

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

BOARD MEETING AGENDA

November 21, 2013

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, November 21, 2013, 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 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.

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.
Alan Smith, Vice Chair, BART Accessibility Task Force

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of October 24, 2013 (Regular), and October 24, 2013 (Special).* Board requested to authorize.
- B. Amendment to the District's Conflict of Interest Code.* Board requested to approve.
- C. Resolution of Project Compliance and Initial Project Report for Regional Measure 1, Regional Measure 2 and AB1171 Bridge Toll Funds for the eBART Project.* Board requested to adopt.
- D. BART Accessibility Task Force New Member Appointment.* Board requested to appoint.
- E. Resolutions Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act.* Board requested to adopt.
- F. Reject All Bids for Contract No. 59CT-110, Wayfinding Improvements Phase II.* Board requested to reject.

3. ADMINISTRATION ITEMS

Director Murray, Chairperson

- A. Lease for Approximately 22,480 Square Feet of Warehouse Space at 1085 Whipple Avenue, Hayward, California.* Board requested to authorize.
- B. Condemnation of Real Property for the Hayward Maintenance Complex Project, BART Parcel Numbers O-ACHMC1-1A, O-ACHMC2-1A, and O-ACHMC3-1A.* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- C. Amendment to Agreement No. 6M4303, with Gummerson & Conhain, Inc., for Negotiator Services.* Board requested to authorize.
- D. Productivity-Adjusted Inflation-Based Fare Increase Program.
 - i. Updated Title VI Equity Assessment for the Extension of the Productivity-Adjusted Inflation-Based Fare Increase Program.* Board requested to approve.
 - ii. Amendment to Resolution No. 5208, New Fare Rates and Charges: Productivity-Adjusted Inflation-Based Fare Increases.* Board requested to authorize.

4. ENGINEERING AND OPERATIONS ITEMS

Director Fang, Chairperson

- A. (CONTINUED from October 24, 2013, Board Meeting)
Procurement of Transit Vehicles: Exercise Option 2, for 150 Transit Vehicles; Option 3, for 115 Transit Vehicles; and Option 4, for 100 Transit Vehicles, of Contract No. 40FA-110, with Bombardier Transit Corporation.* Board requested to authorize.
- B. Change Order to Contract No. 79HM-110, San Francisco Transition Structure Security Barrier (SFTS SB), with Taber Construction, Inc., for Temporary Suspension – Contractor Costs (C.O. No. 22).* Board requested to authorize.
- C. Project Changes and Third Addendum to the East Contra Costa BART Extension (eBART Project) Final Environmental Impact Report.* Board requested to authorize.

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

Director Blalock, Chairperson

- A. Authorize a Cooperative Agreement with the City of Oakland and a Lease Agreement for an Attended Bike Station at 19th Street/Oakland Station.* Board requested to authorize.
- B. California Passenger Rail Program Guiding Principles.* Board requested to adopt. (Director Murray's request.)

6. GENERAL MANAGER'S REPORT

NO REPORT.

7. BOARD MATTERS

- A. Board of Directors Role in Investigations of the October 19, 2013, Right of Way Accident. For discussion and potential action. (Directors Fang, Mallett, and Murray's request.)
- B. (CONTINUED from October 10, 2013, Board Meeting)
Board Meeting Schedule. For discussion. (Directors Mallett and Saltzman's request.)
- C. Board Member Reports.
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary.)
- D. 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.)

8. PUBLIC COMMENT

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

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

A. CONFERENCE WITH REAL ESTATE NEGOTIATORS

Property: 300 Lakeside Drive and 344 20th Street, Oakland, CA
District Negotiators: Robert Powers, Assistant General Manager, Planning & Development; and Jeffrey P. Ordway, Manager, Real Estate and Property Development
Negotiating Parties: The Swig Co., and San Francisco Bay Area Rapid Transit District
Under Negotiation: Price and Terms
Government Code Section: 54956.8

B. CONFERENCE WITH REAL ESTATE NEGOTIATORS

Property: Property Located at the San Leandro BART Station
District Negotiators: Robert Powers, Assistant General Manager, Planning & Development; and Jeffrey P. Ordway, Manager, Real Estate and Property Development
Negotiating Parties: Bridge Housing Corporation and San Francisco Bay Area Rapid Transit District
Under Negotiation: Price and Terms
Government Code Section: 54956.8

C. CONFERENCE WITH LABOR NEGOTIATORS

Designated representatives: Grace Crunican, General Manager; Paul Oversier, Assistant General Manager, Operations; Rudolph Medina, Department Manager – Labor Relations; and Thomas P. Hock, Veolia Transportation, Inc.
Employee Organizations: (1) Amalgamated Transit Union, Local 1555;
(2) American Federation of State, County and Municipal Employees, Local 3993;
(3) BART Police Officers Association;
(4) BART Police Managers Association;
(5) Service Employees International Union, Local 1021; and
(6) Service Employees International Union, Local 1021, BART Professional Chapter
(7) Unrepresented employees (Positions: all)
Government Code Section: 54957.6

10. OPEN SESSION

- A. Resolution Ratifying Collective Bargaining Agreement with the Amalgamated Transit Union, Division 1555.* Board requested to authorize.
- B. Resolution Ratifying Collective Bargaining Agreement with the Service Employees International Union, Local 1021, including the BART Professional Chapter.* 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 1,690th Meeting
October 24, 2013

A regular meeting of the Board of Directors was held October 24, 2013, convening at 9:06 a.m. in the Board Room, 344 20th Street, Oakland, California. President Radulovich presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Keller, Mallett, McPartland, Murray, Saltzman, and Radulovich.

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

President Radulovich called for a moment of silence to honor Christopher Sheppard and Laurence Daniels.

President Radulovich announced that the Regular Meeting would be recessed at 10:30 for a Special Board Meeting, and that the Regular Meeting would reconvene at the conclusion of the Special Meeting.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of October 10, 2013.
2. Resolution of Local Support for a Regional Transportation Improvement Program Project Application for the Daly City Station Improvements Project.
3. Revise and Supersede Resolution No. 4898, Authorizing the General Manager to File Applications, Provide Supporting Documents and Execute Funding Agreements with the United States Government, the State of California and other Entities.
4. Award of Invitation for Bid No. 8927, Cable, Power.
5. Resolution Supporting the Tanforan Assembly Center Memorial Committee Grant Application to the National Parks Service.

Director Blalock made the following motions as a unit. Director McPartland seconded the motions, which carried by unanimous electronic vote. Ayes - 7: Directors Blalock, Keller, Mallett, McPartland, Murray, Saltzman, and Radulovich. Noes - 0. Absent - 2: Directors Fang and Raburn.

1. That the Minutes of the Meeting of October 10, 2013, be approved.

Director Blalock requested a report on customer complaints regarding alleged "hacking" of District Human Resources employment application web site.

President Radulovich called for Public Comment. The following individuals addressed the Board.

Mr. Jerry Grace
Mr. John O'Connor
Mr. Jon Spangler

President Radulovich announced that the Board would enter into closed session in the adjacent conference room under Item 9-A (Conference with Labor Negotiators) of the regular meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Meeting recessed at 1:43 p.m.

The Board reconvened in closed session at 1:59 p.m.

Directors present: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None.

The Board Meeting recessed at 4:07 p.m.

The Board reconvened in open session at 4:08 p.m.

Directors present: President Radulovich.

Absent: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, and Saltzman.

President Radulovich announced that the Board had concluded its meeting in closed session, and that there were no announcements to be made.

The Board Meeting was adjourned at 4:08 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 1,691st Meeting
October 24, 2013

A special meeting of the Board of Directors was held October 24, 2013, convening at 11:58 a.m., in the Board Room, 344 20th Street, Oakland, California. President Radulovich presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None. Director Blalock entered the Meeting later.

President Radulovich called for Public Comment on Item 3 only.

Ms. Antonette Bryant addressed the Board.

Director Blalock entered the Meeting.

The following individuals addressed the Board.

Mr. Steve Zeltzer
Mr. Jerry Grace
Mr. Elliot H.
Mr. Robert Allen
Ms. Doris Collier
Ms. Alisha Anderson

President Radulovich brought the matter of Resolutions Recognizing Christopher Sheppard and Laurence Daniels before the Board. Director Murray presented the item. The item was discussed. Director Mallett moved adoption of Resolution No. 5225, In Memory of Christopher Sheppard, and Resolution No. 5226, In Memory of Laurence Daniels. Director Murray seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes – 0.

The Special Board Meeting was adjourned at 12:30 p.m.

Kenneth A. Duron
District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia Oberlander</i>		GENERAL MANAGER ACTION REQ'D: Forward to Board of Directors for adoption		
DATE: c <i>11/14/13</i>		BOARD INITIATED ITEM: NO		
Originator/Prepared by: Patricia Williams Dept. District Secretary's Office	General Counsel	Controller/Treasurer	District Secretary	BARC
<i>P. Williams</i> Signature/Date: <i>11-12-13</i>	<i>Andrew P. ...</i> Signature/Date: <i>11-13-13</i>	<i>[Signature]</i> Signature/Date: <i>[]</i>	<i>[Signature]</i> Signature/Date: <i>11-13-13 []</i>	<i>[Signature]</i> Signature/Date: <i>11-13-13 []</i>

TITLE:

AMENDMENT TO CONFLICT OF INTEREST CODE

NARRATIVE:

PURPOSE:

To obtain Board adoption of the 2013 amendment to the District's Conflict of Interest Code.

DISCUSSION:

The Political Reform Act of 1974 (the Act) requires that public agencies, including the District, adopt and promulgate a Conflict of Interest Code (Code) which conforms to its detailed requirements (California Government Code section 87300). The Code must enumerate positions within the agency which are involved in the making or participation in making of decisions which may foreseeably have a material effect on any financial interest, and for each such position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable (section 87302). The Act further requires that each agency review its Conflict of Interest Code each even numbered year and proceed to amend the Code if a change is necessitated by changed circumstances (section 87306.5). The District's Code, as well as any amendment to it, is subject to the approval of the Fair Political Practices Commission (FPPC). The amendment process is provided for in the regulations of the FPPC, and in the case of a substantive amendment, requires the agency provide impacted officers and employees a notice of the proposed amendment and the opportunity to comment prior to its submission to the FPPC for approval.

The District first adopted a Conflict of Interest Code in accordance with the Act by Resolution No. 2536 on February 10, 1977. The Code was subsequently amended in 1980, 1982, 1985, and 1999. For the past several years additions and deletions have been made to the District's Code, but it has remained in "draft" status pending completion of the formal amendment process.

AMENDMENT TO CONFLICT OF INTEREST CODE

The amendment: (1) revises the list of designated positions whose incumbents must disclose certain investments, income, interests in real property and business positions and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests; (2) revises the disclosure categories and revises the list of reportable interests to reflect those which may be impacted by District decisions; and (3) includes a section listing officials who manage public investments, who must file disclosure statements pursuant to Gov. Code section 87200.

The amendment was developed and submitted to the FPPC in accordance with its regulations. Notice of the proposed amendment and the opportunity to comment were provided to all officials and employees designated in the proposed Code on or about September 28, 2012. The final draft Code and all attachments were submitted to the FPPC on February 25, 2013, and was approved on September 17, 2013.

FISCAL IMPACT:

None.

ALTERNATIVE:

None.

RECOMMENDATION:

That the Board formally adopt the amended Conflict of Interest Code as approved by the FPPC on September 17, 2013.

MOTION:

Adoption of the attached Resolution.

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

In the Matter of Amendment to
Conflict of Interest Code ____/

Resolution No. _____

WHEREAS, the Conflict of Interest Code (“Code”) for the San Francisco Bay Area Rapid Transit District (“District”) which was originally adopted and promulgated on February 10, 1977, was last amended on November 2, 1999, and

WHEREAS, the District’s staff and the scope of its activities have changed considerably in the ensuing years, and

WHEREAS, the District is required, pursuant to the Political Reform Act of 1974 (“Act”) to review its Code on a periodic basis and make such amendments as are required by changed circumstances in order to conform the Code to the requirements of the Act, and

WHEREAS, a proposed Code amendment was prepared and adequate notice and opportunity to comment were provided in accordance with the Act and the regulations of the Fair Political Practices Commission (“FPPC”) at 2 Cal. Code of Reg. Section 18750.1, and

WHEREAS, the FPPC approved the proposed Code on September 17, 2013, and

WHEREAS, the amended Code became effective on October 17, 2013, pursuant to the Regulations of the FPPC,

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby adopts the Code as approved by the FPPC. A copy of the amended Code is attached hereto and incorporated herein as though set forth in full.

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Supersedes Resolution No. 4751

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendment to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict of interest code for the **San Francisco Bay Area Rapid Transit District (BART)**.

Individuals holding designated positions shall file their statements of economic interests with **BART**. Upon receipt of the statements of Board Members and the General Manager, **BART** shall make and retain a copy and forward the original of these statements to the **Fair Political Practices Commission**. All other statements will be retained by **BART** which will make statements available for public inspection and reproduction. (Gov. Code Section 81008).

APPENDIX A
DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Categories</u>
OFFICE OF THE GENERAL MANAGER	
General Manager	2, 3, 4
Deputy General Manager	2, 3, 4
OFFICE OF THE GENERAL COUNSEL	
General Counsel	2, 3, 4
Associate General Counsel	2, 3, 4
Attorney (All Levels)	2, 3, 4
OFFICE OF THE CONTROLLER-TREASURER (FINANCE)	
Department Manager, Insurance	2, 3
Computer Systems Engineer (All Levels)	1
Liability Risk Analyst	1, 3
Manager of Credit/Debit Fare Programs	1
Manager of Revenue Control	1
OFFICE OF THE DISTRICT SECRETARY	
District Secretary	2, 3, 4
Assistant District Secretary	2, 3, 4
Deputy Assistant District Secretary	2, 3, 4
OFFICE OF THE INDEPENDENT POLICE AUDITOR	
Independent Police Auditor	2, 3, 4
POLICE DEPARTMENT	
Chief of Police	2, 3, 4
Deputy Police Chief	2, 3, 4
Police Commander	2, 3, 4

OFFICE OF OPERATIONS

Chief Engineer	1
Chief Mechanical Officer	1
Chief Transportation Officer	1
Assistant Chief Transportation Officer	1
Assistant General Manager, Operations	2, 3, 4
Assistant Superintendent of Systems Maintenance	1
Assistant Superintendent of Way and Facilities	1
Department Manager, Operations Training & Development	1
District Architect	1
Facilities Maintenance Supervisor	1
Group Manager, Capital Program	1
Group Manager, Electrical & Mechanical Engineering	1
Group Manager, Operations Support & Review	1
Group Manager, Rail Vehicle Capital Program	1
Group Manager, Revenue Vehicles	1
Group Manager, Systems Engineering	1
Group Manager, Vehicle Maintenance & Engineering	1
Manager of Automotive & Equipment Maintenance	1
Manager of Automatic Fare Control Maintenance	1
Manager of Central Support	1
Manager of Civil & Structural Engineering	1
Manager of Communications	1
Manager of Computer Systems Engineering	1
Manager of Drafting & Configuration	1
Manager of Electrical Engineering	1

