CONSENT CALENDAR

December 10, 2019

TO: Honorable Members of the City Council

FROM: Mayor Arreguín, Councilmember Bartlett, and Councilmember Kesarwani

SUBJECT: Approval of a Memorandum of Understanding between the City of Berkeley and BART on Implementation of State Law AB 2923 at the Ashby and North Berkeley BART Stations and Establishment of a Community Advisory Group

**RECOMMENDATION**

- (1) Approve a Memorandum of Understanding (MOU) between the City of Berkeley and the Bay Area Rapid Transit District (BART) to establish a process for cooperatively pursuing the implementation of Assembly Bill 2923 (AB 2923, Stats. 2018, Chp. 1000) at the Ashby and North Berkeley BART Stations. This action is pursuant to unanimous City Council direction on May 9, 2019, to direct the City Manager to “engage with BART to develop an MOU that outlines the project planning process including feasibility analysis, project goals, and roles and responsibilities; and direct that the MOU return to Council for adoption.”
  
- (2) Establish a Community Advisory Group (CAG) for the purposes of providing input:
  - To the City Planning Commission as it considers zoning standards that will be consistent with the City’s obligations under AB 2923 for the Ashby and North Berkeley BART station areas; and
  - To the City and BART as the parties establish a joint vision and priorities document that will be incorporated in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.

**SUMMARY STATEMENT**

On May 9, 2019, the City Council unanimously voted to engage with BART on an MOU to collaborate on development at the North Berkeley BART Station and refer to the Planning Commission to study development of zoning for the site.<sup>1</sup> At the same time, the Adeline Corridor Plan public process has identified interest in the development of homes at the Ashby BART Station.<sup>2</sup> The City and BART both acknowledge that the region faces a shortage of affordable homes and a climate crisis that requires a significant reduction in vehicle miles traveled, and both entities have adopted policies that prioritize creating affordable homes and reducing greenhouse gas emissions. Publicly-owned land at the Ashby and North Berkeley Stations provides a rare

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<sup>1</sup> [May 9, 2019, Special Meeting Annotated Agenda](#) [PDF]

<sup>2</sup> [Adeline Corridor Plan website](#) [cityofberkeley.info]

opportunity to meet the objectives of both the City and BART. Furthermore, state law AB 2923 requires the City of Berkeley to zone the Ashby and North Berkeley Stations in accordance with BART transit-oriented development (TOD) standards no later than July 1, 2022.<sup>3</sup> A significant benefit of the proposed collaboration with BART is the opportunity to identify and make infrastructure improvements in order to enhance station access for all Ashby and North Berkeley BART riders using all modes, including pedestrians, bicyclists, community members with access and functional needs, shared mobility users, and patrons using public and private transportation.

Therefore, the attached MOU establishes a process to:

1. Identify a shared vision and priorities for development for BART and the City, and set forth steps needed to pursue this vision and priorities;
2. Clarify the processes that BART and/or the City will pursue to address the activities and timelines; and
3. Provide greater clarity for all parties, including BART, the City, and members of the public, on the currently-planned steps, timelines, and the Parties' roles and responsibilities needed in seeking to commence construction of TOD on BART-owned property at both the Ashby and North Berkeley BART Stations.

The MOU specifies roles and responsibilities of the City and BART and does not specify in great detail financial arrangements, environmental review, and other relevant considerations to be addressed at a future time.

Given the importance placed on community input in the Adeline Corridor Specific Plan, Policy 3.7 (3-22),<sup>4</sup> and the North Berkeley BART Development Goals and Objectives,<sup>5</sup> a Community Advisory Group (CAG) shall be formed for the purposes of advising the Planning Commission on zoning for the Ashby and North Berkeley Stations. While there may be distinct concepts and requirements for each station site, the CAG will advise the Planning Commission on zoning that conforms with AB 2923 with the assistance of an AB 2923 Guidance Document to be prepared by BART. The CAG will also provide input to the City and BART as the parties establish a joint vision and priorities document that will be incorporated into eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.

## **BACKGROUND**

### **Ashby BART Station**

As described in the Draft Adeline Corridor Plan (2-22), "The Ashby BART subarea is comprised of two large parcels adjacent to the Ashby BART Station, as well as the public street right-of-way and station area between them. The two parcels are owned by BART, but the City retains an

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<sup>3</sup> [Text of Assembly Bill 2923](#) [ca.gov]

<sup>4</sup> [Adeline Corridor Specific Plan, Public Review Draft, May 2019](#) [PDF]

<sup>5</sup> [A Community Visioning Process for the Ashby and North Berkeley BART Stations](#) [jessearreguin.com]

option to the ‘air rights’ over the parcel on the west side of Adeline. The parcel on the east side of Adeline is a 1.9-acre surface parking lot. The parcel on the west side is a 4.4-acre surface parking lot, the northern portion of which is used by the Berkeley Flea Market on weekends. Beyond the parking lots, this subarea consists of wide, busy streets, with high volumes of station-bound pedestrian, bicycle, and bus traffic. The streets are not as conducive to safe and comfortable pedestrian activity as they might be. There are grade changes and design features that limit the visibility and accessibility of station entrances.”

The collaborative community process identified a number of “big ideas” (2-16) that help achieve the five strategic goals of the Plan: Land Use and Community Character, Housing Affordability, Economic Opportunity, Transportation, and Public Space. One of the “big ideas” especially considers development at Ashby BART:

*Redevelop the Ashby BART Station Area as a vibrant neighborhood center with high-density mixed-use development, structured parking (including some replacement parking for BART riders), ground floor commercial and civic uses, and new public space. The BART development should incorporate green construction and become a model for sustainable transit-oriented development. It should unify both sides of Adeline Street, and provide public space for community gatherings, special events, and civic celebrations.<sup>6</sup>*

The CAG’s discussions should connect to the “big ideas” from the Adeline Corridor Plan, which include neighborhood priorities and amenities such as the Berkeley Flea Market, South Berkeley Farmers’ Market, Ed Roberts campus, and others in the context of requirements stipulated by AB 2923 TOD zoning standards.

### **North Berkeley BART Station**

The North Berkeley BART Station sits on approximately 8.1 acres of land in residential Northwest Berkeley, bounded by Sacramento Street on the east, Virginia Street on the north, Acton Street on the west, and Delaware Street on the south (with the exception of additional side parking lots abutting the Ohlone Greenway).

The North Berkeley BART site is currently zoned U-Unclassified, meaning there is no zoning designation, and therefore zoning and development standards will have to be developed by the Planning Commission in consultation with the CAG.

After a series of public meetings, including a community visioning session in October 2018, the City Council gave direction on January 15, 2019, to the City’s Planning Department to develop conceptual land use scenarios for the North Berkeley BART site. On May 9, 2019, the City Council reviewed these scenarios, and unanimously voted to make a referral to the Planning Commission to study development of zoning for the site.

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<sup>6</sup> See Chapters 3, 4 and 7 of the Draft Adeline Corridor Plan for more on Ashby BART.

The CAG's discussions should connect to the North Berkeley BART Development Goals and Objectives, including the discussion of station access, affordability, livability, and environmental sustainability in the context of requirements stipulated by AB 2923 TOD zoning standards.

