

As of September 14, 2012, \$27,374,309 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
851W	BART	FY07-11 Capital Allocation	154,192
352W	Federal	CA-90-Y270 - FY04 Capital Assistance Program	1,200,000
535S	State	FY07/08 - PTMISEA Prop 1B	8,570,117
659J	Local	ACTA - Measure B	5,500,000
6203	Local	Regional Measure II	11,950,000
		Total	27,374,309

BART has expended \$19,175,107, committed \$5,443,757 and reserved \$141,927 to date for other actions. This action will commit \$700,000 leaving an available fund balance of \$1,913,518 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

Alternatives:

The District could reject the committee's selection and solicit new proposals for artwork. Re-issuing the RFQ/RFP would cause adverse impacts to the scheduled implementation of the OAC Project, and would likely lead to claims by the contractor for additional compensation due to delays and related impacts because installation of the artwork must be integrated with the design-build schedule for construction of the stations.

Recommendation:

It is recommended that the Board adopt the following motion:

Motion:

The General Manager is authorized to execute agreements with Tom Patti and Gordon Huether, in an amount not to exceed \$350,000 each, for the procurement, fabrication and installation of artwork for the Coliseum connector and Oakland International Airport terminus stations.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeBurger</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>10/4/12</i>		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Roddrick Lee Dept: Government and Community Relations <i>Roddrick Lee</i> 10-04-12	General Counsel <i>Audrea Raway</i> 10/4/12	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i> 10-4-12
TITLE:				

Adoption of a Policy on Sister Transit Agency Affiliations

NARRATIVE:

Purpose:

To request that the BART Board of Directors adopt the attached Policy on Sister Transit Agency Affiliations.

Discussion:

Sister Transit Agency affiliations may be beneficial to BART in that they may create opportunities to share best practices in rail rapid transit operations which may, in turn, improve efficiencies and service delivery, ultimately benefitting BART customers. Also, such affiliations may provide the BART Board of Directors and staff opportunities to understand the challenges and benefits of the BART system in the international context and to share that understanding with the communities served by BART.

It is important for the Board to adopt a Sister Transit Agency Affiliations Policy to provide consistent rules applicable to the establishment of such affiliations, including but not limited to, Board appointment of a Board liaison for each affiliation, General Manager appointment of a staff liaison, and limitations on related travel expenditures. Key provisions include the requirement that the Board approve the establishment of each affiliation and agreement with a Sister Transit Agency.

Fiscal Impact:

There is no fiscal impact resulting from the adoption of the Policy; however, there will be costs resulting from the establishment of each Sister Transit Agency affiliation approved by the Board. In addition to staff time to develop and continue each Sister Transit Agency affiliation, there may be staff liaison travel expenses not to exceed \$10,000 per year. Staff liaison travel expenses will be paid for through the department budget of the staff liaison.

Also, in accordance with the Policy, 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. No other expenditures related to each Sister Transit Agency affiliation shall be made without prior approval by the Board.

Adoption of a Policy on Sister Transit Agency Affiliations

Alternative:

Do not adopt the proposed Policy.

Recommendation:

Adoption of the following motion.

Motion:

The Board hereby approves the attached Policy on Sister Transit Agency Affiliations.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Policy on Sister Transit Agency Affiliations

It is the policy of the San Francisco Bay Area Rapid Transit District (BART) to encourage relationships that enable the mutual sharing of ideas on and experiences in the administration and operation of public rail transit systems. These relationships may be established through formal Sister Transit Agency affiliations, which may have the primary benefit of creating opportunities to share best practices in rail rapid transit operations which may, in turn, improve efficiencies and service delivery, ultimately benefitting BART customers. An additional benefit may be to provide the BART Board of Directors and staff opportunities to understand the challenges and benefits of the BART system in the international context and to share that understanding with the communities served by BART. To that end, BART establishes the following mandatory rules for Sister Transit Agency affiliations:

- (1) Each proposed Sister Transit Agency affiliation must be approved by the BART Board of Directors by resolution.
- (2) Each agreement with a Sister Transit Agency to formalize the affiliation must be approved by the BART Board of Directors.
- (3) The BART Board President may appoint, subject to ratification by the BART Board of Directors, a Board liaison for a Sister Transit Agency affiliation. The liaison will represent the BART Board of Directors at official functions and shall keep the Board informed of Sister Transit Agency activities and events.
- (4) Each Sister Transit Agency affiliation shall be managed by a staff liaison appointed by the General Manager. The staff liaison shall coordinate communications between BART and the Sister Transit Agency.
- (5) After Board approval of a Sister Transit Agency affiliation, related travel expenses by the staff liaison appointed by the General Manager shall not exceed \$10,000 per year. The Board liaison approved by the Board 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. All applicable code of conduct, conflict of interest and financial contributions restrictions will remain in effect. The Board liaison may also use his or her Director's Travel Allowance for affiliation related travel.
- (6) Other than staff time, and travel expenses as outlined in (5) above, no expenditures related to any Sister Transit Agency affiliation shall be made without prior approval of the BART Board Directors.
- (7) Sister Transit Agency agreements shall not obligate the expenditure of BART funds without prior approval of the BART Board of Directors.