Manager of Electronics & Communications Engineering	1
Manager of Enterprise Performance Management	1
Manager of Fleet & Capacity Planning	1
Manager of Maintenance Administration	1
Manager of Mechanical Engineering	1
Manager of Operations Liaison	1
Manager of Rail Operations Support	1
Manager of Reliability Engineering	1
Manager of Schedules & Services	1
Manager of Station Operations Support	1
Manager of Technical Resources, Publications & Graphics	1
Manager of Telecommunications Revenue Program	1
Manager of Traction Power Engineering	1
Manager of Train Control Engineering	1
Manager of Transit Vehicle Cleaning	1
Manager of Vehicle Systems Engineering	1
Material Coordinator	1
Material Expeditor	1
Principal Civil Engineer	1
Principal Computer Systems Engineer	1
Principal Construction Engineer	1
Principal Electrical Engineer	1
Principal Engineer	1
Principal Mechanical Engineer	1
Principal Reliability Engineer	1
Principal Structural Engineer	1

Principal Train Control Engineer	1
Principal Vehicle Systems Engineer	1
Project Manager	1
Rolling Stock Component Maintenance Superintendent	1
Rolling Stock Maintenance Superintendent	1
Seismic Engineering Manager	1
Senior Quality Engineer	1
Superintendent of Power & Mechanical Maintenance	1
Superintendent of Systems Maintenance	1
Superintendent of Way & Facilities	1
OFFICE OF ADMINISTRATION	
Assistant General Manager, Administration	2, 3, 4
Buyer (All Levels)	2
Contract Administrator	2
Contract Specialist (All Levels)	2
Department Manager, Human Resources	1, 3
Department Manager, Information Systems	1
Department Manager, Labor Relations	1, 3
Department Manager, Procurement	2
Engineer (All Levels)	1, 4
Human Resources Program Manager	1
Manager of Contract Administration	2
Manager of Information Systems	1
Manager of Inventory Management	2
Manager of Labor Relations	1, 3

Manager of Logistics	2
Manager of Maintenance Administration	1
Manager of Purchasing	2
Manager of Strategic Maintenance Program	1
Material Control Systems Supervisor	2
Project Manager	1
Purchasing Support Supervisor	2
Senior Applications Analyst	1
Supervisor, Business Systems Operations	1
OFFICE OF PLANNING & BUDGET	
Executive Manager, Planning and Budget	2, 3, 4
Department Manager, Capital Development & Control	2
Department Manager, Customer Access	1
Department Manager, Operating Budgets & Analysis	2
Department Manager, Planning	1
Department Manager, Real Estate & Right of Way Management	1, 4
Manager of Capital Budgets	2
Manager of Capital Project Control	2
Manager of Financial Planning	2
Manager of Grant Development & Reporting	2
Manager of Management Analysis	2
Manager of Operating Budgets	2
Manager of Planning	1
Manager of Right of Way Services	1, 4
Principal Planner	1
Principal Property Development Officer	1, 4

Principal Real Estate Officer	1, 4
Principal Right of Way Officer	1, 4
Program Manager	1

OFFICE OF TRANSIT SYSTEM DEVELOPMENT

Chief Transit System Development Officer	2, 3, 4
Assistant General Manager, Transit System Development	2, 3, 4
Civil Engineer (All Levels)	1
Construction Engineer (All Levels)	1
Engineer (All Levels)	1
Group Manager, Capital Program	1
Group Manager, Capital Projects	1
Group Manager, Project Controls	1
Group Manager, Seismic Retrofit Capital Program	1
Group Manager, Systems Capital Program	1
Group Manager, Warm Springs Extension	1
Manager of Environmental Compliance	1
Manager of Project Development	1
Manager of Project Support	1
Manager of Special Projects	1
Project Manager	1
Special Project Manager, Tracks & Structures	1

OFFICE OF EXTERNAL AFFAIRS

Executive Manager, External Affairs	2, 3, 4
Department Manager, Communications	1
Department Manager, Customer Services	1
Department Manager, Government & Community Relations	1

Department Manager, Marketing & Research	1
Manager of Community Relations	1
Manager of Local Government & Community Relations	1
Multimedia Managing Producer	1
Principal Marketing Representative	1
Senior Marketing Representative	1
Strategic Program Manager, External Affairs	1

OFFICE OF TRANSIT SYSTEM COMPLIANCE

Executive Manager, Transit System Compliance	2, 3, 4
Chief Safety Officer	2
Administrative Analyst (Office of Civil Rights)	2
Civil Rights Officer (All Levels)	2
Department Manager, Internal Audit	2
Department Manager, Office of Civil Rights	2
Manager of Civil Rights Programs	2
Manager of Employee/Patron Safety	2
Manager of Equal Employment Opportunity Training	1
Manager of Internal Audit	2
Manager of Operations Safety	2
Principal Administrative Analyst (Office of Civil Rights)	2
Principal Engineer, System Safety Department	2
Principal Internal Auditor	2
Program Manager, Office of Civil Rights	2
Senior Administrative Analyst (Office of Civil Rights)	2
Senior Engineer, System Safety Department	2
Senior Internal Auditor	2

Senior Personnel Analyst (Office of Civil Rights) 2

CAPITOL CORRIDOR OFFICE

Managing Director, Capitol Corridor 2, 3, 4

Deputy Managing Director, Capitol Corridor 2, 3, 4

Assistant Mechanical Officer, Capitol Corridor 1

Group Manager, Capitol Corridor 1

Manager of Civil & Structural Engineering 1

Manager of Marketing, Capitol Corridor 1

Manager of Planning 1

Mechanical Officer, Capitol Corridor 1

Program Manager 1

Transportation Officer, Capitol Corridor 1

MISCELLANEOUS – NO EXECUTIVE OFFICE ASSIGNED

Members of the BART Investment Plans Committee fill various positions across the District's Executive Offices. Other positions listed below are unfilled and are therefore not currently assigned to an Executive Office.

Member, BART Investment Plans Committee 5

Environmental Engineer 2

Group Manager, Automatic Fare Collection Capital Program 1

Group Manager, Engineering Liaison 2

Group Manager, Shops & Structures Capital Program 1

Group Manager, Stations Capital Program 1

Manager of Control and Scheduling 1

Manager of Maintenance Engineering 2

Manager of Quality Assurance 1

Manager of Rail Security Programs 2

Manager of Special Construction Services 2

Manager of Systems Configuration Control	1
Manager of Track Geometry	1
Manager of Warranty Administration	1
Principal Safety Engineer	2
Principal Track Engineer	1
Program Logistics Manager	1
Project Manager, Business Advancement Program	2
Rail Vehicle Engineer (All Levels)	1
Rail Vehicle Project Manager	1
Section Manager, Automatic Fare Collection Maintenance	1
Technical Recruiter	1
Consultants/New Positions	*

*Consultants/New Positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The General Manager may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The General Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code (Gov. Code Section 81008.).

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200. These positions are listed for informational purposes only:

President, Board of Directors

Vice President, Board of Directors

Member, Board of Directors

Controller Treasurer

Assistant Controller

Assistant Treasurer

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

APPENDIX B

DISCLOSURE CATEGORIES

Category 1: Investments and business positions in business entities, and income (including receipt of loans, gifts, and travel payments) from sources that:

- provide services, supplies, materials, machinery, or equipment of the type utilized by the designated position's department, including public utilities, consultants, transportation companies, and manufacturers and
- are subject to BART's scope of authority, including regulatory provisions, permits, and licensing.

Category 2: Investments and business positions in business entities, and income (including receipt of loans, gifts, and travel payments) from sources that:

- provide services, supplies, materials, machinery, or equipment of the type utilized by BART, including public utilities, consultants, transportation companies, and manufacturers and
- are subject to BART's scope of authority, including regulatory provisions, permits, and licensing.

Category 3: Investments and business positions in business entities, and of income, including receipt of loans, gifts, and travel payments from entities that filed a claim against BART during the previous two years, or have a claim pending against BART.

Category 4: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by BART.

Category 5: Investments and business positions in business entities, and income (including receipt of loans, gifts, and travel payments) from sources that provide services, supplies, or materials of the type utilized by the BART Investment Plans Committee, including consultants, investment fund managers, and record keepers.

This is the last page of the conflict of interest code of the **San Francisco Bay Area Rapid Transit**.



CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict of interest code for the **San Francisco Bay Area Rapid Transit** was approved on September 17, 2013. This code will become effective on October 17, 2013.

A handwritten signature in black ink, appearing to read "William J. Lenker", written over a horizontal line.

William J. Lenker

Senior Counsel, Legal Division

Fair Political Practices Commission



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia de la Varga</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control <i>Stacey Perkins</i>	General Counsel <i>Richard Davis</i> 11-12-13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Carol Ann</i> 11-12-13 []
Signature/Date:				

TITLE:

**Approval of Resolution of Project Compliance and Initial Project Report for a
Combination of
Regional Measure 1, Regional Measure 2, and AB1171 Bridge Toll Funds for the eBART
Project**

NARRATIVE:

Purpose:

To obtain BART Board approval of an application for a total of \$13,533,000 in a combination of Regional Measure 1 ("RM1"), Regional Measure 2 ("RM2"), and AB1171 bridge toll funds for the eBART Project. The application includes a Resolution of Project Compliance ("Resolution") and an Initial Project Report ("IPR"), as described in the attached IPR Summary. This application is a request for reimbursement to provide funding for a portion of the construction of the eBART Project.

Discussion:

Metropolitan Transportation Commission ("MTC") Resolution No. 3636, as amended, Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2, requires that a project sponsor approve a Resolution and IPR when the project sponsor requests an allocation of RM1, RM2 or AB1171 bridge toll funds. Staff has prepared the attached IPR Summary and Resolution for adoption by the BART Board of Directors to meet MTC's requirement for an allocation of a total of \$13,533,000 of RM1, RM2 and AB1171 bridge toll funding for the eBART Project. This allocation will fund a portion of the Trackwork, Systems and Facility Finishes Contract, which will be the final construction contract for the eBART Project. It will also fund associated construction management and design services.

The eBART Project has received all necessary environmental approvals. On April 23, 2009, the BART Board of Directors certified that the Final Environmental Impact Report (FEIR) for the eBART Project had been completed in compliance with the California Environmental Quality Act (CEQA), adopted the eBART Project and authorized the General Manager to proceed with implementation actions. In April 2011 and May 2012, respectively, the BART Board of Directors approved Addendum No. 1 and Addendum No. 2 to the FEIR, authorizing revisions to several aspects of the eBART Project. Currently, the Board of Directors is considering Addendum No. 3 to the FEIR for minor revisions to the eBART Project. BART and the Contra

Costa Transportation Authority (CCTA) are co-sponsors for bridge toll funds associated with the eBART Project. Previous allocations of bridge toll funds have been used for final design, right of way acquisition, vehicle procurement, and construction of the maintenance facility, transfer platform at the Pittsburg/ Bay Point BART Station and Antioch Station parking lot.

Approval of the IPR and Resolution is a requirement for the application for bridge toll funds. It is expected that CCTA and MTC will approve the IPR and Resolution by December 31, 2013.

Fiscal Impact:

Approval of the IPR and Resolution is a requirement for the District to receive an allocation of \$13,533,000 in RM1, RM2 and AB1171 bridge toll funds for construction of the eBART Project.

Alternative:

Do not approve the IPR and Resolution. Failure to approve the IPR and Resolution would likely result in schedule delays and cost increases for the eBART Project.

Recommendation:

Adoption of the following motion.

Motion:

The Board of Directors approves the Resolution of Project Compliance and Initial Project Report dated October 24, 2013 for Regional Measure 1, Regional Measure 2 and AB1171 bridge toll funds for the eBART Project, as described in the attached Initial Project Report Summary.

eBART Project
Initial Project Report Summary – October 24, 2013

Project Description

The purpose of the eBART project and the State Route 4 widening project is to bring commute relief to the eastern portion of Contra Costa County in a reasonable period of time at a reasonable cost. Eastern Contra Costa County is the fastest growing part of the Bay Area, expecting population growth of 53% and job growth of 132% between 2000 and 2025. CCTA and BART have identified the SR 4 median as the preferred route for transit expansion. The eBART Project is currently under construction. This application is for the construction of eBART Trackwork, System, and Facility Finishes.

Current Allocation Request

Amount Requested	Phase Requested
\$13,533,000	CON

Project Schedule

Phase-Milestone	Planned	
	Start Date	Completion Date
Environmental Document	FY05	FY09
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	FY05	FY09
Final Design - Plans, Specifications & Estimates (PS&E)	FY08	FY13
Right-of-Way Activities /Acquisition (R/W)	FY05	FY14
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	FY11	FY18

Project Budget

Phase	Total Amount - Escalated - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	\$25,900
Final Design - Plans, Specifications and Estimates (PS&E)	\$38,000
Right-of-Way Activities /Acquisition (R/W)	\$118,000
Construction / Rolling Stock Acquisition (CON)	\$320,850
Total Project Budget (in thousands)	\$502,750

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

**In the Matter of the
Approval of a Resolution of
Project Compliance and
Initial Project Report for
Regional Measure 1,
Regional Measure 2, and
AB1171 Bridge Toll Funds
for the East Contra Costa
County Rail
Extension/eBART Project**

Resolution No.

Whereas, the Metropolitan Transportation Commission (“MTC”) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Sections 66500 *et seq.*; and

Whereas, Streets and Highways Code (“SHC”) Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

Whereas, pursuant to SHC Section 31010 (b), funds (generally referred to as “AB1171 bridge toll funds”) generated in excess of those needed to meet the toll commitments as specified in paragraph (4) of subdivision (b) of Section 188.5 of the SHC shall be available to BATA for funding projects consistent with SHC Code Sections 30913 and 30914; and

Whereas, Regional Measure 1 (“RM1”) bridge toll funds, also known as “90 percent Rail Extension Reserves,” approved by the voters of the San Francisco Bay Area in March 1988, provide bridge toll revenue funds from the San Francisco Bay Bridges for use in projects that extend passenger rail service in the San Francisco Bay Area (SHC Sections 30912(b) and 30914(a) (4)); and

Whereas, SB 916, (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (“RM2”), identifies projects eligible to receive funding under the Regional Traffic Relief Plan; and

Whereas, MTC is responsible for funding projects eligible for RM2 funds pursuant to SHC Section 30914(c) and (d); and

Whereas, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for AB1171, RM1, and RM2 bridge toll funds; and

Whereas, allocation requests to MTC must be submitted consistent with such process as outlined in RM2 Policies and Procedures; and

Whereas, BART and the Contra Costa Transportation Authority (“CCTA”) are sponsors of the East Contra Costa County Rail Extension/eBART project (the “PROJECT”), which is eligible for consideration of AB1171, and RM2 bridge toll funds; and

Whereas, the PROJECT is eligible for 90 percent Rail Extension Reserves RM1 funds; and

Whereas, the RM1, RM2, and AB1171 bridge toll funds allocation request, sponsored by BART, in the Initial Project Report (“IPR”) dated October 24, 2013 and incorporated herein as though set forth at length, lists the purpose, schedule, budget, expenditure and cash flow plans for which BART is requesting that MTC allocate RM1, RM2, and AB1171 bridge toll funds for the PROJECT; and

Whereas, BART and its agents agree to comply with the provisions of the MTC’s RM2 Policy Guidance (MTC Resolution No. 3636) for the drawdown of RM1, RM2 and AB1171 bridge toll funds;

NOW, THEREFORE, BE IT RESOLVED that:

1. BART certifies that the PROJECT is consistent with the Regional Transportation Plan (“RTP”).
2. BART certifies that all environmental approvals necessary for the PROJECT have been obtained and that the year of funding for the construction phase has taken into consideration the time necessary to obtain permitting approval, as necessary for such construction.
3. BART certifies that the PROJECT phase or segment to be funded with RM1, RM2 and AB1171 bridge toll funds is fully funded and results in an operable and useable segment.
4. BART approves the updated IPR dated October 24, 2013 as described in the attached IPR Summary (“Summary”).
5. BART approves the cash flow plan described in the IPR dated October 24, 2013, as described in the attached Summary.