## **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES AND LAWS**

A number of City and regional plans and policies emphasize the value of creating affordable homes and transit-oriented development, enhancing infrastructure, reducing vehicle miles traveled, and improving safety for pedestrians and bicyclists, as briefly described below.

### **Berkeley General Plan<sup>7</sup>**

Policies to increase residential and commercial density near transit are articulated in the Berkeley General Plan which include:

- Policy H-12 Transit-Oriented New Construction: Encourage construction of new medium and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plan, design review guidelines and the Climate Action Plan. Actions include:
  - Consider adjusting zoning to allow for greater residential density and specified commercial uses along certain transit corridors and in proximity to the Downtown Berkeley, Ashby and North Berkeley BART Stations.
- Policy LU-23 Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit-service.
- Policy LU-25 Affordable Housing Development: Encourage the development of affordable housing in the Downtown Plan area, the Southside Plan area, and other transit-oriented locations.
- Policy LU-32 Ashby BART Station: Encourage affordable housing or mixed use development including housing on the air rights above the Ashby BART Station lot west of Adeline Street. Actions include:
  - Consider a joint City/BART development plan to encourage and ensure appropriate development design, density and parking to accommodate the BART station and transit-oriented development. Development at Ashby BART should include multi-family, transit-oriented housing and ground-floor commercial space and if feasible, at least 50% of housing units should be affordable to low and very-low income households.
  - Consider revising the zoning for the site to reduce the on-site parking requirements for new housing above the BART station.

### **South Berkeley Area Plan<sup>8</sup>**

The Plan recommends practical approaches to implementing goals and policies that ensure access to affordable rental housing and homeownership opportunities, preserve the diversity of

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<sup>7</sup> [Berkeley General Plan, Housing & Berkeley General Plan, Land Use \[PDF\]](#)

<sup>8</sup> [South Berkeley Area Plan \[PDF\]](#)

South Berkeley's population, maintain and expand South Berkeley's housing stock and improve transit and paratransit opportunities for South Berkeley residents.

#### **South Shattuck Strategic Plan<sup>9</sup>**

The Plan serves as a guide for future development in South Shattuck that offers action steps to improve traffic and encourage the use of alternative modes of mobility such as public transit, shuttles, bicycling and walking. Such action steps include incorporation of elements to encourage non-auto travel in the Public Improvements Plan and working with residents and merchants to define transit needs for South Shattuck.

#### **Plan Bay Area 2050<sup>10</sup>**

Plan Bay Area 2050 is a comprehensive Bay Area planning effort to look at the intersection of transportation, housing and the environment. The Plan expands on Plan Bay Area 2040's long-range plan which outlines Priority Developments Areas as a mechanism to maximize growth in transit-rich communities and reduce vehicle miles traveled and greenhouse gas emissions.

#### **Berkeley Bicycle Plan<sup>11</sup>**

The Plan speaks to policies and action steps to foster a bicycle-friendly city. Such steps include integrating bicycle network and facility needs into City projects, supporting a successful bike share system that promotes an alternative mode of travel to BART stations and designing a Bikeway Network that is accessible to people of all ages and abilities.

#### **Vision 2050<sup>12</sup>**

The citizen-led effort will develop a framework for Berkeley's 30-year Sustainable Infrastructure Plan to address the City's growing population and ever-changing climate. Community information sessions informed additional research conducted by the Vision 2050 Task Force in identifying the need for infrastructure projects that improve equity and community and environmental resilience, emerging technologies in transportation and cost effective financing options for building and maintaining Berkeley's infrastructure.

#### **Berkeley Climate Action Plan<sup>13</sup>**

The Berkeley Climate Action Plan outlines measures to ensure that the community continues to meet its greenhouse gas reduction target by increasing density along transit corridors through new development of affordable housing, retail services and employment centers. The Plan also promotes a resilience framework that highlights the steps the City has taken to advance neighborhood equity, adapt to the changing climate and establish community partnerships to further its climate commitments.

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<sup>9</sup> [South Shattuck Strategic Plan](#) [PDF]

<sup>10</sup> [Plan Bay Area 2050](#) [planbayarea.org]

<sup>11</sup> [Berkeley Bicycle Plan](#) [cityofberkeley.info]

<sup>12</sup> [Vision 2050](#) [jessearrequin.com]

<sup>13</sup> [Berkeley Climate Action Plan](#) [cityofberkeley.info]

In addition, see Chapter 3 of the Draft Adeline Corridor Plan — “EXISTING PLANS, PROGRAMS AND REGULATIONS” (3-3).

### **OUTREACH OVERVIEW AND RESULTS**

Extensive information about community process and outreach can be found at:

[jessearreguin.com/bart](http://jessearreguin.com/bart)

[cityofberkeley.info/council3/adeline](http://cityofberkeley.info/council3/adeline)

[rashikesarwani.com/issues/north-berkeley-bart](http://rashikesarwani.com/issues/north-berkeley-bart)

In addition, see Chapter 1 of the Draft Adeline Corridor Plan — “Table 1-2 Planning Process & Community Engagement” (1-10).

### **RATIONALE FOR RECOMMENDATION**

The Public Review Draft of the Adeline Corridor Specific Plan, Chapter 3.7 - Ashby BART, states:

*Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a deliberate and extensive community decision making process ... which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. (3-24)*

On May 9, 2019, the City Council unanimously adopted the North Berkeley BART Development Goals and Objectives, which states:

*A Community Advisory Committee shall be created for the purposes of providing input to the City’s Planning Commission as it considers City and BART TOD zoning standards.*

As directed by the full City Council, the MOU establishes a process for the City and BART to identify a shared vision and priorities, clarify activities and timelines, and identify roles and responsibilities. While the City has a process for zoning and entitlements, and BART has a process for development of its properties, this MOU identifies in broad terms how these processes will work together.

Approving the attached MOU is a critical next step in the overall station development process.

### **IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT**

This item will establish a Community Advisory Group (CAG) comprised of an odd-number of members no greater than 15. Members of the CAG may be appointed from the following commissions: Commission on Disability; Housing Advisory Commission; Planning Commission; and the Transportation Commission. The commissions shall select a representative to serve on the CAG.

Representatives from the following stakeholder groups and communities will also be considered:

- Berkeley Flea Market
- Bicycle and Pedestrian advocacy
- Neighborhood groups in the Adeline Corridor area
- Neighborhood groups in the North Berkeley area
- Faith-based communities
- At-large members

The CAG members will be appointed with an eye toward ensuring a diversity of views, perspectives, and experiences including: (1) representing all geographic areas of the city on which station area development would have an impact such as immediate as well as commuter neighborhoods, (2) reflecting a wide-range of relevant expertise in areas such as city planning, architecture, transit, and environmental sustainability, and (3) incorporating diverse life experiences. The representative from the Planning Commission shall serve as Chair of the CAG unless they defer and shall be responsible for creating and providing reports to the Planning Commission on the CAG's discussions.

Members of the CAG shall be appointed no later than January 31, 2020, by a subcommittee of the City Council comprised of the Mayor and the City Councilmembers who represent the districts that include the Ashby and North Berkeley Stations. The subcommittee comprised of the Mayor and Councilmembers will undertake extensive public outreach to appoint CAG members that represent the diversity of backgrounds and perspectives of the community.