(8) By entering into a Sister Transit Agency affiliation, BART neither recognizes nor endorses political actions of the respective Sister Transit Agency or its government(s). Any agreement between the BART and a Sister Transit Agency shall include a stipulation to that effect.

(9) The Sister Transit Agency affiliation shall emphasize sharing of experiences between the governing bodies and staffs of the respective sister transit agencies, with a focus on possible ways to improve various aspects of operations in each agency.

(10) Each Sister Transit Agency affiliation and the expenditures related to such affiliation is subject to annual review by the BART Board of Directors to determine whether they comply with this Policy and whether the affiliation remains beneficial to BART. Staff will prepare an Executive Decision Document annually that covers all Sister Transit Agency affiliations and expenditures, with a recommendation to continue or discontinue each affiliation.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter D'Amico</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>10/4/12</i>		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Roddrick Lee Dept: Government and Community Relations <i>Roddrick Lee</i> 10-04-12	General Counsel <i>Dudley Rivas</i> 10/4/12	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>[Signature]</i> 10-4-12 <i>[]</i>

TITLE:

Adoption of a Resolution to Authorize the Development of a Sister Transit Agency Affiliation with Shanghai Metro

NARRATIVE:

Purpose:

To request that the BART Board of Directors adopt a resolution authorizing the development of a Sister Transit Agency affiliation with Shanghai Metro, the subway system in Shanghai, China, and to ratify the appointment by the Board President of Director James Fang as the Board liaison for that affiliation.

Discussion:

BART and Shanghai Metro have shared interests as rail transit providers and may mutually benefit from a relationship that enables the sharing of ideas and experiences related to the administration and operation of public rail transit systems. A Sister Transit Agency affiliation could result in the sharing of best practices, which may, in turn, improve efficiencies and service delivery, ultimately resulting in benefits to each agency's customers. Also, such affiliation may provide the BART Board of Directors and staff opportunities to understand the challenges and benefits of the BART system in the international context and to share that understanding with the communities served by BART.

In accordance with the Policy on Sister Transit Agency Affiliations (the "Policy"), the Board is being requested to authorize the development of a Sister Transit Agency affiliation with Shanghai Metro, and to ratify the Board President's designation of Director James Fang as the Board liaison for such affiliation.

Fiscal Impact:

In addition to staff time to develop and continue the Sister Transit Agency affiliation with Shanghai Metro, there may be staff liaison travel expenses not to exceed \$10,000 per year, as specified in the Policy. Staff liaison travel expenses will be paid for through the department budget of the staff liaison.

Also, in accordance with the Policy, 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 Director's Travel Allowance for affiliation related travel.

Adoption of a Resolution to Authorize the Development of a Sister Transit Agency Affiliation with Shanghai Metro

Alternative:

Do not develop a Sister Transit Agency affiliation with Shanghai Metro.

Recommendation:

Adoption of the following motion.

Motion:

The Board hereby approves the attached Resolution of Support for Developing a Sister Transit Agency Affiliation with Shanghai Metro.

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

In the Matter of Support for
Developing a Sister Transit Agency
Affiliation with Shanghai Metro

Resolution No. _____

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART), a multi-county special district for rapid transit established under the laws of the state of California, USA, and Shanghai Metro, the subway system in Shanghai, China, have shared interests as rail rapid transit providers; and

WHEREAS, it may be of mutual benefit to both agencies to develop a relationship that enables the mutual sharing of ideas on and experiences in the administration and operation of their public rail transit systems, which may result in improved efficiencies and service delivery, ultimately benefitting the customers and communities served by the agencies; and

WHEREAS, BART desires to promote the development of a relationship in an atmosphere of trust, friendship and understanding; and

WHEREAS, communications and periodic visits by and between representatives of BART and Shanghai Metro could aid in the development of a relationship between them; and

WHEREAS, the authorization of the BART Board of Directors is necessary to the development of a Sister Transit Agency affiliation with Shanghai Metro;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District:

SECTION 1 That the Board of Directors authorizes the development of a “Sister Transit Agency” affiliation with Shanghai Metro; and

SECTION 2 That the Board President appoints and the Board of Directors ratifies the appointment of Director Fang as a Board liaison to represent the Board in development of a Sister Transit Agency affiliation; and

SECTION 3 That any formal agreement to establish a Sister Transit Agency affiliation with Shanghai Metro shall be subject to separate approval by the Board of Directors and compliance with the District’s Sister Transit Agency Affiliations Policy, and that all other provisions of the Sister Transit Agency Affiliations Policy shall be applicable to the affiliation with Shanghai Metro.

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