6. BART has reviewed the PROJECT'S needs and has adequate staffing resources to deliver and complete the PROJECT within the schedule set forth in the IPR dated October 24, 2013, as described in the attached Summary.

7. BART is an eligible sponsor of projects in the RM2 Regional Traffic Relief Plan, Capital Program, in accordance with SHC Section 30914(c).

8. The PROJECT is eligible for receipt of RM1 and AB1171 bridge toll funds consistent with SHC Sections 31010(b), 30912(b) and 30914(a)(4).

9. The PROJECT is eligible for receipt of RM2 bridge toll funds consistent with SHC Section 30914.

10. BART is authorized to submit an application for RM1, RM2, and AB1171 bridge toll funds for the PROJECT in accordance with the provisions of SHC Sections 30913 and 30914, as applicable.

11. BART certifies that the PROJECT and purposes for which RM1, RM2 and AB1171 bridge toll funds are being requested are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.).

12. There is no legal impediment to BART's making allocation requests for RM1, RM2 and AB1171 bridge toll funds.

13. There is no pending or threatened litigation, which might in any way adversely affect the PROJECT, or the ability of BART, to deliver the PROJECT.

14. BART agrees to indemnify and hold harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of BART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM1, RM2 and AB1171 bridge toll funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM1, RM2 and AB1171 bridge toll funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

15. BART agrees that, if any revenues or profits from any non-governmental use of property (or PROJECT) are collected, those revenues or profits shall be used exclusively for the public transportation services for which the PROJECT was initially approved, either for capital improvements or maintenance and operational costs; otherwise, the MTC is entitled to a proportionate share equal to MTC's percentage participation in the PROJECT.

16. BART agrees that assets purchased with RM1, RM2 and AB1171 bridge toll funds, including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that RM1, RM2 and AB1171 bridge toll funds were originally used.

17. BART has authorized its General Manager or her designee to execute and submit an allocation request for the construction phase for the PROJECT to MTC for RM1, RM2, and AB1171 bridge toll funds in the amount of \$13.533 million for the PROJECT purposes and amounts included in the IPR dated October 24, 2013.

18. BART's General Manager or her designee has been delegated the authority to make non-substantive changes or minor amendments to the IPR dated October 24, 2013 as she deems appropriate.

19. A copy of this Resolution shall be transmitted to MTC in conjunction with the filing of the IPR dated October 24, 2013 referenced herein.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marina DelBande</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>11/14/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Franklin Dept: <i>Bob Franklin</i>	General Counsel <i>Robert Franklin</i> <i>11/13/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>Carl Mann</i> <i>11-14-13</i> <i>[]</i>
Signature/Date: <i>11/12/13</i>				
Status: Routed		Date Created: 10/30/2013		

TITLE:

BART Accessibility Task Force New Member Appointment

NARRATIVE:

Purpose:

For the BART Board of Directors to consider appointing a newly nominated member, Ms. Marina Villena, to the BART Accessibility Task Force (BATF).

Discussion:

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

Candidate for BATF Membership:

Marina Villena, a candidate for membership to the BATF, was endorsed by a unanimous vote by the members of the BATF that were present on September 26, 2013, and her membership request is now being submitted to the BART Board for final approval.

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

Ms. Villena has met the above qualifications. This prospective candidate, if approved by the BART Board for BATF membership, will be officially seated as a member of the BATF on November 13, 2013 to serve until June 30, 2014, or when the BART Board announces appointments and reappointments for a new term, whichever occurs later.

If approved, the BATF will include 15 members.

Fiscal impact:

The fiscal impact is the \$15 monthly stipend of travel for which members are eligible. The funding source is operating budget of the Customer Access and Accessibility Department.

Recommendation:

Appoint Ms. Marina Villena to the BATF.

Alternatives:

Do not make the appointment.

Motion:

The BART Board accepts the recommendation of the BATF and appoints the nominated candidate, Marina Villena, for membership to the BATF for a term effective November 13, 2013 to June 30, 2014, or until the Board makes new appointments, whichever occurs later.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/15/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Human Resources <i>[Signature]</i> Signature/Date:	General Counsel <i>[Signature]</i> 11-15-13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> 11-15-13 []
Status: Routed		Date Created: 11/12/2013		

TITLE:
Resolution Fixing the Employer's Contribution to CalPERS Medical Premium – Board Requested to Adopt and Sign

NARRATIVE:
NARRATIVE:
PURPOSE

To obtain Board approval to adopt the resolutions which are required by the Public Employees' Medical and Hospital Care Act (PEMHCA) in order to implement the District and Employee/Annuitant premium contribution amounts for Amalgamated Transit Union Local 1555 ("ATU"), Service Employees International Union Local 1021 ("SEIU"), American Federation of State, County, and Municipal Employees Local 3993 ("AFSCME"), BART Police Managers' Association ("BPMA") and BART Police Officers' Association ("BPOA"), based on collective bargaining agreements that have been previously ratified by the Board.

DISCUSSION:

The District is still in negotiations with ATU, SEIU, AFSCME, BPMA and BPOA. Their current collective bargaining agreements provide that beginning January 2014, the maximum that the District will contribute for employee and annuitant medical premiums will be based on the more costly of the CalPERS Bay Area HMO Blue Shield Access+ basic plan or the CalPERS Bay Area HMO Kaiser basic plan for the applicable level of plan participation for the employee, less employee/annuitant monthly contributions of \$95.01 in January 2014. A resolution is required to fix the 2014 contribution amount in accordance with the current collective bargaining agreements for each of these bargaining units because the resolution adopted after settlement of the 2009 negotiations currently fixes the contribution amount at the 2013 level. Once the District has reached agreements with ATU, SEIU, AFSCME, BPMA and BPOA, staff will return to the Board for adoption of new resolutions fixing the contribution amounts for these employees at the agreed upon amounts.

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

Staff will be returning to the Board in a subsequent meeting to make similar changes to the premium contribution structure for the medical plans available to current and eligible former

Directors. Those changes will also be effective in January 2014.

FISCAL IMPACT:

The employee/annuitant monthly contributions of \$95.01 are already set in the FY14 budget, so there is no direct fiscal impact of this action.

RECOMMENDATION:

That the Board adopts the following motion.

MOTION:

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

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

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

Resolution No. _____

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

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

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

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary

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

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

Resolution No. _____

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

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

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

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary

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

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

Resolution No. _____

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

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

WHEREAS, (2) The San Francisco Bay Area Rapid Transit District, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by its employees who are represented by the American Federation of State, County and Municipal Employees Local 3993 (AFSCME); now, therefore be it

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary

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

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

Resolution No. _____

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

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

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

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary

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

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

Resolution No. _____

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

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

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

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary

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

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

Resolution No. _____

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

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

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

RESOLVED, (a) That, effective January 2014, the employer's monthly contribution for each employee/annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of the higher of the Bay Area Kaiser basic plan or the Bay Area Blue Shield Access+ basic plan, less \$95.01 employee/annuitant share each month for the year 2014, plus administrative fees and Contingency Reserve Fund Assessments; and

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

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2013.

Signed: _____
Tom Radulovich, Board President

Attest: _____
Kenneth Duron, District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia delVandenberg</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c <i>11/13/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Isaac Lim Dept: Planning and Development <i>Isaac Lim</i>	General Counsel <i>Audrey Paris</i> <i>11/8/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BART <i>Paul Oberman</i> <i>11/12/13</i>
Signature/Date: <i>11/08/13</i>	[]	[]	[]	[]

TITLE:

Reject All Bids for Contract No. 59CT-110 Wayfinding Improvements Phase II

NARRATIVE:

PURPOSE: To reject all Bids for Contract No. 59CT-110, Wayfinding Improvements Phase II.

DISCUSSION: The scope of this Contract includes in the base Bid, the design, fabrication and installation of illuminated wayfinding signs, custom display cases, station identification pylons, kiosks and real-time displays at 16 BART Stations. The Contract also includes two Options for additional illuminated cabinets and additional station identification pylons, respectively. Existing wayfinding, directional, and transit information will be improved by replacing existing signs with new signs to provide consistent and understandable information by reducing written messages and using more pictograms, graphic symbols and operator logos. The 16 Stations included in this Contract are located in Contra Costa, Alameda, San Francisco and San Mateo Counties. The station selection was based upon the funding requirements of Measure J, Proposition 1B and the FTA ADA Rail Station Compliance Assessment.

The District provided advanced notice to 77 prospective Bidders on July 23, 2013 and Contract Documents were sent to 23 plan rooms. The Contract was advertised on July 25, 2013 in local publications. A total of 27 firms purchased copies of the Contract Documents. A pre-Bid meeting was conducted on September 3, 2013 with 25 prospective Bidders attending the meeting. Site tours were conducted on September 3, 2013 and September 4, 2013 with thirteen (13) prospective Bidders attending the September 3 site tours and four (4) prospective Bidders attending the September 4 site tours. Three (3) Bids were received. Bids were publicly opened on September 24, 2013. The Bids received and the Engineer's Estimate are shown below:

Bidder	Location	Total Bid
Alten Construction, Inc.	Richmond, CA	\$5,512,610.00
Arntz Builders, Inc.	Novato, CA	\$7,955,405.00
Blocka Construction, Inc.	Fremont, CA	\$10,735,000.00
Engineer's Estimate		\$6,358,000.00

The apparent low Bidder Alten Construction, Inc. requested relief from its bid under Public Contract Code Section 5103 due to certain clerical errors, which made its bid materially different

than intended. Alten's request was received on October 1, 2013 and was within the required five (5) working days of bid opening. Alten's request was supported by objective documentation reflecting the clerical errors. Accordingly, Staff granted Alten's request to be relieved of its Bid.

The remaining two Bids from Arntz Builders, Inc. and Blocka Construction, Inc. are respectively, 25.1% and 68.8% higher than the Engineer's Estimate. There are insufficient funds to award the Contract to the second low Bidder.

Staff recommends rejection of all Bids due to insufficient funds. Staff will revise the Contract scope of work and re-advertise. Staff believes that re-advertising a revised Contract will attract more and lower Bids.

FISCAL IMPACT: There is no fiscal impact resulting from rejection of all Bids.

ALTERNATIVES: The alternative is to award this Contract. However, District will need to allocate additional funds for the award.

RECOMMENDATION: Based on analysis by staff, it is recommended that the Board adopt the following motion:

MOTION: All Bids for Contract No. 59CT-110, Wayfinding Improvements Phase II, are rejected.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeBauder</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/14/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basulino Dept: Real Estate and Property Development x6852 <i>Joseph Basulino</i>	General Counsel <i>Richard...</i> 11-14-13	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>Carroll...</i> 11-14-13
Signature/Date: 11/12/13		[]	[]	[]
Status: Routed		Date Created: 11/06/2013		

TITLE: LEASE OF WAREHOUSE SPACE – 1085 Whipple Road, Hayward

NARRATIVE:

PURPOSE:

To authorize the General Manager, or her designee, to enter into a lease amendment with PPF Industrial Whipple Properties 1001, LLC (“Landlord”), for approximately 22,480 square feet of warehouse space at 1085 Whipple Road, Hayward, for a 30-month term commencing February 1, 2014.

DISCUSSION:

On June 15, 2011, BART leased from Landlord approximately 48,000 square feet of warehouse space at 1063 Whipple Road for a sixty-one month term, from July 1, 2011 through July 31, 2016 (the “Original Lease”). This space is part of the Whipple Business Park commonly known as 1001-1093 Whipple Road, Hayward.

On May 26, 2011, the Board adopted a California Environmental Quality Act Initial Study/Mitigated Negative Declaration, a Mitigation Monitoring and Reporting Plan, and the proposed Hayward Maintenance Complex (“HMC”) Project, which, in part, authorized acquisition of the PPF Industrial Whipple Properties located at 1001-1093 Whipple Road in Hayward. BART, in collaboration with the Santa Clara Valley Transportation Authority (“VTA”), is in process to acquire the property. Negotiations are ongoing.

In the meanwhile, the District needed space for storage of the following parts and materials, which were being stored outdoors at the Hayward Yard:

- 1) 86 (3' x 4' x 5') boxes of condenser coils, with 23 more boxes to be delivered.
- 2) 6 surface barriers from the Central Subway Metro Project excess spares.
- 3) Skids of circuit board spares from Alstom from the Train Control Project.
- 4) 6 pallets of escalator steps with more to be received as ADA inventory.

5) 85 cases of floor panels, for vehicle interior modifications, to be received.

There was insufficient space at 1063 Whipple Road to store the materials, and it was important to store them before the rainy season. Therefore, the District executed an amendment to the Original Lease to provide for a three-month lease of 22,480 square feet of space 1085 Whipple Road commencing November 1, 2013. The short-term amendment was to allow time for staff to seek Board approval for a longer lease term for the premises.

The proposed new lease term for 1085 Whipple Road will be February 1, 2014 through July 31, 2016. While the termination date matches the termination date of the lease for 1063 Whipple Road, the District anticipates that it will acquire both properties for the HMC Project before the termination date.

The new annual lease payment for the first year of the term will be approximately \$5.09 per square foot per year with a 3% increase at the beginning of each subsequent year. In addition, BART will be responsible for an additional 5.1% of the Landlord's annual operating costs, which will add approximately \$2,600 per month, and a security deposit in the amount of \$9,540.51 will be required.

The first year rent and operating costs will be approximately \$145,686.12. The rent and operating costs for the remaining two years is estimated to be as follows:

Second year	\$149,112.00
Third year (six months only)	\$ <u>76,323.00</u>
Total Rent and Operating Costs	<u>\$371,121.12</u>
Rounded up to:	\$375,000.00

The rounded figure is provided to account for possible fluctuation in the Landlord's annual operating costs.

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

FISCAL IMPACT:

Funding for the rent payments during the first year is not currently included in the Real Estate and Property Development Department's FY14 Operating Budget, but will be added through the upcoming FY 14 Budget Revision. Future year payments would be contained in future year Real Estate and Property Development Department's operating budgets.

ALTERNATIVES:

Do not lease 1085 Whipple Road and instead rent space identified in Fremont, which is not close to the Hayward Yard, or risk damage to parts and materials that would have to be stored outside at the Hayward Yard again.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

That the General Manager, or her designee, is authorized to execute a lease amendment with PPF Industrial Whipple Properties 1001, LLC for 22,480 square feet of warehouse space at 1085 Whipple, Hayward, for a 30-month term beginning February 1, 2014, for a total rental amount, including operating expenses and a security deposit, not to exceed \$385,000.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter de Bevoise</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/15/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basuino Dept: Real Estate and Property Development x6852 <i>Joe Basuino</i> Signature/Date: 11/12/13	General Counsel <i>Andrea Rocco</i> 11-15-13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>Chris Mann</i> 11-14-13 []

Status: Routed	Date Created: 11/06/2013
----------------	--------------------------

TITLE:

**Condemnation of Real Property for the Hayward Maintenance Complex Project
(HMC)
BART Parcel #s O-ACHMC1-1A, O-ACHMC2-1A & O-ACHMC3-1A**

NARRATIVE:

PURPOSE:

To adopt by a two-thirds vote of the entire San Francisco Bay Area Rapid Transit District ("BART" or "District") Board of Directors ("Board") the attached Resolution of Necessity to Condemn fee simple interest in real property located at 1001-1093 Whipple Road, Hayward, California 94544 ("Morgan Stanley Parcel"). This property is required for the Hayward Maintenance Complex Project.