The charge of the CAG is to: (1) provide input to the Planning Commission on matters directly related to zoning of the Ashby and North Berkeley BART Stations in conformance with AB 2923 zoning standards; (2) bridge communication between the Planning Commission's zoning process and other neighborhood groups and the community at large; and (3) provide input on a joint vision and priorities document to be developed by the City and BART.

The CAG's work plan and schedule shall be dependent upon the Planning Commission's schedule and will align with the Planning Commission's timeline and workflow regarding development of zoning at the Ashby and North Berkeley Stations. It is anticipated that the CAG's work will ultimately depend on the Planning Commission's workflow and will include the following scope: two meetings on design, two meetings on economic feasibility, and two meetings to review preliminary zoning concepts.

Once the Planning Commission recommends zoning to the City Council, the CAG shall have completed its charge as it relates to zoning. It is anticipated that the CAG will be re-established to provide input to the City and BART as the two parties establish a joint vision and priorities document to be included in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART properties.

## **ENVIRONMENTAL SUSTAINABILITY**

The current use of the Ashby and North Berkeley BART Station parking lots solely for vehicle parking is not the optimal environmental use of scarce, publicly-owned land. By creating homes on these sites, the City Council would further its goals to address the Climate Emergency and reduce greenhouse gas emissions from vehicle miles traveled. A reimagined use of these sites and reconfigured public spaces can allow for enhanced public and neighborhood amenities to flourish while improving bicycle and pedestrian facilities and providing safe routes to encourage alternate means of access to the BART stations.

## **FINANCIAL IMPLICATIONS**

The MOU between the City of Berkeley and BART specifies that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low-income affordable housing, as defined by the federal Department of Housing and Urban Development. The City recognizes that meeting this level of affordability will require significant local, state, and federal subsidy.

Complying with AB 2923 to zone the Ashby and North Berkeley Stations will require significant staff and consultant resources by the City's Planning Department. The City is making efforts to seek outside sources of funding:

- On November 12, 2019, the City Council authorized the City Manager to submit an application for Senate Bill 2 Planning Grants Program (PGP) in the amount of \$310,000.<sup>14</sup> SB 2 provides funding and technical assistance to all local governments in California to help them prepare, adopt, and implement plans and process improvements that streamline housing approvals and accelerate housing production. Funding is non-competitive and based on population estimates published by the State's Department of Finance. The City of Berkeley is classified as a "medium city" and is therefore eligible to apply for \$310,000. Grants issued through the 2019 PGP can be used for updating local planning documents, updating zoning ordinances, conducting environmental analyses or for local improvements to expedite local planning and permitting. More specifically, planning activities funded through this program are to focus on preparation, adoption and implementation of plans and zoning regulations that streamline housing approvals and accelerate housing production. The City will use these funds for developing TOD zoning regulations on BART properties in Berkeley. Further, the Mayor's Office has been supportive of additional grant applications by BART.<sup>15,16</sup>
- On November 19, 2019, the City Council considered adoption of a resolution in support of nominating the North Berkeley Station as a Priority Development Area (PDA).<sup>17</sup> It should be noted that this area refers to the parking lot itself, and street surfaces area that abut

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<sup>14</sup> [Council Authorization to the City Manager to Submit Senate Bill 2 Planning Grants Program Application \[PDF\]](#)

<sup>15</sup> [Mayor's Letter of Support for BART Sustainable Communities Grant \[PDF\]](#)

<sup>16</sup> [Mayor's Letter of Support for BART FTA TOD Grant \[PDF\]](#)

<sup>17</sup> [Priority Development Area Nomination – North Berkeley BART Station \[PDF\]](#)

the station. If the Metropolitan Transportation Commission (MTC) opts to designate the station as such, the City of Berkeley will become eligible to apply for and receive grant funding from MTC for activities related to the community engagement and advisory processes; to help develop the zoning and design guidelines; and to support infrastructure improvements related to the development of the North Berkeley Station.

- On November 12, 2019, the City Council referred \$250,000 to the mid-year budget allocation process to initiate environmental review required as part of developing and adopting zoning for the Ashby and North Berkeley BART Stations that conforms with AB 2923.<sup>18</sup>

## **OUTCOMES AND EVALUATION**

This item represents the next steps in an iterative process responding to the City Council's direction on May 9, 2019, as well as the Adeline Corridor Plan process. As such, the intended outcome is a successful Planning Commission zoning process in which extensive community input is received from people of diverse backgrounds and perspectives.

## **CONTACT**

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## **ATTACHMENTS**

1. Memorandum of Understanding ("MOU") by and between the San Francisco Bay Area Rapid Transit District ("BART") and the City of Berkeley ("City") to cooperatively pursue transit oriented development ("TOD") and the implementation of Assembly Bill 2923 ("AB 2923") at the Ashby and North Berkeley BART Stations
2. Exhibit 1 - Policy 3.7 of the Draft Adeline Corridor Specific Plan
3. Exhibit 2 - North Berkeley BART Development Goals and Objectives
4. Exhibit 3 - BART TOD Policy
5. Exhibit 4 - BART Affordable Housing Policy
6. Exhibit 5 - BART Station Access Policy

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<sup>18</sup> [Budget Referral: BART Station Environmental Planning \[PDF\]](#)

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (“MOU”) is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the San Francisco Bay Area Rapid Transit District (“BART”) and the City of Berkeley (“City”) to cooperatively pursue transit oriented development (“TOD”) and the implementation of Assembly Bill 2923 (“AB 2923”) at the Ashby and North Berkeley BART Stations.

### **RECITALS**

- A. BART and the City both acknowledge that the region faces a shortage of affordable homes and a climate crisis that requires a significant reduction in vehicle miles traveled; and
- B. BART and the City have adopted District- and City-wide policies that prioritize creating affordable homes and reducing greenhouse gas emissions; and
- C. Publicly-owned land at the Ashby and North Berkeley BART stations provides a rare opportunity to create more homes, including below-market-rate affordable homes, in a manner that reduces residents’ reliance on driving; and
- D. State law AB 2923 (AB 2923, Stats. 2018, Chp. 1000) requires BART to adopt TOD zoning standards for BART-owned property surrounding its stations and requires that the City’s local zoning conform with TOD zoning standards by July 1, 2022; and
- E. BART and the City are committed to enabling multiple opportunities for community input and engagement that inform site master planning and zoning; and
- F. The purpose of this agreement is to:
  - 1. Identify a shared vision and priorities for development for BART and the City, and set forth steps needed to pursue this vision and priorities;
  - 2. Clarify the processes that BART and/or the City will pursue to address the activities and timelines outlined below in Section III; and
  - 3. Provide greater clarity for all parties, including BART, the City, and members of the public, on the currently-planned steps, timelines, and the Parties’ roles and responsibilities needed in seeking to commence construction of TOD on BART-owned property at both the Ashby and North Berkeley BART Stations.