DISCUSSION:

BART proposes to purchase certain real property interests for the purpose of constructing a maintenance complex in Hayward ("HMC" or the "Project"). The Project requires the acquisition of the entire property consisting of approximately 28.59 acres with four warehouse buildings owned by PPF Industrial Whipple Road/Bowman Place, LP and Whipple Properties 1001, LLC which are managed by Morgan Stanley's Real Estate Investment Division. It is located at 1001-1093 Whipple Road, Hayward, California 94544 (BART Parcel O-ACHMC1-1A, O-ACHMC2-1A & O-ACHMC3-1A or the "Subject Parcel").

On May 26, 2011, the San Francisco Bay Area Rapid Transit District ("BART" or "District") Board adopted a California Environmental Quality Act ("CEQA") Initial Study/Mitigated Negative Declaration ("IS/MND"), a Mitigation Monitoring and Reporting Plan ("MMRP"), and the proposed Hayward Maintenance Complex Project. Thereafter, the Federal Transit Administration ("FTA") issued a Categorical Exclusion on September 21, 2011 which determined that the National Environmental Policy Act ("NEPA") requirements and other federal requirements for the Project have been satisfied.

The proposed use of the Subject Parcel is for BART and partly for VTA's Silicon Valley Rapid Transit BART Extension. Project features proposed on and near this parcel have been specifically planned and located in an attempt to meet Project needs in the most beneficial and least environmentally harmful way possible.

The uses to be located on the Subject Parcel, particularly the maintenance facilities and storage areas are necessary for the successful construction of the Project and the safe and efficient operation of the BART system. The Subject Parcel is uniquely suited to support these Project purposes.

The offer required by Section 7267.2 of the Government Code has been made to the owners of record of the Subject Parcel on May 30, 2013. The estimated fair market value of the Subject Parcel is \$35,000,000.

To date, negotiations appear to be at an impasse. The property owners have been notified of the Board hearing on November 21, 2013.

In order to proceed with the recommended condemnation, the Board must determine each of the following:

1. The public interest and necessity require the proposed Project.
2. The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The property described in the resolution is necessary for the proposed Project.
4. That either the offer required by Section 7267.2 of the Government Code has been to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.
5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future;
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

FISCAL IMPACT:

The \$35,000,000 required for the acquisition of Parcel #s O-ACHMC1-1A, O-ACHMC2-1A & O-ACHMC3-1A will be provided by the Santa Clara Valley Transportation Authority ("VTA") per the Hayward Maintenance Complex Cost Sharing Agreement executed between BART and

VTA on August 26, 2013 if this motion is approved. The financial system will recognize the executed agreement under fund 656K - SCVTA for HMC.

There is no fiscal impact on available unprogrammed District reserves.

ALTERNATIVES:

Withdraw the condemnation action and proceed with negotiations without the backing of eminent domain. Withdrawal of the condemnation action may result in the property not being available for Project construction when required and exposing BART to additional escalation on the capital cost of the HMC Project.

RECOMMENDATIONS:

Adoption of the attached Resolution of Necessity to condemn the Real Property.

MOTION:

Adoption of the attached resolution, RESOLUTION OF NECESSITY TO CONDEMN REAL PROPERTY; MAKE FINDINGS AND DETERMINATION; AUTHORIZE EMINENT DOMAIN PROCEEDINGS AND APPLICATION FOR POSSESSION PRIOR TO JUDGMENT FOR BART PARCELS O-ACHMC1-1A, O-ACHMC2-1A & O-ACHMC3-1A; DRAW AND DEPOSIT WARRANT. (Two-thirds vote required.)

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

RESOLUTION OF NECESSITY TO CONDEMN
REAL PROPERTY; MAKE FINDINGS AND
DETERMINATIONS; AUTHORIZE EMINENT
DOMAIN PROCEEDINGS AND APPLICATION
FOR POSSESSION PRIOR TO JUDGMENT FOR
BART PARCELS O-ACHMC1-1A, O-ACHMC2-1A &
O-ACHMC3-1A;
DRAW AND DEPOSIT WARRANT _____ /)

Resolution No. _____

Recitals

1. The San Francisco Bay Area Rapid Transit District (“BART or District”) is undertaking the construction of the Hayward Maintenance Complex Project (the “Project”). On May 26, 2011, the San Francisco Bay Area Rapid Transit District (“BART” or “District”) Board adopted a California Environmental Quality Act (“CEQA”) Initial Study/Mitigated Negative Declaration (“IS/MND”), a Mitigation Monitoring and Reporting Plan (“MMRP”), and the proposed Hayward Maintenance Complex Project. Thereafter, the Federal Transit Administration (“FTA”) issued a Categorical Exclusion on September 21, 2011, which determined that the National Environmental Policy Act (“NEPA”) requirements and other federal requirements for the Project have been satisfied.

2. The Project requires the acquisition of certain property owned by PPF Industrial Whipple Road/Bowman Place, LP and Whipple Properties 1001, LLC (the “Morgan Stanley Interests”) that is defined in paragraph 4 of these Recitals as the Subject Property.

3. The District has complied with all requirements of CEQA and NEPA for the Project.

4. The District desires to acquire for public use, by exercise of the power of eminent domain, property interests, to wit, fee title, together with all improvements situated thereon and together with all rights appurtenant thereto, to certain real property owned in fee simple by the Morgan Stanley Interests, as its interests appear of record, which real property, or interests in property, is located at 1001-1093 Whipple Road, Hayward, California, 94544, and is identified as BART Parcel Numbers O-ACHMC1-1A, O-ACHMC2-1A, O-ACHMC3-1A (Assessor's Parcel Numbers 475-50-17-4, 475-50-17-5 and 475-50-16), and is more particularly described and shown in Exhibit A, attached hereto and incorporated herein by this reference (the "Subject Property").

5. The Board of Directors constitutes the governing body of the District and is authorized by Sections 28953, 29010, and 29031 of the California Public Utilities Code to acquire the Subject Property by eminent domain.

6. A written offer has been tendered to the owner or owners of record to purchase the Subject Property for the fair market value, and the owner or owners have been sent written notice of the intent to adopt this resolution of necessity.

7. The Board of Directors has given due consideration to all oral and documentary evidence presented and has found that the acquisition of the Subject Property is required by the public interest and necessity for rapid transit purposes, more particularly to construct the Project and all incidents thereto.

Now, therefore, by vote of two-thirds or more of its members, the Board of Directors of the San Francisco Bay Area Rapid Transit District does find and resolve that:

1. The public interest and necessity require the proposed Project;
2. The proposed Project is planned or located in the manner which will be most compatible

with the greatest public good and the least private injury;

3. The property described in the resolution is necessary for the proposed Project;
4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence;
5. The District has complied with all conditions and statutory requirements, including those prescribed by CEQA, that are necessary to exercise the power of eminent domain to acquire the Subject Property;
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the District's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future;
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the District's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

San Francisco Bay Area Rapid Transit District, Office of the General Counsel, is hereby
AUTHORIZED AND EMPOWERED:

To acquire in the name of the San Francisco Bay Area Rapid Transit District, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California.

To prepare and prosecute in the name of the San Francisco Bay Area Rapid Transit District

such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of just compensation, based on an appraisal, and to apply to said court for an order permitting the San Francisco Bay Area Rapid Transit District to take immediate possession and use the Subject Property for said public uses and purposes.

The General Manager of the San Francisco Bay Area Rapid Transit District is hereby
AUTHORIZED AND EMPOWERED:

To draw a warrant in the amount as determined by an appraisal of the fair market value of the Subject Property, made payable on funding provided by the Santa Clara Valley Transportation Authority, said warrant to be made payable to State of California--Condemnation Deposits Fund, and deliver said warrant to said special counsel or wire said sum directly to the State of California Treasurer's Office, to be deposited with said payee as security for the order for possession hereinbefore authorized.

###

EXHIBIT A

A

**LEGAL DESCRIPTION
PPF INDUSTRIAL WHIPPLE ROAD / BOWMAN PLACE, LP
APN 475-50-16
ALAMEDA COUNTY
CITY OF HAYWARD, CA**

March 1, 2013

Being all that Parcel One granted to PPF Industrial Whipple Road / Bowman Place, LP by Kern W. Schumacher, Troy W. Schumacher, Brooke A Schumacher and Hollye F. Schumacher, recorded August 26, 2003 in Document No. 2003504718, Alameda County Records, more particularly described as follows:

BEGINNING at the southwesterly corner of said Parcel One, said corner also being a point of intersection of the northerly line of Whipple Road, also known as County Road 556, with the northeasterly line of that certain parcel of land conveyed by Alvens T. Crane et al, to Western Pacific Railroad Company (now Union Pacific Railroad Company) (U.P.R.C.), recorded August 14, 1907 in Book 1398 of Deeds, Page 48, Alameda County Records; thence along the southwesterly line of said Parcel One North 41°59'19" West 688.21 feet; thence North 48°00'41" East 351.89 feet to the most northerly corner of said Parcel One; thence along the northeasterly line of said Parcel One the following three (3) courses: 1) South 39°27'40" East 410.79 feet; 2) South 36°09'01" East 518.23 feet; 3) South 32°23'38" East 23.42 feet to a point on the said northerly line of Whipple Road; thence along said northerly line of Whipple Road North 88°43'41" West 380.59 feet to the **POINT OF BEGINNING**.

Containing 269,488 square feet of land (6.187 acres), more or less.

A Plat Map is attached hereto and made a part hereof.

Bearings used in the above description are based on the California Coordinate System of 1983 (CCS83), Zone 3, Epoch 2004.0 and distances are grid distances. Multiply distances described by 1.0000668 to obtain ground distances.

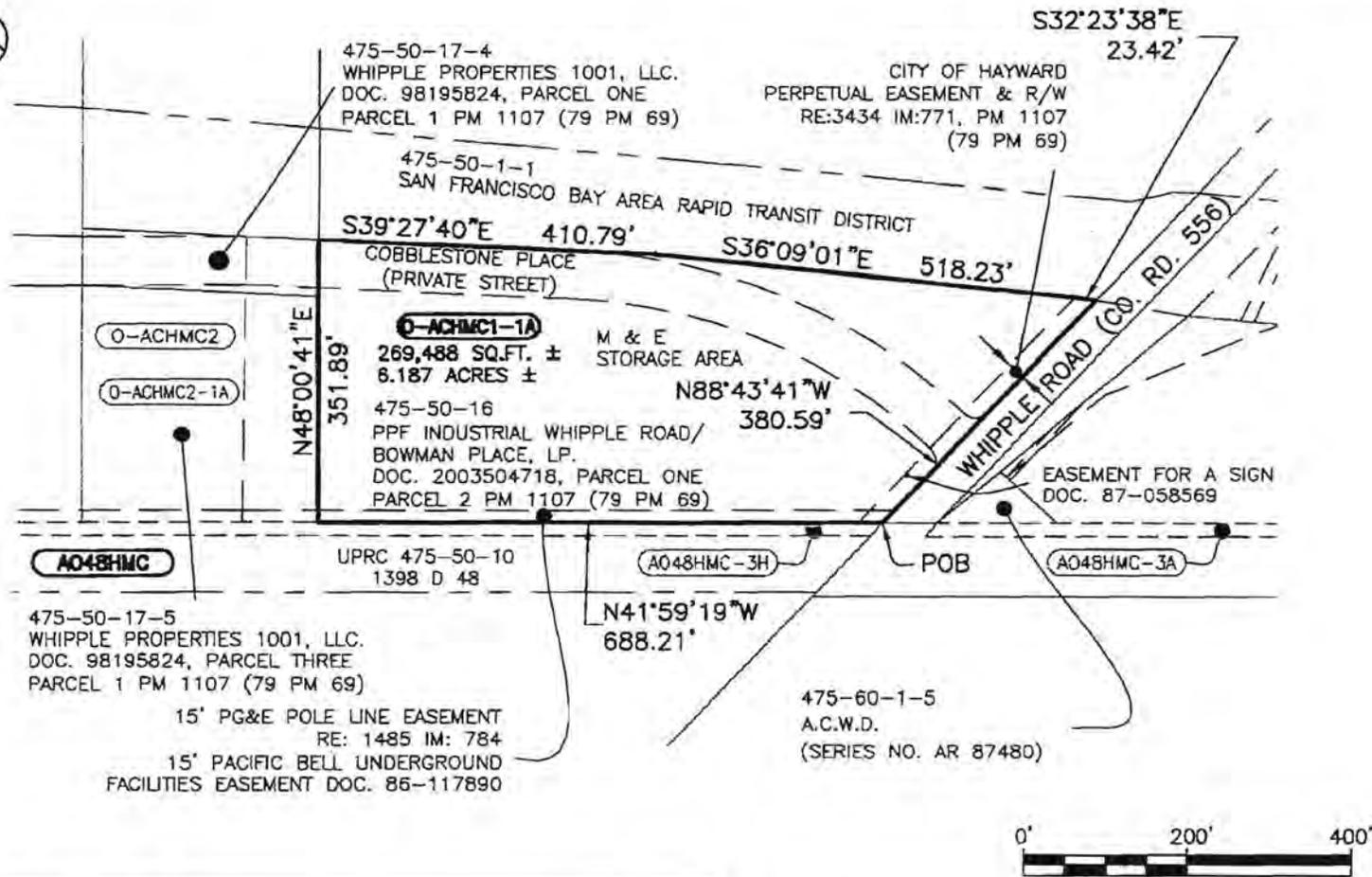
This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.



Frank A. Borges, PLS #7922
License Expires: 12/31/2013

Date: 3/5/2013





CAD FILE NO. 0-ACHMC1-1A

PPF INDUSTRIAL WHIPPLE ROAD / BOWMAN PLACE, LP.
FEE
BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA
COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 2004.0
EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN
GROUND LEVEL DISTANCES MULTIPLY BY 1.0000668.

BART
ba

SCALE: 1"=200' | DATE: 03-01-13

PLAT MAP		
CO. ALA.	RTE. FRE	Sheet 1 of 1
DR.NO.	0-ACHMC1-1A	

**LEGAL DESCRIPTION
WHIPPLE PROPERTIES 1001, LLC
APN 475-50-17-5
ALAMEDA COUNTY
CITY OF HAYWARD, CA**

March 1, 2013

Being all that Parcel Three granted to Whipple Properties 1001, LLC by 1001 Whipple Associates, LLC described in Document No. 98195824, recorded June 11, 1998, in the Office of the Recorder of Alameda, more particularly described as follows:

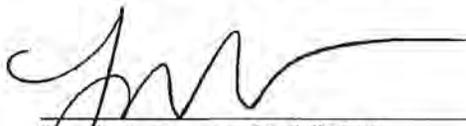
BEGINNING at the most southerly corner of said Parcel Three, said corner also being a point on the northeasterly line of that certain parcel of land conveyed by Alvens T. Crane et al, to Western Pacific Railroad Company (now Union Pacific Railroad Company) (U.P.R.C.), recorded August 14, 1907 in Book 1398 of Deeds, Page 48, Alameda County Records; thence along the boundary of said Parcel Three the following six (6) courses: 1) along the southwesterly line North 41°59'19" West 1449.91 feet; 2) along the northwesterly line North 48°00'41" East 299.83 feet; along the northeasterly line 3) South 41°14'23" East 483.66 feet; 4) South 42°05'06" East 677.46 feet; 5) South 39°27'19" East 289.12 feet; 6) along the southeasterly line South 48°00'41" West 281.87 feet to the **POINT OF BEGINNING**.