## **MUTUAL UNDERSTANDING OF THE PARTIES**

### **I. Framework for Development at Ashby and North Berkeley BART Stations**

- A. Goals and objectives for TOD have been established for Ashby and North Berkeley BART stations by the City through two separate processes. Similarly, BART has adopted policies and performance targets guiding its TOD program as a whole. These documents will inform the Parties' respective goals and objectives with regard to TOD at the Ashby Station and North Berkeley Station.
- B. The Draft Adeline Corridor Specific Plan (published in May 2019) sets forth a vision, policies and objectives for the Ashby BART Station area. Specifically, Policy 3.7 of the Plan, shown in Exhibit 1, includes seven objectives relating to affordable housing, public space, development parameters, public art, pedestrian and bicycle connections, transportation and demand management and community engagement.
- C. On May 9, 2019, the Berkeley City Council unanimously approved the City's goals and objectives for North Berkeley BART development, which are shown in Exhibit 2. The City's goals focus on community input, station access, affordability, livability and environmental sustainability.
- D. In 2016, the BART Board adopted three policies which set overall goals for BART's transit-oriented development (TOD) program:
  - 1. A TOD Policy (Exhibit 3), setting the goals of creating complete communities, advancing sustainable communities, increasing ridership, capturing the value of transit, enhancing transportation choice, and increasing affordability with a district-wide affordability target of 35%.
  - 2. An Affordable Housing Policy, which requires a 20% affordable housing minimum for its projects, and favors projects with the greatest depth and quantity of affordable housing (Exhibit 4).
  - 3. A Station Access Policy (Exhibit 5) to guide access practices and investments through 2025. The policy is designed to support the broader livability goals of the Bay Area, reinforce sustainable communities, increase the share of BART passengers walking and biking to the stations, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively.
- E. Together these documents, as well as further engagement of community stakeholders and additional collaboration and activities as set forth in this MOU, lay the groundwork for future development at the Ashby and North Berkeley BART Stations.

## **II. Scope of Agreement**

- A. This MOU applies to development of the following properties, henceforth known as the “BART Properties”:
  1. Ashby BART Western Parking Lot: Bounded by Ashby Ave, Adeline St, and Martin Luther King Jr Way. Site is owned by BART, with an option to the City to retain the air rights above 10 feet;
  2. Ashby BART Eastern Parking Lot: Located on the east side of the station, behind the Ed Roberts campus, which is owned by BART; and
  3. North Berkeley BART Main Parking Lot: Bounded by Sacramento, Delaware, Acton and Virginia Streets. Site is owned by BART.
- B. In order to ensure that development of the BART Properties is, to the extent possible, consistent with the vision and priorities established by the City and BART, during the TOD planning process outlined in this MOU there will be an opportunity to consider infrastructure enhancements to other areas that are owned by BART or the City. These may include the following (henceforth known as “Surrounding Areas”):
  1. North Berkeley BART: auxiliary parking lots owned by BART, and areas owned by the City that abut the Ohlone Greenway;
  2. Other public infrastructure (e.g., streets, crosswalks, bicycle paths, on-street parking, stormwater and sewer infrastructure) within a one-mile radius of the BART Properties; and
  3. Proposed changes to access and circulation at each Station would be identified through the Station Access Study described in Section III.F of this MOU, as well as through the development master plan or entitlement process. Any such changes would therefore be subject to public review and comment, and to approval by the Parties.

### III. Activities and Timelines

Activities and Timelines – Summary Table

Activity	Lead Party	Milestone	Date
1. Community Advisory Process and other community engagement activities	City	Establish a Community Advisory Group to inform site zoning and to facilitate community input on site master planning and zoning	Initiate December 2019
2. Zoning for Ashby and North Berkeley BART Stations	City	<ul style="list-style-type: none"> <li>a. Zoning alternatives proposed</li> <li>b. Draft CEQA document released</li> <li>c. Planning Commission and community review</li> <li>d. Planning Commission approval</li> <li>e. Council zoning approval</li> </ul>	Complete by June 2021
3. BART AB 2923 Guidance Document	BART	<ul style="list-style-type: none"> <li>a. Draft Guidance</li> <li>b. Final Guidance</li> </ul>	<ul style="list-style-type: none"> <li>a. February 2020</li> <li>b. July 2020</li> </ul>
4. City Affordable Housing Funding	City	Decision on set-aside of City funding for affordable housing to Ashby and North Berkeley Stations	December 2020 (pending further definition of zoning and site capacity)
5. Developer Solicitation	BART	Decision on timeline to initiate solicitation of a developer (as part of BART's 10-Year TOD Work Plan)	July 1, 2020
6. Station Access Studies	BART	Station Access Studies Completed	Timeline dependent upon Developer solicitation for each station

**A. Community Advisory Process and other Community Engagement Activities**

1. Pursuant to the Draft Adeline Corridor Specific Plan (Policy 3.7) and the North Berkeley BART Development Goals and Objectives adopted by the City Council on May 9, 2019, an advisory group consisting of members of the community will be created for the purposes of providing input:
  - a. To the City Planning Commission as it considers zoning standards that will be consistent with the City's obligations under AB 2923 for the Ashby and North Berkeley BART station areas; and
  - b. To the City and BART as the Parties establish a joint vision and priorities document ("Joint Vision and Priorities") that will be incorporated in eventual Requests for Proposal/Requests for Qualifications for potential developers of the BART Properties.
2. The City will be responsible for the selection and all logistics and funding for the Community Advisory Process.
3. Contingent on availability of funding, the City will also organize public participation design charrettes that inform predictable form-based design standards that BART will incorporate into guidelines for future development of the BART properties.
4. BART will support the City's efforts by participating in meetings, presenting information, as necessary, and considering input arising from the Community Advisory Process as part of its larger community engagement for AB 2923, TOD and station access studies in the City.

**B. Zoning Ashby and North Berkeley BART Stations.** As required by AB 2923, the City will pursue rezoning of developable, BART-owned property within ½-mile of the Ashby and North Berkeley Stations. The City will be responsible for all logistics and funding required for these rezoning efforts. As the agency responsible for local zoning regulations, the City will work in good faith with BART to coordinate the City's rezoning efforts with BART's development of AB 2923 guidance.

**C. BART AB 2923 Guidance.** BART and the City understand that AB 2923 requires further clarification related to height, floor-area-ratio, density, bicycle parking minimums, automobile parking minimums and maximums. To address these points of clarification, BART will publish a guidance document offering all affected local jurisdictions information on AB 2923. As the

agency responsible for determining whether local zoning conforms to state law, BART will be responsible for all logistics and funding required for the AB 2923 guidance document. The guidance document will provide guidance on TOD zoning standards for all local jurisdictions as those jurisdictions seek to comply with their obligations under AB 2923.

#### **D. City Affordable Housing Funding Decision**

1. The voters of Berkeley recently established three important new sources of funding to support the creation and preservation of affordable housing, keep vulnerable people housed, and rehouse the homeless:
  - a. Measure O provides for issuance of \$135 million in bonds to fund capital expenditures for a variety of types of affordable housing;
  - b. Measure P established a real estate transfer tax on the most expensive one-third of real estate sales with a stated intent to rehouse the homeless and fund the services they need to remain housed; and
  - c. Measure U1 increased the gross receipts tax on most residential rental properties with a stated intent to fund affordable housing and protect Berkeley residents from homelessness.
2. The above measures establish advisory panels which advise the City Council as it makes determinations regarding the allocation of these and other affordable housing monies (such as City Housing Trust Fund resources) and related resources such as public land and inclusionary units.
3. The City will set-aside appropriate funding, including development fees and other above-mentioned sources, to support deed-restricted affordable housing at a range of income levels to meet BART and the City's affordable housing goals at the Ashby and North Berkeley BART Stations (as referenced in Section I).

#### **E. Developer Solicitation**

1. Consistent with its standard practice, BART will issue a Request for Qualifications (“RFQ”), Request for Proposals (“RFP”) or both to initiate the process of identifying and recommending potential developers of the BART Properties to the BART Board of Directors. The committee(s) established to evaluate RFQ/RFP submissions will include City Representatives and BART staff as well as an independent financial consultant, who

will evaluate the capabilities of each proposer to deliver the project. The criteria used to select a developer with whom to negotiate will be based on the BART Station Development Joint Vision and Priorities that will take into account community input as outlined in Section III.A.

2. For the Ashby BART Western Parking Lot, which is owned by BART with an option to the City to retain the air rights above 10 feet, and assuming that the City exercises said option, the City and BART will enter into a separate agreement detailing how they will share decision-making authority in the developer solicitation process.
3. The evaluation committee's role is to make a recommendation to the BART Board of Directors regarding a developer with whom BART will negotiate for the development of TOD. The BART Board of Directors has the sole discretion and authority to determine whether, and with whom, BART will enter into an exclusive negotiating agreement ("ENA") relating to potential TOD development on the BART Properties. It is anticipated that, among other things, the ENA will require the developer to advance the proposed project through the City's entitlement process, lead or participate in a community engagement process, fund a Station Access Study for BART (see below), pay BART an option fee in exchange for exclusive negotiating rights, and reimburse BART for its expenses, including engineering review, outside legal fees, and outside consultant expenses.

## **F. Station Access Study**

1. Per the draft policies in the Adeline Corridor Plan, Council-adopted goals and objectives for development of the North Berkeley BART property, BART's TOD Policy, and the requirements of AB 2923, a Station Access Study must be prepared prior to development of the BART Properties that identifies sustainable access options for both the Ashby and North Berkeley BART Stations in light of potential changes to the BART Properties and surrounding areas resulting from TOD. AB 2923 added Section 29010.6(h) to the California Public Utility Code, which requires BART—with respect to any station where BART commuter parking is reduced as a result of a TOD project on land where TOD zoning standards apply—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station.
2. The Station Access Studies will evaluate a range of access options that support BART's goals to increase the share of BART patrons who access the stations via modes other than the private automobile, and that maximize the potential number of homes

(including homes restricted to low, very low, and extremely low-income households) on site. In exploring alternatives to parking, the Studies will evaluate whether and how to offer viable, multimodal access to BART for the station catchment areas, and how to ensure that TOD and associated improvements result in an overall increase in the number of people who use the BART Stations. The Studies will identify infrastructure needs on and near BART's property to improve access for riders using all modes, including pedestrians, bicyclists, community members with access and functional needs, shared mobility users, and patrons using public and private transportation.

3. BART will be responsible for all logistics required for the Station Access Studies. BART will fund these Studies in advance, but may require reimbursement for the Studies from a developer or developers pursuant to an ENA with said developer(s). Findings from the Ashby and North Berkeley BART station access studies will be presented to the community.

#### **IV. Zoning and Solicitation Process; Retention of Decision-making Authority by City and BART**

- A. To demonstrate its commitment to advancing development at BART property, and in consideration for its inclusion as a high priority in BART's 10-year work plan for development, the City will: 1) complete rezoning of the properties by June 2021, and 2) make a decision by the end of December 2020 to set-aside funding sufficient to assure BART, in its sole discretion, that at least 35% of the housing units proposed to be constructed at the BART Properties would be deed-restricted to low, very low and/or extremely low affordable housing. The City recognizes that meeting this level of affordability will require significant local, state, and federal subsidy. The Planning Commission has a target date of December 2020 to review zoning alternatives as a show of progress towards completion of zoning by June 2021.
- B. To support the City's zoning process, BART agrees to provide guidance that will be applicable to North Berkeley Station and all other stations in the BART system to which AB 2923 applies. BART will work with the City of Berkeley to explore possible approaches to conformance with AB 2923 zoning standards in the context of the built form characteristics of a surrounding lower density neighborhood. The City will consult with BART regarding zoning alternatives for the North Berkeley Station that conform with AB 2923 zoning standards.
- C. It is understood that both BART and the City desire for more work to be completed in support of zoning, such as site master planning or objective design guidelines. At the time of this MOU, the City and BART are actively working to identify additional resources to accelerate this work.

- D. The City and BART will meet in December 2020 to review the City's efforts undertaken pursuant to Section III.B and III.D, in order to:
1. Determine whether the City has approved a set-aside of sufficient funding to meet the 35% affordable housing minimum for each station as described in Section IV.A;
  2. Negotiate possible additional City participation in the solicitation processes; and
  3. Agree upon the timing of the developer solicitations for the BART Properties in December 2020.
- E. If the zoning for the Ashby and North Berkeley Stations and the set-aside of City affordable housing funds occurs after the dates indicated for those actions in the timeline in Section IV.A above, BART may re-evaluate the inclusion of these stations in its 10-year work plan. Likewise, if BART does not proceed with developer solicitations for the BART Properties as determined in Section III.D, the City may reallocate affordable housing funding to other projects.
- F. Notwithstanding any other provision in this MOU, nothing herein shall be construed to limit or restrict the discretionary decision-making authority of the City or of BART. The Parties acknowledge that any reference to a project or proposed project in this MOU or in any document that may be created in connection with this MOU does not constitute a Project or Project approval by either Party as those terms are defined in CEQA and discussed in *Save Tara v. City of West Hollywood*, 45 Cal. 4th 116 (2008).

## 3.7 ASHBY BART

**Future development within the Ashby BART subarea shall provide public space, community-oriented facilities, and affordable housing, consistent with the objectives, parameters, and process outlined in the Adeline Corridor Specific Plan.**

The Ashby BART Station is one of the most prominent landmarks and amenities along the Adeline Corridor, with the potential to support and advance all five key topic areas addressed in this Plan – land use, housing, economic opportunity, transportation, and public space.

As stated in Chapter 2, the Ashby BART subarea is envisioned to be redeveloped as a vibrant neighborhood center with high-density mixed-use development that unifies and knits back together the east and west sides of Adeline Street. The Ashby BART development will be a model for sustainable transit-oriented development, incorporating high levels of affordable housing and complementary commercial and civic uses; public space for community gatherings, special events, and civic celebrations; and green construction.

The Plan lays the groundwork for future engagement with the community and BART by outlining key objectives that apply to future development and describing a process for evaluating development proposals for these sites. Future development in the Ashby BART subarea shall be consistent with the seven objectives below, which shall be incorporated into any future master plan and development agreements with potential developers.

**OBJECTIVE 1. AFFORDABLE HOUSING.** For any future development in the BART subarea, at least 50% of the total housing units produced should be comprised of deed-restricted affordable housing, which could also include supportive services or other spaces associated with the affordable housing. This



The Ashby BART Station

goal for at least 50% affordable housing at a range of income levels (e.g. Extremely Low, Very Low, Low and Moderate) would be calculated across the entire Ashby BART subarea and could be accomplished through multiple phases of development. Any future development agreement should commit to deliver at least this level of affordable housing, and provide a plan to do so. Amounts of affordable housing exceeding 50% of the total square footage and number of units are encouraged.