Containing 425,958 square feet of land (9.779 acres), more or less.

A Plat Map is attached hereto and made a part hereof.

Bearings used in the above description are based on the California Coordinate System of 1983 (CCS83), Zone 3, Epoch 2004.0 and distances are grid distances. Multiply distances described by 1.0000668 to obtain ground distances.

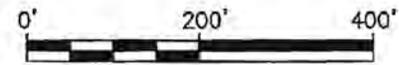
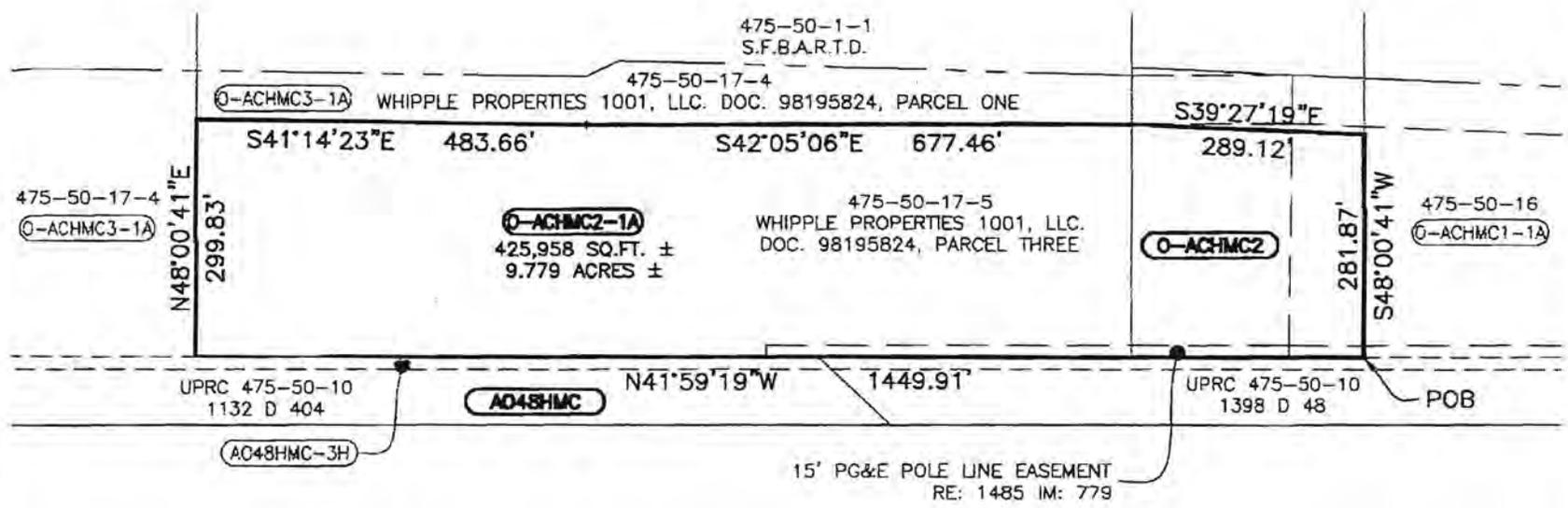
This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.



Frank A. Borges, PLS #7922
License Expires: 12/31/2013

Date: 3/5/2013





CAD FILE NO. □-ACHMC2-1A

WHIPPLE PROPERTIES 1001, LLC. (DOC. 98195824)
FEE
BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA
COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 2004.0
EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN
GROUND LEVEL DISTANCES MULTIPLY BY 1.0000668.

BART
ba

SCALE: 1"=200' DATE: 03-01-13

PLAT MAP		
CD. ALA.	RTE. FRE	Sheet 1 of 1
DR.NO.	□-ACHMC2-1A	

**LEGAL DESCRIPTION
WHIPPLE PROPERTIES 1001, LLC
APN 475-50-17-4
ALAMEDA COUNTY
CITY OF HAYWARD, CA**

March 1, 2013

Being all that Parcel One granted to Whipple Properties 1001, LLC by 1001 Whipple Associates, LLC described in Document No. 98195824, recorded June 11, 1998, in the Office of the Recorder of Alameda, more particularly described as follows:

BEGINNING at the northwesterly corner of said Parcel One, said corner also being a point on the northeasterly line of that certain parcel of land conveyed by Sophie C.K. Anderson to Western Pacific Railroad Company (now Union Pacific Railroad Company) (U.P.R.C.), recorded July 3, 1906 in Book 1132 of Deeds, Page 404, Alameda County Records; thence along the northerly line of said Parcel One South 89°20'48" East 398.55 feet; thence along the northeasterly line of said Parcel One the following six (6) courses: 1) South 45°46'26" East 1048.52 feet; 2) South 41°14'23" East 679.95 feet; 3) South 67°57'14" East 44.49 feet; 4) South 40°20'29" East 637.72 feet; 5) North 48°00'41" East 9.98 feet; 6) South 39°27'40" East 288.97 feet; thence along the southerly line of said Parcel One South 48°00'41" West 70.02 feet; thence northwesterly the following three (3) courses: 1) North 39°27'19" West 289.12 feet; 2) North 42°05'06" West 677.46 feet; 3) North 41°14'23" West 483.66 feet to the most northerly corner of Parcel Three described in said Document No. 98195824; thence South 48°00'41" West 299.83 feet to a point on the northeasterly line of said U.P.R.C. parcel (1132 D 404); thence along said northeasterly line (1132 D 404) North 41°59'19" West 1512.35 feet to the **POINT OF BEGINNING**.

Containing 549,802 square feet of land (12.622 acres), more or less.

A Plat Map is attached hereto and made a part hereof.

Bearings used in the above description are based on the California Coordinate System of 1983 (CCS83), Zone 3, Epoch 2004.0 and distances are grid distances. Multiply distances described by 1.0000668 to obtain ground distances.

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.



Frank A. Borges, PLS #7922
License Expires: 12/31/2013

Date: 3/5/2013





10' WATER PIPE LINE EASEMENT
1290 IM 844

475-50-1-1
S.F.B.A.R.T.D.

UPRC 475-50-10
1270 D 262

S89°20'48"E
398.55'

POB

AO48HMC-3H

475-50-17-4
WHIPPLE PROPERTIES 1001, LLC.
DOC. 98195824, PARCEL ONE

AO-ACHMC3

AO-ACHMC3-1A
549,802 SQ.FT. ±
12.622 ACRES ±

S45°46'26"E 1048.52'

475-50-1-1
S.F.B.A.R.T.D.

S41°14'23"E

679.95'

N41°14'23"W
483.66'

S48°00'41"W
299.83'

MATCH LINE

N41°59'19"W 1512.35'

UPRC 475-50-10
1132 D 404

S67°57'14"E
44.49'

475-50-1-1
S.F.B.A.R.T.D.

N48°00'41"E
9.98'

S41°14'23"E 679.95'

S40°20'29"E 637.72'

S39°27'40"E
288.97'

S48°00'41"W
70.02'

AO-ACHMC3-1A

WHIPPLE PROPERTIES 1001, LLC. DOC. 98195824, PARCEL ONE

N41°14'23"W 483.66'

N42°05'06"W 677.46'

N39°27'19"W
289.12'

AO-ACHMC1-1A

AO48HMC-3H

475-50-17-5
WHIPPLE PROPERTIES 1001, LLC.
DOC. 98195824, PARCEL THREE

475-50-16
PPF INDUSTRIAL WHIPPLE ROAD/
BOWMAN PLACE, LP.
DOC. 2003504718, PARCEL ONE
PARCEL 2 PM 1107 (79 PM 69)

AO48HMC

UPRC 475-50-10
1132 D 404

15' PG&E POLE LINE EASEMENT
RE: 1485 IM: 779

UPRC 475-50-10
1398 D 48

0' 200' 400'

CAD FILE NO. AO-ACHMC3-1A

WHIPPLE PROPERTIES 1001, LLC. (DOC. 98195824)
FEE
BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA
COORDINATE SYSTEM OF 1983 (CCS83) ZONE 3, 2004.0
EPOCH. DISTANCES ARE GRID DISTANCES, TO OBTAIN
GROUND LEVEL DISTANCES MULTIPLY BY 1.0000668.



SCALE: 1"=200' DATE: 03-01-13

PLAT MAP

CD. ALA. RTE. FRE Sheet 1 of 1

DR.NO. AO-ACHMC3-1A



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeLauren</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>11/14/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Rudolph Medina Dept: <i>Rudolph C. Medina</i> Signature/Date: <i>11-14-13</i>	General Counsel <i>MB 11/14/13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARO <i>[Signature]</i> <i>11-14-13</i> []

TITLE:

Amendment to Agreement 6M4303 with Gummerson & Conhain, Inc.

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute an Amendment to Agreement 6M4303 with Gummerson & Conhain, Inc. Fairfield, California, for the services of Bruce Conhain who provided negotiator services in support of the District's 2013 collective bargaining.

DISCUSSION:

Agreement No. 6M4303 was awarded on October 12, 2012, under the General Manager's authority to Gummerson & Conhain, Inc. in the amount of \$99,000. This Amendment permits the District to continue using Gummerson & Conhain, Inc. to complete the collective bargaining process, including post implementation assistance.

The General Manager determined it was in the best interest of the District to hire consultants to provide traditional bargaining services for the SEIU and ATU. Bruce Conhain, Executive Partner of Gummerson & Conhain served as one of the Lead Negotiators under the direction of the General Manager, to implement the labor relations strategy for 2013 collective bargaining.

Bruce Conhain previously served on the BART negotiating teams in 1997 and 2001 and is a respected public and private sector negotiator and has negotiated hundreds of agreements in the states of California and Nevada. Bargaining in 2013 continued for an extended period well beyond that which had initially been anticipated and, as a result, the initial contract amount was exceeded.

Gummerson & Conhain, Inc. was selected based on its ability to provide these highly specialized services at best value for the District, for its knowledge of BART labor issues, its availability and rates.

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

FISCAL IMPACT:

Staff estimates that completion of this Agreement will cost an additional \$70,000, which will be

Amendment to Agreement 6M4303 with Gummerson & Conhain, Inc.

funded from the FY14 Office of Administration and Budget's operating budget.

ALTERNATIVE:

Do not pay the outstanding invoices and be subject to a claim for the outstanding amount.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager or her designee is authorized to execute an Amendment to Agreement No. 6M4303 with Gummerson & Conhain Inc. for continuation of negotiator services for completion of the District's 2013 collective bargaining process.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>11/13/13</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Operating Budgets <i>[Signature]</i>	General Counsel <i>[Signature]</i> 11-13-13 []	Controller/Treasurer <i>[Signature]</i> []	District Secretary []	BARC <i>[Signature]</i> 11-13-13 []
Signature/Date: <i>11/13/13</i>				

TITLE:

Final Title VI Assessment for the 2014 Inflation-Based Fare Increase

NARRATIVE:

PURPOSE

To obtain Board approval of the updated, attached and final Title VI equity analysis for the 2014 fare increase ("Final Title VI Assessment for the 2014 Inflation-Based Fare Increase") as contemplated in Resolution No. 5208, which authorizes implementation of the first biennial Productivity-Adjusted Inflation-Based Fare Increase on January 1, 2014.

DISCUSSION

At the February 28, 2013 Board meeting, the BART Board approved Resolution No. 5208 extending BART's productivity-adjusted inflation-based fare increase program for fare increases in 2014, 2016, 2018, and 2020. The first increase valued at 5.2% is scheduled to take effect on January 1, 2014 and is estimated to generate \$17 million in the first full year. This fare revenue will be put into a separate fund that can only go to help fund BART's highest priority capital renovation projects, including new rail cars, a train control system, and the Hayward Maintenance Complex. The Resolution stated that findings in the preliminary Assessment were to be updated by applying thresholds from the Disparate Impact and Disproportionate Burden Policy (the "Policy"), which was then under development. The Resolution further stated that staff would finalize, and submit for Board approval, the Title VI analysis for the 2014 increase prior to January 1, 2014.

Per the Resolution, Title VI analyses for the 2016, 2018 and 2020 fare increases will be updated and finalized once the inflation percentage increase is known for those years and after public participation is solicited. Implementation of each of the future year fare increases for 2016, 2018 and 2020 will be subject to Board approval of the corresponding and finalized Title VI analysis.

The Board adopted the Policy in July 2013, and staff has since applied the appropriate Policy thresholds to the preliminary Assessment report for the 2014 fare increase. Public outreach for the 2014 fare increase has already been completed. The 2014 fare increase Title VI analysis is, therefore, final and attached. The updated assessment concludes that the 2014 inflation-based fare increase would not result in a disparate impact on minority groups or a disproportionate burden on low-income groups.

Staff requests that the Board approve the updated equity analysis and implement the January 1, 2014 Productivity-Adjusted Inflation Based Fare Increase; each future year increase will be

subject to approval by the Board of an updated Title VI equity analysis.

FISCAL IMPACT

The 5.2% fare increase is projected to generate \$17 million in the first full year. The four biennial fare increases are projected to generate \$325 million in the eight years of the Program. According to Resolution 5208, this revenue is to help fund BART's highest priority capital renovation projects, including new rail cars, a train control system, and the Hayward Maintenance Complex. Therefore, it is important to implement the fare increase as scheduled.

ALTERNATIVES

Do not approve the updated Title VI assessment, which would result in a delay in implementing the scheduled January 1, 2014 fare increase and result in a significant loss of revenue needed to help fund BART's highest priority capital renovation projects.

RECOMMENDATION

Approval of the following Motion.

MOTION

The BART Board of Directors approves the updated, attached and final Title VI equity analysis for the 2014 fare increase ("Final Title VI Assessment for the 2014 Inflation-Based Fare Increase"), as contemplated in Resolution No. 5208 which authorizes implementation of the first biennial Productivity-Adjusted Inflation Based Fare Increase on January 1, 2014.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Debra deBorja</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>11/13/13</i>		BOARD INITIATED ITEM: <i>NO</i>		
Originator/Prepared by: Charlotte Barham Dept: Operating Budgets <i>Charlotte Barham</i>	General Counsel <i>Audrey Kaye</i> <i>11-13-13</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>[Signature]</i> <i>11-13-13</i>
Signature/Date: <i>11/13/13</i>	<i>[]</i>	<i>[]</i>	<i>[]</i>	<i>[]</i>

TITLE:

Amendment to Resolution 5208

NARRATIVE:

Purpose

To obtain Board approval of an amendment to Resolution 5208, adopted by the Board on February 28, 2013, regarding the date the Board will receive the Title VI equity analysis and public outreach reports on additional fare options.

Discussion

At the February 28, 2013 Board meeting, the BART Board approved Resolution No. 5208, extending BART's Productivity-Adjusted Inflation-Based Fare Increase Program (the "Program") and directing staff to analyze additional fare options. Staff committed to performing a Title VI analysis of the additional fare options prior to January 1, 2014.