**OBJECTIVE 2. PUBLIC SPACE.** Any future development shall include one or more publicly accessible spaces incorporated onto the development parcels within the Ashby BART subarea. The public space could potentially be provided as plazas, green space, pedestrian paseos, rooftop patios, flexible event space, or other pedestrian-accessible spaces that are open to the public. Incorporating elements of “green infrastructure” in these elements is highly encouraged (See Chapter 7).

Future redevelopment of the Ashby BART west parking lot shall incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market and potentially a relocated Farmers Market, as well as support the Juneteenth Festival and other music and entertainment events. This space could include dedicated flexible space on the site and/or in a nearby location such as on Adeline Street. The space shall be designed with the general and specific needs of the Flea Market and Farmers Market, as well as allow flexibility for other programming such as the Juneteenth Festival, music and entertainment, civic events, or other public uses – at different times of the week or in complementary locations. This could include dedicated flexible space on the site or in a nearby location such as on Adeline Street.

**OBJECTIVE 3. ADDITIONAL DEVELOPMENT PARAMETERS.** The following general development parameters will be further refined as implementation steps of this Specific Plan:

**Building Height.** To achieve the affordable housing goal, climate action goals and maximize community benefits from development of public land, high density mixed-use development is envisioned that are generally up to four to seven stories. The City will continue to coordinate with BART as it refines development parameters as part of implementation of Assembly Bill 2923. In general, development fronting on Adeline Street and Ashby Avenue should “step down” or transition to lower heights where development fronts on Martin Luther King Jr. Way, Woolsey, Tremont and Essex Streets.

**Ground-Floor Uses.** As noted in Policy 3.1, the following types of uses shall be required for ground floor uses for the Ashby BART subarea:

- Adeline Street frontage: Ground floor retail or active commercial use required.

## WHAT IS ASSEMBLY BILL (AB) 2923?

Assembly Bill 2923 was signed into law by Governor Jerry Brown on September 30, 2018. AB2923 grants BART the authority to establish transit-oriented development (TOD) zoning standards that apply to its property across the Bay Area, including the North Berkeley and Ashby BART Station sites. The intent of the law is to enable BART to work together with cities to maximize the public benefit of scarce transit-adjacent land (see Appendix B for more information). Although BART has the ultimate authority to establish zoning standards for its property, BART has indicated that it intends to work in close collaboration with local elected officials and community stakeholders. Furthermore, since the City controls the “air rights” for the west Ashby BART parking lot, it would have a direct role in approving any future master plan and development agreement for that site, and would work with BART to implement the Objectives described in the Adeline Corridor Specific Plan for any redevelopment of the Ashby BART subarea.

- Ashby Avenue frontage: Ground floor commercial use required.
- Martin Luther King Jr. Way: Residential or commercial use allowed on ground floor.
- Tremont, Woolsey and Fairview Streets: Residential or commercial use allowed on ground floor.

**Additional Land Uses.** Additional land uses that would be encouraged in the Ashby BART area include the following:

- Potential space for a new African American Holistic Resource Center (see Chapter 5 for more information)
- Ground floor retail, restaurants and family-oriented entertainment;
- Affordable space for neighborhood non-profits
- Small, affordable workspaces
- Universally-accessible community event and recreation space, or performance venues.

**OBJECTIVE 4. PUBLIC ART.** Future redevelopment should maximize opportunities to incorporate permanent and/or temporary public art installations that celebrate neighborhood history, cultural heritage and identity (see Chapters 2, 5 and 7 for more information).

**OBJECTIVE 5. PEDESTRIAN AND BICYCLE CONNECTIONS.** Future development should include pedestrian and bicycle connections that serve users of all abilities and ages. Development of the west parking lot should incorporate the following key bicycle connections at minimum, consistent with the City of Berkeley Bike Plan and as described in the Transportation Chapter of this Plan:

- Connection of the Woolsey/Prince bicycle boulevard facility across the Ashby site
- Provision of an off-street/protected bicycle facility along Adeline Street between Ashby and the intersection with MLK Jr. Way.

## WHAT ARE "AIR RIGHTS?"

Ownership of land can be divided into rights on the surface, subsurface (i.e. mining or mineral rights) and air rights. The City of Berkeley acquired air rights over both parking lots at Ashby BART Station back in 1966 after the voters approved undergrounding the BART lines. In 1999, the City executed a contract with the Ed Roberts Campus to assign the City's option to the air rights over the eastern Ashby BART parking lot (the current Ed Roberts Campus site and the remainder parking lot behind it), to facilitate development of the Ed Roberts Campus. An agreement between the City and the Ed Roberts Campus in 2008 confirmed that the City assigned the air rights over the eastern BART parking lot to the Ed Roberts Campus, but the City still retained the option over the western BART parking lot. The air rights generally refer to the space starting 10 feet above the average finished grade location.

## OBJECTIVE 6. PARKING AND TRANSPORTATION DEMAND MANAGEMENT.

Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce demand for parking and single-use automobile trips (See Chapter 6). Consistent with BART Transit-Oriented Design Guidelines and the City's Climate Action Plan, any future mixed-use development shall provide parking at ratio not to exceed 0.5 spaces/residential unit and 1.6 spaces per 1000 sqft of commercial space. Because of the urban environment of the station, replacement parking for BART patrons can be provided at a ratio of 0.5 spaces/per existing space or less while access improvements are incorporated to offset the loss of parking and ride spaces and offer viable non-auto alternatives to BART patrons.

## OBJECTIVE 7. PROCESS AND ENGAGEMENT.

Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a

deliberate and extensive community decision making process. The City will work with BART to complete a planning process which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. This stakeholder group should participate in decisions regarding the site requirements to be included in any Request for Proposals (RFP). In addition, any RFP that is issued for development at the BART site will outline specific requirements that a selected developer continue to invest in proactive community engagement throughout the development process and to identify appropriate additional community benefits as part of the project design process. A development team's proven track record of managing this kind of community engagement/community benefits process will be one criteria for selection. The local community should continue to be closely involved in development of these key public sites. Chapter 4 (Housing Affordability) includes additional information and considerations for future phasing, funding, programming, and affordable housing strategies for the Ashby BART area.

**North Berkeley BART Development Goals and Objectives**  
(Approved unanimously by the Berkeley City Council on May 9, 2019)

State law (AB 2923, Chiu) passed in 2018 requires the San Francisco Bay Area Rapid Transit District (BART) to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020.

Prior to the enactment of AB 2923, the Berkeley City Council initiated a community process to explore the potential for transit-oriented development at the North Berkeley BART station. Creating homes at the North Berkeley BART parking lots will help the City of Berkeley address the shortage of affordable homes; reduce vehicle miles traveled and meet our climate change goals; and improve the livability of the surrounding neighborhood through the creation of green open space, pedestrian and bicycle infrastructure improvements; and possible small-scale community, non-profit, and/or retail uses.