Staff has preliminarily analyzed the fare options under Title VI. The next step will be to conduct, and integrate the results of, public outreach regarding the options in a final Title VI equity analysis. The next phase of this Title VI analysis has been delayed due to the District's focus on labor negotiations and associated work. As a result, it is now necessary to amend Resolution No. 5208 to indicate that the date on which the Board will receive the Title VI equity analysis and public outreach reports on the additional fare options is changed from prior to January 1, 2014, to a date after completion of the public outreach work that could begin in 2014.

If the Board so directs, the fare options public outreach effort could also be done in conjunction with two other important fare studies, the examination of the equity of BART's existing fare structure and an analysis of the BART/Muni Fast Pass program.

Fiscal Impact

No fiscal impact is anticipated for the change in public outreach dates.

Alternatives

Do not change the above-referenced provision in Resolution No. 5208, which would require that staff complete public outreach prior to January 1, 2014. Such a timeline would likely not allow sufficient time to engage the public on the fare options.

Recommendation

Amendment to Resolution 5208

Approval of the following Motion.

Motion

The BART Board of Directors adopts the Resolution, "In the Matter of Adopting an Amendment to Resolution No. 5208 (adopted February 28, 2013)."

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

In the Matter of Adopting
An Amendment to Resolution No. 5208
(adopted February 28, 2013)

Resolution No. _____

WHEREAS, pursuant to Public Utilities Code Section 29038, it is the duty and responsibility of the Board of Directors of the San Francisco Bay Area Rapid Transit District ("District") to fix the rates and charges for rapid transit service to be furnished by the District; and

WHEREAS, Resolution No. 5208 stipulated, *inter alia*, that prior to January 1, 2014, staff would perform Title VI analyses and public outreach for additional fare options as directed by the Board, and staff would provide the Board with findings for its consideration and approval; and

WHEREAS, public outreach regarding the options has been delayed due to staff's focus on labor negotiations and associated work; and

WHEREAS, public outreach for the fare options could begin in 2014, and the Board would receive for its consideration and approval the Title VI equity analysis and public outreach fare options reports after completion of the outreach effort instead of prior to January 1, 2014.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District that Resolution No. 5208 (dated February 28, 2013) is amended by deleting Paragraph Two thereof in its entirety and substituting the following:

(2) If directed by the Board to examine other fare options, staff will perform Title VI equity analyses and public outreach for additional fare options, and staff will provide the Board with findings for its consideration and approval after completion of the public outreach effort that could begin in 2014.

###

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

In the Matter of Adopting
New Fare Rates and Charges: Productivity-Adjusted
Inflation-Based Fare Increases

Resolution No. 5208

WHEREAS, pursuant to Public Utilities Code Section 29038, it is the duty and responsibility of the Board of Directors of the San Francisco Bay Area Rapid Transit District ("District") to fix the rates and charges for rapid transit service to be furnished by the District; and

WHEREAS, the competitive and efficient price of all travel modes increases with inflation and maintaining competitive and efficient fare pricing is a District priority; and

WHEREAS, the District's financial forecasts demonstrate the continued need for increased revenue generation to fund capital renovation projects required for the BART system to operate in a state of good repair, including the procurement of new rail cars, and to help ensure the District's financial stability; and

WHEREAS, the District's adopted Financial Stability Policy has a combination of strategies that address operating expenses, capital investment, revenues and reserves by supporting passenger revenue increases tied to service costs and system needs, with particular consideration to small regular fare increases tied to inflation-based cost increases or other major cost factors and productivity; and

WHEREAS, in 2003, by Resolution No. 4885, the Board gave the General Manager the authority to implement four biennial productivity-adjusted inflation-based fare increases, the first such increase implemented in 2006 and the last in 2012; and

WHEREAS, these four small, regular fare increases have been key to BART's financial stability during difficult economic times. Since 2006, the inflation-based component of BART fare increases has contributed approximately \$290 million in additional fare revenue, enabling BART to weather the recent recession without reducing service levels as ridership continues to grow; and

WHEREAS, to keep the system running in a state of good repair (SGR), BART anticipates the need to secure \$10 billion in funding for the highest priority capital renovation projects over the next ten years, including new rail cars, train control system and the Hayward Maintenance Complex; and

WHEREAS, BART must "self-fund" a portion of this SGR expense through operating sources, including fare revenue; and

WHEREAS, extending the District's productivity-adjusted inflation-based fare increase program to raise fares in January of 2014, 2016, 2018, and 2020 is estimated to generate over \$325 million in additional fare revenue for such capital renovation projects over the eight-year program, based on current inflation and

projected inflation and ridership. At the January 2013 Board workshop, several directors expressed an interest in directing the revenue generated by extending the inflation-based fare increase program to the new rail car procurement; and

WHEREAS, the four fare increases will be calculated by applying the same formula as approved in Resolution No. 4885, using actual inflation data; and

WHEREAS, the first increase of the program valued at 5.2% to be implemented on January 1, 2014 has been calculated using recently available actual inflation data through 2012; and

WHEREAS, the recommended modifications are set forth in the attached Exhibit A entitled, "Productivity-Adjusted Inflation-Based Fare Rates and Charges"; and

WHEREAS, to ensure compliance with federal and state law prohibiting disparate impact in its programs and activities, District staff has performed preliminary analyses of the proposed fare increases to determine if any of the increases has a disparate impact or disproportionate burden on minority and/or low-income riders. These analyses and public comment are documented in the reports, "Title VI Assessment for the Extension of the Productivity-Adjusted Inflation-based Fare Increase Program" and "Public Participation Summary Report for the Extension of the Productivity-Adjusted Inflation-Based Fare Increase Program," attached, and made a part of this Resolution; and

WHEREAS, findings of the preliminary analyses showed that the four biennial inflation-based fare increases would not result in a disparate impact on minority or low-income riders because the proposed changes would increase fares by virtually identical amounts for minority riders and low-income riders when compared to overall users; and

WHEREAS, these findings are subject to application of thresholds contained in the currently under development Disparate Impact Policy and Disproportionate Burden Policy; and

WHEREAS, staff plans to bring the policies to the Board for adoption later this year, after which the thresholds can be applied. At that time, the current analyses results will be compared to the thresholds, and updated findings will be reported to the BART Board for approval; and

WHEREAS, if the current findings are confirmed and approved by the Board, implementation of the four biennial fare increases will proceed. If the current findings are not confirmed and approved by the Board, then such implementation will not proceed; and

WHEREAS, the Title VI analyses for the 2016, 2018, and 2020 fare increases will be updated and finalized, once the inflation percentage increase is known for those years and after public input is solicited. Implementation of each of the future year

fare increases in 2016, 2018, and 2020, will be subject to Board approval of the corresponding and finalized Title VI analysis, which will be in compliance with federal and state law in effect at the time; and

WHEREAS, BART has conducted outreach to the public, consistent with BART's Public Participation Plan, to receive their input on the proposed extension to the Productivity-Adjusted Inflation-Based Fare Increase Program, as documented in the report, "Public Participation Summary Report for the Extension of the Productivity-Adjusted Inflation-Based Fare Increase Program"; and

WHEREAS, on February 14, 2013, a public hearing was held at a special meeting of the Board to consider productivity-adjusted inflation-based fare rates and charges; and

WHEREAS, at the Administration Committee meeting of the Board following the public hearing, the Board expressed interest in a number of fare options beside the proposed program; and

WHEREAS, at the February 28, 2013 Board meeting, the Board may direct staff to evaluate any or all of these or other fare options; and

WHEREAS, staff will bring the results of the Title VI equity analyses to the Board for consideration and approval in the summer of 2013. After receiving the results of the equity analyses, the Board will direct staff as to which options it may want staff to bring to the public for comment in the fall of 2013; and

WHEREAS, before implementation of the 5.2% inflation-based fare increase on January 1, 2014, staff will report back to the Board with findings for its consideration and approval regarding the fare options analyzed and selected for public outreach. Implementation of any of these fare options would occur after implementation of the January 1, 2014 fare increase.

NOW, THEREFORE, the Board hereby makes the following findings:

- (1) After careful study of staff recommendations, public comment, and due deliberations, the Board determines, as required by Public Utilities Code Section 29038, that the rates and charges for service, as modified by this Resolution, are reasonable; and that insofar as practicable, these rates and charges are calculated to result in revenue which will:
 - (a) Pay for the operating expenses of the District;
 - (b) Provide repairs, maintenance and depreciation of works owned and operated by the District;
 - (c) Provide for purchases, lease, or acquisition of rolling stock, including provisions for the interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the District for the acquisition of rolling stock; and

- (d) After making any current allocation of funds for the foregoing purposes and by the terms of any indebtedness incurred under Public Utilities Code Articles 6 (commencing with Section 29240) and 7, (commencing with Section 29250) of Chapter 8, provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of Part 2 of Division 10 of the Public Utilities Code.
- (2) After careful study of staff recommendations, public comment, and due deliberations, the Board also determines, as required by the California Environmental Quality Act, Section 21080 (b)(8), that the rates and charges for service, as modified by this Resolution and as set forth in Exhibit A, are for the purposes of:
- (a) Meeting operating expenses such as employee wage rates and fringe benefits,
 - (b) Purchasing or leasing supplies, equipment or materials;
 - (c) Meeting financial reserve needs and requirements; and
 - (d) Obtaining funds for capital projects, necessary to maintain service within existing service areas.

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

- (1) The General Manager is authorized and directed to calculate and implement productivity-adjusted inflation-based increases to rates and charges for BART service as set forth in Exhibit A, subject to approval by the Board of an updated Title VI equity analysis for each of the four increases.
- (2) Prior to implementing the first increase of the Productivity-Adjusted Inflation-Based Fare Increase Program on January 1, 2014, if directed by the Board to examine other fare options, staff will perform Title VI analyses and public outreach for additional fare options and staff will provide the Board with findings for its consideration and approval.
- (3) The productivity-adjusted inflation-based increases to rates and charges for BART service calculated and implemented as set forth in Exhibit A are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines, 14 Cal. Code Regs. § 15273 and that Notices of Exemption shall be filed in the four affected counties.

#

EXHIBIT A—NEW FARE RATES AND CHARGES: PRODUCTIVITY-ADJUSTED INFLATION-BASED INCREASES

Productivity-adjusted inflation-based fare rates and charges shall be calculated according to the following process.

The Formula:

The following formula accounts for changes in inflation, less a productivity factor valued at 0.005 (½ percent). Changes in inflation are measured over a two-year period, with the first increase of the extended productivity-adjusted inflation-based fare increase program to become effective January 1, 2014.

Step One: Productivity-Adjusted Inflation-Based Fare Increase Factor =

$$\left(\frac{\frac{(\text{NCPIU}_2 - \text{NCPIU}_0)}{\text{NCPIU}_0} + \frac{(\text{BACPIW}_2 - \text{BACPIW}_0)}{\text{BACPIW}_0}}{2} \right) - \text{Productivity Factor}$$

0.005

Step Two: Productivity-Adjusted Inflation-Based Fare Rates and Charges are calculated by increasing all components of fares then in effect by the Productivity-Adjusted Inflation-Based Fare Increase Factor and then rounding these fares to the nearest \$0.05.

Definitions:

NCPIU is the **National CPI-U Annual Average** which is the annual average over a calendar year of the U.S. City Average consumer price index for all urban consumers, for all items, with an index base period of 1982-84 = 100 as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

BACPIW is the **Bay Area CPI-W Annual Average** which is the annual average over a calendar year of the San Francisco-Oakland-San Jose, CA local consumer price index for urban wage earners and clerical workers, for all items, with an index base period of 1982-84 = 100 as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

The "0" of NCPIU_0 and BACPIW_0 signifies the respective calendar year from which the change in inflation is calculated (e.g., 2010 for the 2014 fare increase and 2012 for the 2016 fare increase)

The "2" of NCPIU_2 and BACPIW_2 signifies the respective calendar year against which the change in inflation is calculated (e.g., 2012 for the 2014 fare increase and 2014 for the 2016 fare increase).

Productivity Factor is an adjustment representing BART's anticipated continual improvements in the efficiency of its labor force and operations to the extent of

reducing its inflation-adjusted costs of operation by 0.005 (½ percent) every two years.

Effective Dates:

The productivity-adjusted inflation-based fare increases will be effective on January 1st of 2014, 2016, 2018, and 2020, for a total of four calculations of the productivity-adjusted inflation-based fare increase formula. If application of the formula returns a positive result, i.e., it does not reflect deflation, the resulting factor is the amount fares are to be increased across-the-board (with each actual fare rounded to the nearest \$0.05). Productivity-adjusted inflation-based fares are to be implemented on January 1st of 2014, 2016, 2018, and 2020, or as soon thereafter as the fare schedule can be implemented.

Sample Methodology:

The following is a sample methodology that illustrates how to calculate the productivity-adjusted inflation-based fare increase factor and resulting fares. This example describes the process for the increase to be implemented on January 1, 2014; the same process will be followed for increases in 2016, 2018, and 2020.

In January 2013, the change over two years in the National CPI-U Annual Average and the Bay Area CPI-W Annual Average will be calculated as follows:

- The change to be measured will be for calendar years 2010 and 2012.
- Index change during this two-year period is measured by the change in the annual average of the index. For example, if
 - The annual average of the National CPI-U for 2010 is 100, and
 - The annual average of the National CPI-U for 2012 is 104, then
 - The change is 0.04 (or 4.0%) for the two-year period between 2010 and 2012.
- The change in the Bay Area CPI-W Annual Average for the two-year period is to be calculated in the same way.
- The changes in the National CPI-U Annual Average and the Bay Area CPI-W Annual Average are then averaged to capture change in both national and local pricing patterns.
- From the average of the national and local pricing increases, a productivity factor of 0.005 (½ percent) is deducted. For example, if the average of the change in the National CPI-U Annual Average and the change in the Bay Area CPI-W Annual Average for the two-year period is 0.04 (or 4.0%), the result of the formula is a productivity-adjusted inflation-based fare increase factor of 0.035, or 3.5%.
- The productivity-adjusted inflation-based fare increase factor is the increase to be applied across-the-board to the components of the fare rates and charges then in effect. The resulting station-to-station fares will then be rounded to the nearest nickel to produce the new productivity-adjusted inflation-based fare rates and charges.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeBaujean</i>		GENERAL MANAGER ACTION REQ'D: APPROVE AND FORWARDED TO THE BOARD OF DIRECTORS		
DATE: c <i>10/16/13</i>		BOARD INITIATED ITEM: <i>NO</i>		
Originator/Prepared by: Susan Presley Dept: Rolling Stock and Shops	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>Presley 9/12/13</i>	<i>MB</i>	<i>[Signature]</i>	<i>[]</i>	<i>[Signature]</i> PAUL CUBESSE

TITLE:

Contract No. 40FA-110, Procurement of Transit Vehicles - Exercise of Options 2, 3 and 4 for 365 Vehicles

NARRATIVE

Purpose:

To request Board authorization for the General Manager to execute a change order to Contract No. 40FA-110, Procurement of Transit Vehicles (the "Contract"), with Bombardier Transit Corporation ("Bombardier"), to exercise Options 2, 3 and 4 totaling 365 vehicles, for a total reduced price of \$638,983,330, plus applicable tax and escalation, subject to certification by the Controller-Treasurer that funding is available.

Discussion:

On May 10, 2012, the Board authorized award of the Contract to Bombardier for the Base Contract of 260 vehicles at the price of \$630,502,694, and Option 1 for 150 vehicles at a price of \$265,832,100, plus applicable tax and escalation. The Board directed staff to return to the Board with a funding plan and request for approval prior to exercising Options 2, 3 and 4. The Contract currently provides for the following remaining Options and prices: Option 2 (150 vehicles) for the price of \$265,832,100; Option 3 (115 vehicles) for the price of \$203,804,610; and Option 4 (100 vehicles) for \$177,221,400. Applicable tax and escalation will be added to these prices.

The District awarded the Base Contract on May 30, 2012, and exercised Option 1 on June 25, 2012. The District has five years from the date of Contract award to exercise all remaining Options.

Bombardier has indicated that a change order from the District to exercise all remaining Options by the end of calendar year 2013 would allow Bombardier to make firm plans for continuous manufacturing, including staffing and the procurement of parts and materials.

The Contract is currently in the preliminary design phase. Bombardier and the District are attempting to resolve a number of commercial and technical items in order to finalize the vehicle design. To address the commercial and technical items as well as the exercise of all remaining Options, Bombardier and the District have negotiated the following as the major components of a change order or change orders:

1. If the District exercises all remaining options by the end of the year, Bombardier will provide 60 E-Cars (non-cab cars) under Option 4 at a reduced price of \$86,622,580 compared to the proposal price of \$94,497,360. This is the equivalent of five free E-Cars, and represents a savings to the District of approximately \$8 Million, plus applicable tax and escalation.
2. The production schedule will be increased from a delivery of 10 vehicles per month to 16 vehicles per month. This will result in completion of the project 29 months earlier than projected and an overall savings to the District of approximately \$127 Million in escalation.
3. Bombardier will upsize the brake resistors from 50% dynamic braking to 75% dynamic braking. This is important because the new vehicles will be designed to carry up to 10,000 more passenger pounds than the existing cars. The increased dynamic braking will reduce the load on the friction brake system. This change represents a value to the District of approximately \$3 Million.
4. The District will increase the weight allowance on D-Cars (cab cars) from 64,500 pounds to 65,500 pounds. Cab cars carry added equipment and have empty car weights heavier than non-cab cars. The new cars were specified to be crash compatible with the existing C-Cars, and to meet the latest industry Crash Energy Management recommendations for operator and passenger safety. In order for Bombardier to meet those two safety requirements, provide enhanced brake resistors, and provide larger side windows and a third windshield, the District will have to increase the weight allowance on D-Cars by 1000 pounds. There is no cost or safety impact as a result of this change.

Staff believes that the District will derive significant benefits from a change order or change orders that include the primary elements described above. However, a change order to exercise Options 2, 3 and 4 must be executed by the end of calendar year 2013 in order for the District to receive the cited price reduction. Therefore, if the Board authorizes execution of such change order but it is not executed by the end of calendar year 2013 and the cited price reduction is no longer applicable, staff will return to the Board at a later date for authorization to exercise Options 2, 3 and 4.

Fiscal Impact:

Funding for the award of Options 2, 3 and 4 of 365 vehicles will come from the funding sources identified in Joint BART/MTC Resolution Nos. 5134 and 3918 respectively, adopted by the BART Board of Directors and the MTC Commission in April and December, 2010 respectively. In the Resolutions, MTC and BART agreed to a phased funding plan for the planned replacement of the District's fleet. This overall funding plan consists of 75% MTC regional funds and 25% BART controlled funds.

The estimated total project cost for the Base Contract and Options 1-4, totaling 775 cars, is \$2.584 billion. The MTC 75% share is approximately \$1.789 billion; the BART 25% share is approximately \$596 million and the Santa Clara Valley Transportation Authority (VTA) share is

\$199 million.

The Base Contract and Option 1 cars (totaling 410 cars) were funded with MTC's Phase 1 commitment of \$889 million in regional funds, a BART funding commitment of \$296 million and a commitment from VTA of \$199 million for the 60 cars attributable to the BART Extension to Santa Clara County. Those commitments total approximately \$1.384 billion, leaving a balance of \$1.2 billion necessary to be committed for Options 2, 3 and 4.

MTC FEDERAL FORMULA AND OTHER REGIONAL FUNDS

Pursuant to MTC Resolution No. 3918, MTC is to provide a total of \$2.416 billion in MTC funds for the BART Car Replacement Program. The funding sources include: projected FTA Section 5307 and 5309 Fixed Guideway, FHWA STP, population-based spillover (or successor programs) and/or other anticipated funding sources included in Transportation 2035 and to be included in future Regional Transportation Plans, and projected earnings on the BART Car Replacement Funding Exchange Account.

Because the Proposal prices received from Bombardier were well below the preliminary cost estimate that was the basis for MTC Resolution No. 3918, MTC's required commitment has been reduced from \$2.416 billion to \$1.789 billion, a savings to the region of \$627 million. A total of approximately \$900 million is required from MTC as the remaining balance due to fund Options 2, 3 and 4, and to comprise the 75% overall MTC contribution to the New Vehicle Procurement Project.

MTC has agreed in concept to financial participation in Options 2, 3 and 4 in a manner equivalent to their participation in the Base Contract and Option 1. Since the primary funding source available to MTC to fulfill its commitment is relatively secure federal formula funds, it is expected that, over the long term, funds will be available to meet MTC's commitment, but financing may be necessary to meet accelerated project cash flow needs. The structure, timing and costs of any such financing will be negotiated with MTC in the coming months.

BART FUNDS

Pursuant to BART Resolution No. 5134, BART committed to provide a total of \$806 million in BART pursued and controlled revenues as local match to MTC regional funds. The first \$150 million was to be funded with State Proposition 1A High Speed Rail (HSR) bond funds with the balance to be future BART controlled revenues such as State Transit Assistance Revenue-Based funds, general obligation bonds, parcel taxes, fare increases, or other means. Due to receipt of lower prices from Bombardier than the original cost estimate, BART's 25% commitment has been reduced to \$596 million, a savings to BART of \$210 million.

Since HSR funds failed to materialize prior to the award of the Base Contract and Option 1, BART funds totaling \$298 million were committed as the 25% share. This amount has subsequently been reduced to \$296 million. It is expected that it may take until FY18 to achieve this commitment with future capital allocations continuing at the rate of \$45 million per year.

A total of \$300 million is required as BART's share of the remaining balance for Options 2, 3 and 4. An allocation request for HSR funds is pending and, if the requested funds are allocated, the remaining balance for BART's share of Options 2, 3 and 4 would be reduced to \$160 million. Should future capital allocations continue at the rate of \$45 million per year, beginning in approximately FY19, it would require an additional three and a half years to achieve this commitment.

The change order to exercise Options 2, 3 and 4 will be issued only after the Controller/Treasurer has certified that funding is available.

Alternatives:

Do not authorize the execution of a change order to exercise Options 2, 3 and 4, and miss an opportunity to receive a price reduction on Option 4 that is the equivalent of five free E-Cars.

Recommendation:

Adoption of the following motion.

Motion:

The General Manager is authorized to execute a change order to Contract No. 40FA-110, Procurement of Transit Vehicles, to exercise Options 2, 3 and 4 totaling 365 vehicles for a reduced price of \$638,983,330, plus applicable tax and escalation, subject to certification by the Controller Treasurer that funding is available. The Controller Treasurer's certification will be based on the availability of approximately \$140,000,000 in Proposition 1A High Speed Rail funds, and an agreement with the Metropolitan Transportation Commission for its share of approximately 75% for Options 2, 3 and 4.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeBenedictis</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 11/13/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Carl Orman Dept: <i>Carl Orman</i>	General Counsel <i>Andrew Davis</i> 10/21/13	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>Paul Cervera</i> 11/12/13
Signature/Date: <i>10/28/13</i>	[]	[]	[]	[]
Status: Approved		Date Created: 08/12/2013		

TITLE:

Contract No. 79HM-110, SFTS SB, Change Order No. 22

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Change Order No. 22, Temporary Suspension - Contractor Costs, in the amount of \$341,500, to Contract No. 79HM-110, SFTS SB, with Taber Construction, Inc.

DISCUSSION:

The Board of Directors authorized the General Manager to award Contract No. 79HM-110, SFTS SB, to Taber Construction, Inc., on February 10, 2011. Included in the Contract scope of work was the installation of a security barrier on the concrete deck behind the San Francisco Ferry Building. Following the Award of the Contract, it was determined that the Ferry Plaza Deck would require reconstruction of a deteriorated section in order to allow access for the Contractor's equipment. This work delayed the start of field construction. Consequently, on November 17, 2011 the Contract was placed in suspension. On June 28, 2012, the Board of Directors authorized the General Manager to execute Change Order No. 5, to strengthen the concrete deck to allow the passage of the Contractor's equipment onto the deck for performing Contract work (copy of EDD attached). This Change Order No. 22 will compensate the Contractor for costs associated with temporary suspension of work (339 days) due to the above-described delay.

Pursuant of Board Rule 5-2.4, Change Orders involving expenditures greater than \$200,000 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.

FISCAL IMPACT:

Funding of \$341,500 for executing this Change Order will come from project budget 79HM000 TRANSITION BARRIERS. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. As of October 11, 2013, \$65,960,667.10 is available for this project from the following fund sources:

Fund	Description	Amount
226I	1999 S/T REV DEBT SERV2	\$99,671.80
352X	FY05 CAP ASST PGM CA-9	\$782,403.20
352Z	FY07 CAP ASST PGM CA90	\$17,354,280.00
3704	DHS FEMA ARRA TSGP-CP0	\$5,143,219.00
3751	FY2007 TSGP GR#2007-RL-T7-K001	\$4,574,190.81
3752	FY2007 TSGP GR#2007-RL-T7-K111	\$1,722,115.04
3755	FY11 TSGP Security CCTC and WI	\$20,768,000.00
3907	FY06 HOMELAND SECURITY	\$1,900,000.00
3908	FY06 UASI REGIONAL FUN	\$213,937.00
535F	FY08-09 CTSGP PROP 1B (SECTY G)	\$1,748,628.09
535T	FY07-08 CTSGP PROP 1B(HOMELND)	\$1,275,576.65
5372	FY010-11 CTSGP PROP 1B(HOMELND)	\$1,347,306.00
5373	FY11-12 CTSGP PROP 1B(HOMELND)	\$4,600,000.00
6011	BRIDGE TOLL ALLOC 07376802	\$1,215,861.00
6015	BRIDGE TOLL ALLOC 09387201	\$95,929.00
6213	REGIONAL MEAS 2 08382301	\$3,119,549.51
	TOTAL	\$65,960,667.10

BART has expended \$24,531,461.50, and committed \$1,589,371.20 to date for other actions. This action will commit an additional \$341,500 leaving an uncommitted balance of \$39,498,334.40 in these fund sources.

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

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. If not resolved, the Contractor will likely pursue its claim for costs related to the District's imposed temporary suspension, including pursuing litigation, that may result in costs exceeding the amount of Change Order No. 22.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 22, Temporary Suspension - Contractor Costs, in the amount of \$341,500, to Contract No. 79HM-110, SFTS SB, with Taber Construction, Inc.

San Francisco Bay Area Rapid Transit District

EXECUTIVE DECISION DOCUMENT

Date: October 28, 2013

**ATTACHMENT #2
CONTRACT NO. 79HM-110**

CO No: 22

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Earthquake Safety Program
Name of Contractor:	Taber Construction, Inc.
Contract No./NTP:	79HM-110/August 29, 2011
Contract Description:	SFTS SB
Percent Complete as of 9/30/13 – Dollars	93.42%
Percent Complete as of 9/30/13 – Time	112.99%

<u>COST</u>	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$3,434,000.00
Change Orders:			
Board Authorized CO's		\$1,954,000.00	
Other than Board Authorized CO's 001, 005	13.97%	\$ 479,844.95	
This Change Order No. 22	9.94%	\$ 341,500.00	
Subtotal of all Change Orders	80.82%	\$2,775,344.95	
<u>Revised Contract Amount:</u>			\$6,209,344.95

SCHEDULE

Original Contract Duration;	295 days
Time Extension to Date:	0 days
Time Extension Due to Approved COs:	398 days
Revised Contract Duration	693 days



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Malcolm DeLeon</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 11/15/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept. PD <i>OP</i>	General Counsel <i>Michael...</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BART <i>Paul...</i>
Signature/Date: <i>[Signature] 11/13/13</i>	<i>[Signature] 11-13-13</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature] 11/15/13</i>
TITLE:				

PROJECT CHANGES AND THIRD ADDENDUM TO THE EAST CONTRA COSTA BART EXTENSION (eBART PROJECT) FINAL ENVIRONMENTAL IMPACT REPORT

NARRATIVE:

PURPOSE

To consider an Addendum to the Final Environmental Impact Report (Final EIR) pursuant to the California Environmental Quality Act (CEQA) for the East Contra Costa BART Extension (eBART Project), evaluating the potential environmental impacts of changes to the eBART Project (Revised Project); find that a subsequent or supplemental environmental impact report is not necessary, based upon the Addendum; and adopt the Revised Project.

DISCUSSION

The District is extending transit services into east Contra Costa County from its existing Pittsburg/Bay Point BART Station. The project is generally known as "eBART" in reference to the extension of service to the "east" portion of Contra Costa County. The Project consists of an approximately 10-mile extension of transit service in the median of State Route 4 (SR 4) from the current BART terminus in Contra Costa County at the Pittsburg/Bay Point BART Station to a new Antioch Station just east of Hillcrest Avenue.

Between the Antioch Station parking lot and the eBART Maintenance Facility, lies a BART-owned parcel, formerly owned by the Parachini family (the "Parcel"). A 7.97-acre portion of the Parcel is undeveloped and will remain in BART ownership for the foreseeable future. BART is proposing to use this 7.97-acre area as a staging and storage area for rails, ties, ballast, heavy equipment and other material during construction. The site would provide a staging area adjacent to the eBART maintenance-of-way tunnel under SR 4 and would also provide direct access to rail construction in the median of SR 4. Upon completion of construction, the site would provide long-term storage for eBART system operations. The use of the site as a staging and storage area was not evaluated in the Final EIR for the eBART Project and the site was not included within the original eBART footprint. Although BART did not plan on purchasing the 7.97-acre portion of the Parcel for the eBART Project, as part of the final negotiations in the eminent domain proceeding, BART agreed to purchase the entire Parcel, including this uneconomic remnant.

The potential environmental effects of the eBART Project were presented in a Final EIR for the purposes of evaluating environmental impacts under the California Environmental Quality Act (Public Resources Code Section 21000, et seq., CEQA). On April 23, 2009, the BART Board of Directors certified the Final EIR for the project, adopted a Mitigation Monitoring and Reporting

Plan (MMRP),¹ and adopted the eBART Project (Project).

There have been two Addenda to the Final EIR since its certification in 2009. The first Addendum analyzed a series of modifications to the project. The Board considered those modifications and the Addendum on April 28, 2011 and adopted the Project and MMRP, as revised. A second Addendum analyzed grading outside the original project footprint. BART's Assistant General Manager reviewed and considered the second Addendum and approved the project changes. The General Manager notified the Board of the project changes and the second Addendum in a memorandum on May 8, 2012.