AB 2923 requires local jurisdictions like Berkeley to adopt a local zoning ordinance that conforms to BART TOD zoning standards.

While the Berkeley City Council voted at its May 29, 2018 meeting to oppose AB 2923, the City Council recognizes that we now have an obligation to comply with the law. The Council is seeking to comply as soon as possible with AB 2923 for the purposes of developing the North Berkeley BART station in order to ensure that the community has a meaningful opportunity to engage with BART on how the site is developed.

At the same time, the Berkeley City Council acknowledges the unique neighborhood characteristics of each BART station and expresses its intent to incorporate a station-specific design that is sensitive to the existing single-family (R-1) and two-family (R-2) residential zoning directly adjacent to the North Berkeley BART station.

The City of Berkeley seeks to enter into a Memorandum of Understanding with BART that enumerates, among other terms, the following goals and objectives for development:

**Community Input**

**A Community Advisory Committee shall be created for the purposes of providing input to the City's Planning Commission as it considers City and BART TOD zoning standards.**

**The planning process will engage the community in order to ensure that the site reflects the community's values for equity, sustainability, and sense of place.** In particular, community input should be considered for:

- The number/percentage of affordable housing units and populations to be served, including the possibility of a 100% affordable project

- The size, height, scale, spacing, and setbacks of buildings, and their responsiveness to the neighborhood
- The inclusion of green and open spaces
- The possibility of limited, small-scale community, non-profit, and retail space to serve the immediate neighborhood
- Exploration of whether it's appropriate to include small-scale community, non-profit, and/or retail space to serve the immediate neighborhood, whether any parking should be provided for such uses, and consideration of the tradeoff of foregone housing units
- Access options, including traditional modes such as public transit, taxis and private vehicles, active modes such as biking, walking and scooters, emerging modes such as car share, ride share, driverless cars, etc., and access for the disabled and mobility impaired
- Green and sustainable features

### **Station Access**

**BART, the City of Berkeley, and a future developer(s) will address station access.** Specifically, Section 29010.6(h) of AB 2923 requires BART—in cases in which commuter parking is reduced as a result of a TOD project—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station. A station access plan for implementation will seek to explore feasible and effective alternatives to individuals driving to and parking at the station, such as reserved parking spaces for carpools and car-share vehicles, ride-share, enhanced bus/shuttle service, additional electric-assist bikes and scooters, among other alternatives. We will also consider limiting or eliminating parking for residential and/or potential community, non-profit, or retail uses in order to maximize parking availability for commuters. We note that the station access plan should take into account the rapid evolution of mobility trends and technologies and consider the adaptability of the plan to future mobility patterns. Further, we intend to conduct a traffic study to help determine the number of parking spaces that are needed at the site, including reserved spaces for people with disabilities.

In light of Berkeley's long tradition of leadership on issues related to the disabled and mobility impaired, access at the North Berkeley BART station should be first in its class, including consideration for access to and from the station itself, within the station, and to and from the BART platform.

All traditional modes should be considered: public transit, taxis, carpools and cars; all active modes including walking, biking and scooters; all emerging modes including car share, ride share, van pools and driverless vehicles; and all modes of accessibility for the disabled.

### **Affordability**

**Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists.** We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable

units—to potentially be funded by local, state, and regional funding sources. In order to ensure housing for a range of income levels, we will consider inclusionary below-market-rate units and engagement of an affordable housing developer to develop a fully affordable building.

We will seek to support the creation of local jobs through a project labor agreement for construction of the development.

We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

### **Livability**

**Enhance the livability of the neighborhood surrounding the North Berkeley BART station.** The site should create a visual and physical connection with the neighborhood through its architectural design, height, and scale. In particular, we seek a development that considers the character and context of the neighborhood and steps down in height around the perimeter of the station (with consideration for the varying width of streets around the station) in order to blend in visually and physically with the residential neighborhood. Such a design honors a common theme of many of the designs submitted as part of the October 2018 visioning event. We also seek reasonable spacing between buildings, setbacks, and plantings at the perimeter of the station.

The inclusion of green open space should serve as an amenity that enhances the neighborhood's sense of place.

The streetscape design should strive to minimize neighborhood traffic and congestion impacts and support safe access to the station for bicyclists and pedestrians. Transportation demand management and other best practices should be used to reduce traffic and parking impacts in the surrounding neighborhood.

### **Environmental Sustainability**

**Reflect the City's commitment to reducing our carbon footprint in every possible way.** All buildings should strive to: incorporate all-electric designs, achieve Zero Net Energy, and reduce parking for residents and retail to the maximum extent possible.

To ensure universal access, regardless of age or ability, Universal Design should be considered for all elements of housing and of all other private and public spaces.

## **Transit-Oriented Development Policy**

**Adopted June 9, 2016**

**Amended August 22, 2019**

### **VISION**

The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large scale public investment. This includes real estate assets essential to BART's transit operations, and real estate assets that can be used to catalyze transit-oriented development in furtherance of BART's purpose and goals. BART leverages these opportunities by working in partnership with the communities it serves in order to implement the regional land use vision and achieve local and regional economic development goals. Strengthening the connections between people, places, and services enhances BART's value as a regional resource.

### **GOALS**

- A. Complete Communities.** Partner to ensure BART contributes to neighborhood/district vitality, creating places offering a mix of uses and incomes.
- B. Sustainable Communities Strategy.** Lead in the delivery of the region's land use and transportation vision to achieve quality of life, economic, and greenhouse gas reduction goals.
- C. Ridership.** Increase BART ridership, particularly in locations and times when the system has capacity to grow.
- D. Value Creation and Value Capture.** Enhance the stability of BART's financial base by capturing the value of transit, and reinvesting in the program to maximize TOD goals.
- E. Transportation Choice.** Leverage land use and urban design to encourage non-auto transportation choices both on and off BART property, through enhanced walkability and bikeability, and seamless transit connectivity.
- F. Affordability.** Serve households of all income levels by linking housing affordability with access to opportunity.

### **STRATEGIES**

#### **A. Manage Resources Strategically to Support Transit-Oriented Development**

1. Develop a 4-Year Work Plan to assess how staff and financial activities toward TOD will be most fruitful. Identify BART staffing priorities and assignments to promote TOD on and around District property, including contributions to efforts such as planning and development, community engagement, funding and financing strategies.
2. Favor long-term ground leases of no more than 66 years, rather than sale of property, as the standard disposition strategy for joint development projects, except in cases where alternative approaches are required to achieve specific development objectives or where other strategies would generate greater financial return to the District.
3. Solicit proposals for transit-oriented development in localities that have an adopted plan allowing for transit-supportive land uses as defined in the TOD Guidelines. Utilize a competitive selection process but ensure the solicitation process considers property assembly with adjacent land owners for optimal TOD.

**Transit-Oriented Development Policy**

**Adopted June 9, 2016**

**Amended August 22, 2019**

4. Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.
5. Revisit the Transit-Oriented Development Policy every 10 years.