This current Addendum, the third, evaluates the proposed staging and storage area for all categories of impact analyzed in the Final EIR (transportation, land use, visual quality, etc.). The Addendum has not identified any substantial changes in the existing environment, nor has it identified any new or more severe impacts that would result from the revised project that were not already identified in the Final EIR. Therefore, the Revised Project does not meet the conditions that would require a subsequent or supplemental EIR. All mitigation measures included in the adopted MMRP would also apply to the Revised Project.

¹ Mitigation Monitoring and Reporting Plan adopted April 23, 2009 and revised April 28, 2011

FISCAL IMPACT

There is no increase to the current estimated capital cost of \$502 million.

ALTERNATIVES

The alternative is not to adopt the Revised Project and Addendum to the Final EIR. Failure to adopt the Revised Project would reduce the construction efficiency for the eBART Project and reduce long-term options for eBART system storage in the immediate project area.

RECOMMENDATION

Adoption of the attached Resolution.

MOTION

Having reviewed and considered the information contained in the Addendum, the BART Board of Directors hereby:

Adopts the attached Resolution In the matter of adopting modifications to the East Contra Costa BART Extension (eBART Project).

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

**In the Matter of Adopting
Modifications to the
East Contra Costa BART
Extension (eBART Project)**

Resolution No. _____

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the BART Board of Directors on April 23, 2009, certified the Final Environmental Impact Report (FEIR) and adopted the eBART Project (Adopted Project). The Adopted Project consists of an approximately 10-mile extension of the BART system starting from the existing Pittsburg/Bay Point BART Station and extending in the median of State Route 4 (SR 4) to a new station in Antioch, just east of Hillcrest Avenue; and

WHEREAS, The Antioch Station will be a station platform in the median of SR 4, together with a station entry house, station parking lot, access road and Maintenance Facility adjacent to the north side of SR 4; and

WHEREAS, staff has come before the Board on previous occasions to seek approval of various eBART Project changes; and

WHEREAS, the design and construction plans have evolved since the Adopted Project and Revised Project were approved in 2009 and 2011, respectively; and

WHEREAS, a change to the eBART Project is now being contemplated (the Third Addendum), to wit: That a 7.97-acre portion of an undeveloped, BART-owned, parcel located between the Antioch Station parking lot and the eBART Maintenance Facility be used as a staging and storage area during construction and as a permanent, long-term storage area to support eBART system operations following construction; and

WHEREAS, Section 15164 of the CEQA Guidelines allows a lead agency to prepare an addendum to a previously certified EIR, rather than a subsequent EIR (SEIR), if some changes or additions to a project are necessary, as long as none of the conditions described in Section 15162 requiring the preparation of an SEIR have occurred. Section 15162 states that, when an EIR has been certified, no SEIR shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, that there are substantial changes proposed in the project which require major revisions of the previous EIR, substantial changes occur with respect to the circumstances under which the project is undertaken, or there is new information of substantial importance regarding new or substantially more severe significant effects, new mitigation measures or alternatives, or the feasibility of mitigation measures or alternatives previously considered; and

WHEREAS, staff has revisited the analysis conducted in the FEIR and evaluated the potential effects of the changes described in the Third Addendum, surrounding circumstances and new information; and

WHEREAS, based upon the evaluation, none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a SEIR have occurred; and therefore an addendum is appropriate; and

WHEREAS, CEQA Guidelines Section 15164(d) provides that the lead agency's decision-making body shall consider an addendum, together with the FEIR, prior to making a decision on changes to the project.

THEREFORE, BE IT RESOLVED that the BART Board of Directors, having reviewed and considered the information contained in the FEIR and the Third Addendum for the East Contra Costa BART Extension (eBART Project):

- 1) Finds that, on the basis of substantial evidence contained in the FEIR and the Third Addendum and in light of the whole record, that:
 - (a) there are no substantial changes proposed in the Third Addendum that will require major revisions to the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
 - (b) there are no substantial changes with respect to the circumstances under which the Project changes considered in the Third Addendum will be undertaken which will require major revisions of the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
 - (c) there is no new information of substantial importance, which was not known at the time the FEIR was certified, showing that:
 - (i) the changes considered in the Third Addendum will have new or substantially more severe significant effects,
 - (ii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce significant effects of the changes considered in the Third Addendum or
 - (iii) mitigation measures or alternatives considerably different from those analyzed in the FEIR would substantially reduce significant effects of the changes considered in the Third Addendum and
- 2) Adopts the changes considered in the Third Addendum, and
- 3) Authorizes staff to implement the changes considered in the Third Addendum.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter Galvan</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/14/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Steve Beroldo Dept: Customer Access <i>St Bob</i> Signature/Date: 11-14-2013	General Counsel <i>Andrew Kwan</i> 11-14-13	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>Power</i> 19 Nov 2013
Status: Routed		Date Created: 08/26/2013		

TITLE:

19th Street Oakland Bike Station Cooperative Agreement and Lease

NARRATIVE:

PURPOSE

To authorize the General Manager or her designee to execute (1) a cooperative agreement with the City of Oakland for a Bike Station adjacent to the 19th Street BART station, and (2) a lease with 19th and Broadway LLC for approximately 1,200 square feet of commercial space at 1775 Broadway for a five-year base term.

DISCUSSION

BART currently maintains bicycle racks for approximately 124 bicycles on the concourse level at its 19th Street station. The City currently maintains eight (8) bicycle lockers on the street level, above the same underground station. Both the City's bicycle lockers and BART's bicycle racks are near capacity on weekdays. These racks and lockers will remain and the proposed Bike Station will provide additional bike parking.

In early 2012, staff from BART and the City of Oakland began discussions on expanding facilities for bicycle commuters at the 19th Street Station based on the Berkeley Bike Station model. Opened in 2010, the Berkeley Bike Station was a cooperative effort between BART and the City of Berkeley to develop an attractive, secure street-level bicycle support and storage facility. Since its opening, the Berkeley Bike Station has been successful in accommodating the increasing number of BART riders seeking safe parking for their bikes near the Berkeley BART station.

Developing a similar Bike Station facility at the 19th Street BART station would expand and improve bicycle storage for downtown Oakland BART riders, allow for continued growth in bike access to the BART station, and provide an attractive alternative to taking bikes on board the trains.

The proposed Bike Station will provide secure weekday parking for approximately 120 bicycles and bicycle support services. Bicycle support services include on-site bicycle maintenance and repair services, sale of bicycle accessories and community bicycle education classes. The bicycle support retail services will help to defray a portion of the operating costs.

BART/City of Oakland Cooperative Agreement

Staff negotiated draft terms for shared funding of the proposed 19th Street Bike Station with the

City of Oakland. The draft terms of the cooperative agreement would commit the City of Oakland to the following: (1) as the recipient of Safe Routes to Transit Grant No. RM2 # 20.43 from the Metropolitan Transportation Commission, the City of Oakland agrees to use this grant (\$531,000) to fund the tenant improvements needed to construct and furnish the space for bike parking and bicycle support services; and (2) the City of Oakland commits to \$50,000 per year for five (5) years (\$250,000 total) toward operating expenses of the Bike Station.

The draft terms of the cooperative agreement would commit BART to the following: (1) BART agrees to oversee the management and operation of the Bike Station, including management of an operations agreement with a third-party provider (Agreement No. 6M6063 with Alameda Bicycle provides for an option that can be exercised by BART to manage the proposed facility for four years; an new agreement may need to be procured for the remaining year), and (2) BART agrees to fund the remainder of the operating costs (after the City's annual contribution of \$50,000) at an estimated annual contribution of \$55,891 per year, provided any cost overruns do not exceed a fixed percentage of BART's estimated annual contribution.

1775 Broadway Lease

Staff have negotiated draft terms for a lease that would secure the space necessary to house the Bike Station. Located at the southeast corner of 19th and Broadway, the street level retail space would provide good visibility and serve BART patrons and local employees/visitors in a manner similar to the Downtown Berkeley Bike Station. There are two BART entrances in close proximity; one is located directly across the street and a second is located on the same block at the 17th Street alley entrance.

The anticipated rent commencement date of the lease would be April 1, 2014 for a five year base term. The lease also offers an option to renew for an additional five years on the same terms, with the exception of rent which would be at the then prevailing market rate for comparable properties. The proposed monthly base rental rate for approximately 1,200 square feet will start at approximately \$1.50 per square foot (typical rents in this area of Oakland are \$1.75 or more per square foot) and will escalate by a fixed percentage (estimated at two percent the first year and three percent for each remaining year). Based on current negotiations with the landlord the approximate cost for the five-year lease period is \$135,000.

The Office of the General Counsel will approve the lease, any sublease, the cooperative agreement and all related documents as to form.

ALTERNATIVES

The alternative is to not enter into the cooperative agreement with the City of Oakland or the lease with 19th and Broadway LLC. If the agreement is not executed, the City's financial contributions to the Bike Station would be forgone. If the lease is not executed, the space may be rented to another tenant and it may become more difficult for the District to find an alternative, appropriate space convenient to the 19th Street station.

FISCAL IMPACT

The fiscal impact for BART over the five years of the project is approximately \$279,456 as detailed in the table below. The FY 14 Adopted Budget includes funding for the first year cost of this project. Funding for out years will be requested in future operating budget cycles.

Estimated Project Budget

	Staffing, Supervision, Marketing, Maintenance	Rent + Utilities	Total Operating Expenses	BART Share	City of Oakland Share
Year 1	\$75,240	\$25,380	\$100,620	\$50,620	\$50,000
Year 2	\$77,152	\$25,925	\$103,077	\$53,077	\$50,000
Year 3	\$79,113	\$26,703	\$105,816	\$55,816	\$50,000
Year 4	\$81,074	\$27,504	\$108,578	\$58,578	\$50,000
Year 5	\$83,035	\$28,329	\$111,364	\$61,364	\$50,000
TOTAL	\$395,614	\$133,842	\$529,456	\$279,456	\$250,000

A conservative pro forma estimate of ridership revenue shows that if the Bike Station generates only 36 new BART riders a day, over the life of the project, it would generate \$283,500 in new ridership revenue balancing BART's contribution. (This estimate is based on a round trip fare between 19th Street and Embarcadero for 250 annual operating days.)

RECOMMENDATION

Adopt the following motion.

MOTION

The General Manager or her designee is authorized to execute 1) the 19th Street BART Bike Station Cooperative Agreement with the City of Oakland and 2) a lease agreement with 19th and Broadway LLC for commercial space at 1775 Broadway for a five-year base term .

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: November 15, 2013

FROM: General Manager

SUBJECT: California Passenger Rail Program Guiding Principles

This agenda item was prepared in response to Director Murray's request at the October 24, 2013 BART Board meeting that BART, as the Managing Agency and a member agency of the Capitol Corridor Joint Powers Authority (CCJPA), adopt the attached guiding principles for the state's Intercity Passenger Rail (IPR) Program.

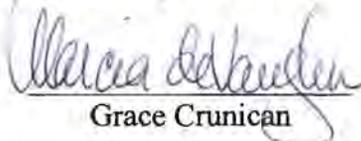
Over the past five years, the board members and staff from the four California intercity passenger rail (IPR) services (Pacific Surfliner, San Joaquin, Capitol Corridor, and the emerging Coast Daylight) have been working collaboratively on many issues affecting these state IPR services. The California IPR Leadership Team, comprised of the chairs and vice chairs of the boards of these IPR agencies and senior staff, visit the state Capitol and administrative offices in Sacramento to speak with one voice and present a united front on various IPR funding and policy issues. The group also travels once a year to Washington, D.C., in conjunction with the APTA Annual Legislative Conference to meet with Congressional representatives, senators and staff to discuss federal IPR service matters. It is important to note that these visits have provided the opportunity to discuss the need for a cohesive integrated passenger rail network in the state with the state's various commuter rail and local transit services as well as with the planned high speed train (HST) system.

With the momentum generated from a passenger rail advocacy forum hosted by the California IPR Leadership Team in Sacramento in April 2013, the California IPR Leadership Team has developed principles (see attached) to guide the escalation of investment (new state and federal and local funds) to (1) maintain and continue the success of the state's IPR services and (2) ensure investment also supports an integrated network with the other passenger rail services in the state – commuter rail and the planned HST system. The following organizations and agencies have adopted these guiding principles (as of October 18, 2013):

- Capitol Corridor Joint Powers Authority
- LOSSAN Joint Powers Authority
- San Joaquin Regional Rail Commission
- Transportation Agency of Monterey County
- RailPAC (citizen advocates)
- San Joaquin Joint Powers Authority
- Coast Rail Coordinating Council
- Central Valley Rail Working Group
- Transform
- State Passenger Rail Partners Forum

It is recommended that the Board of Directors adopt the California Passenger Rail Program Guiding Principles that have been developed by the Capitol Corridor Joint Powers Authority and other California intercity passenger rail agencies.

MOTION: The Board of Directors adopts the attached principles.


Grace Crunican

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

CALIFORNIA PASSENGER RAIL PROGRAM GUIDING PRINCIPLES

(September 4, 2013)

- Protect and enhance California's investment in the existing successful passenger rail system, including sustainable and recurring new sources of funds at both the state and federal levels. Specifically support:
 - a. A new recurring state source of capital and operations funds to cover the existing passenger rail corridors and emerging corridors throughout the state.
 - b. A new program for state of good repair improvements to existing rail corridors that facilitate the movement of passengers and freight.
 - c. Allocations of State Propositions 1A, 1B, and other current and future funds to transit services, including commuter and state-supported intercity passenger rail, that connect with the state's planned high-speed train system.
 - d. "High-Speed and Intercity Passenger Rail" (HSIPR) programs title in federal surface transportation reauthorization, funded by other than the current Highway Trust Fund revenues.
 - e. The American Public Transit Association's (APTA's) recommendation for \$50 billion in federal funding over an initial six year period for the development of a nationwide HSIPR network.
- Support priority investments in integrated passenger rail networks that connect both existing services and future high-speed service which can in turn influence mode shift to be more sustainable and efficient and have positive impacts on the environment.
- Procure a fleet of state-owned, standardized, bi-level rolling stock to support existing and future intercity passenger service.
- Continue partnerships at the federal, state, regional, and local levels in support of future passenger rail investments which support safety, reliability, goods movement, job creation, sustainability, economic development, and quality of life.
- Support lowering voter approval thresholds at the regional level in order to create new sources for rail investments.
- Support state efforts to dedicate a portion of cap and trade funds for public transportation systems and specifically for the development and improvement of an integrated passenger rail network.
- Support streamlining of existing programs and policies to expedite efficient development of passenger rail improvements (e.g., RRIF, TIFIA).

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

In the Matter of Ratifying the 2013 - 2017
Collective Bargaining Agreement between the
District and the Amalgamated Transit Union /

Resolution No. _____

BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby ratifies the 2013 - 2017 Collective Bargaining Agreement between the District and the Amalgamated Transit Union, Local 1555, as generally described in the attached Summary of Major Elements of Proposed Agreement, dated November 8, 2013; and

BE IT FURTHER RESOLVED that the General Manager is authorized to execute the Agreement on behalf of the District.

###

Adopted _____

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

In the Matter of Ratifying the 2013 - 2017
Collective Bargaining Agreement between the
District and the Service Employees' International Union /

Resolution No. _____

BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby ratifies the 2013 - 2017 Collective Bargaining Agreement between the District and the Service Employees' International Union, Local 1021, as generally described in the attached Summary of Major Elements of Proposed Agreement, dated November 8, 2013; and

BE IT FURTHER RESOLVED that the General Manager is authorized to execute the Agreement on behalf of the District.

###

Adopted _____