**B. Support Transit-Oriented Districts**

1. Proactively support local jurisdictions in creating station area plans and land use policies that: a) encourage transit-supportive, mixed-use development on and around station properties, b) enhance the value of BART land, and c) enhance the performance of the BART system as a whole.
2. Form partnerships with public agencies, developers and landowners, community development organizations, finance entities, and consider strategic land acquisition to help build TOD both on and off BART property.
3. For BART system expansion, ensure that transit-oriented development and value capture opportunities are explicitly accounted for in major investments such as the location of new station sites, design and construction of station facilities, and acquisition of new properties.

**C. Increase Sustainable Transportation Choices using Best Practices in Land Use and Urban Design**

1. Utilize BART's TOD Guidelines to ensure future development and investments seamlessly connect BART stations with surrounding communities.
2. Ensure that combined TOD/parking/access improvements on and around each BART station encourage net new BART ridership, utilizing corridor-level, shared, and off-site approaches to parking replacement as appropriate. Following the aspirational Station Access Policy place types, use the following guidelines to replace current BART parking as follows when developing BART property with TOD: strive for no or limited parking replacement at "Urban with Parking" Stations; and use the access model to maximize revenue to BART from development and ridership when determining a parking replacement strategy at all station types.
3. Utilize strategies including mixed-use development, transportation demand management, and pedestrian-friendly urban design to encourage reverse-commute, off-peak, and non-work trips on BART and other modes of non-auto transportation, thereby reducing greenhouse gas emissions.

**D. Enhance Benefits of TOD through Investment in the Program**

1. Evaluate the financial performance of proposed projects based on sound financial parameters and the ability to generate transit ridership, fare revenue, lease payments, parking revenues, grant resources, other financial participation, and/or cost savings. Consider the opportunity cost to the District of delaying or accelerating development opportunities.
2. Use a variety of financing and governance mechanisms, including joint powers authorities, assessment districts, improvement districts, and lease credits to achieve station area TOD objectives.
3. As appropriate, and in consideration of District-wide financial needs, reinvest revenues from the sale and lease of BART land into the TOD Program, informed by the priorities identified in the 4-Year Work Plan.

**Transit-Oriented Development Policy**

**Adopted June 9, 2016**

**Amended August 22, 2019**

**E. Invest Equitably**

1. Increase scale of development at and near BART stations through catalytic investments in TOD, to help address the regional shortfall in meeting housing and other sustainable growth needs.
2. Implement BART's adopted Affordable Housing Policy and aim for a District-wide target of 30 percent of all units to be affordable, with a priority to very low (<50% AMI), low (51-80% AMI) and/or transit-dependent populations.
3. Ensure the 4-Year Work Plan addresses how BART will achieve its affordable housing goals.

## **AFFORDABLE HOUSING POLICY**

It shall be the policy of the District that at each station where the District intends to pursue development that the cumulative development consist of a number of affordable housing units amounting to no less than 20 percent of the total proposed housing units on the property. This goal is for the total aggregate number of residential units on BART property at the station, regardless of the planned phasing of the project.

Each Request for Qualifications (RFQ) or Request for Proposals (RFP) issued by the District relating to proposed residential development projects at BART stations shall include the current percentage of affordable housing constructed at that station along with the cumulative 20 percent goal of affordable housing units per station.

The percentage of affordable units and/or depth of unit affordability based on Area Median Income (AMI) categories in any residential developments at its stations shall be a part of the District's assessment of RFQ/RFP responsiveness. There shall be a priority on residential units made available to very low (< 50% AMI) and low (51-80% AMI) income households. The General Manager or his/her designee will develop an approach to evaluating respondents' affordability housing proposals, that will consider a proposal's quantity and depth of affordability, as well as the proposal's validity and feasibility with respect to this policy.

If a party responding to the RFQ or RFP determines that such a goal is not feasible, that party shall provide an impact analysis, which will be assessed by the District to determine if the goal cannot be attained.

Upon selection of a Developer, the District commits to working with the Developer throughout the development's negotiation process to achieve the pre-established affordable housing goal.

As the negotiations of the proposed development proceed, the General Manager or his/her designee will provide periodic updates to the Board regarding the financial details of each component of the development, culminating in a term sheet for Board approval.

BART also affirms its commitment to develop sustainable partnerships to achieve thriving Priority Development Areas (PDA) at or near BART stations with housing opportunities for residents of all income levels – particularly those populations most reliant on public transit – in order to reduce Greenhouse Gas Emissions (GHG), encourage use of public transit and active transportation, and decrease reliance on automobiles.

On a project-by-project basis, the General Manager or his/her designee may request from the Board an exception to this Policy if staff determines it is infeasible for a specific project.

This policy shall be prospective, and shall not be applicable to past or present development projects for which exclusive negotiating agreements, option agreements for ground leases, or ground leases have already been executed between BART and developers.

Adopted: January 28, 2016



## BART STATION ACCESS POLICY

Adopted June 9, 2016

### VISION

For more than 40 years, the San Francisco Bay Area Rapid Transit District (BART) has been a steward of major public investment to connect people and places. The BART Station Access Policy is designed to support the broader livability goals of the Bay Area, reinforce sustainable communities, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively.

### GOALS

**A. Safer, Healthier, Greener.** Advance the region's safety, public health, and greenhouse gas (GHG) and pollution-reduction goals.

1. Ensure safe access for all users of the BART system, including users with disabilities.
2. Promote and invest in active transportation access modes to improve public health.
3. Prioritize the most sustainable access modes, with a focus on the lowest greenhouse gas and pollutant emissions per trip.
4. Reduce the access mode share of the automobile by enhancing multi-modal access to and from BART stations in partnership with communities and access providers.
5. Develop station-level designs that are consistent with the Station Design Access Hierarchy (Figure 1).

**B. More Riders.** Invest in station access to connect more riders cost-effectively, especially where and when BART has available capacity.

1. As ridership grows, invest in and manage access resources so as not to exacerbate peak period – peak direction crowding, including by ensuring users can find parking spaces at all times of day.
2. Develop access solutions that promote reverse-peak and off-peak ridership to optimize use of the BART system.

**C. More Productive and Efficient.** Manage access investments, programs, and current assets to achieve goals at the least cost.

1. Consider life-cycle costs, including capital and operating budget implications, using best asset management practices.
2. Factor land value in decision-making, prioritizing access that generates the most riders with the least space.
3. Consider the Station Access Investment Framework (Figure 2) in identifying contextual access investments at each station, and seek to move stations from their existing to their aspirational types.

**D. Better Experience.** Be a better neighbor, and strive for an excellent customer experience, including on the first and last mile of the trip to and from BART stations.

1. Expand station access choices for all riders.

## **BART STATION ACCESS POLICY**

2. Promote Transit-Oriented Development (TOD) on and off of BART property as a powerful access tool, putting more riders within walking distance of stations, connecting communities.
3. Collaborate with local jurisdictions to improve station access and create more sustainable communities, including by promoting access improvements off BART property.
4. Ensure high quality design for access improvements, with careful consideration of the local context and the quality of the environment accessing BART.

**E. Equitable Services.** Invest in access choices for all riders, particularly those with the fewest choices.

1. Ensure that disadvantaged communities share in the benefits of BART accessibility.
2. Strive to be a partner to reduce the cost of living (i.e., transportation and housing) in the Bay Area for low-income communities by increasing access and housing options (i.e. TOD), providing greater access to opportunity.
3. Use Universal Design principles to improve safety and ensure access is available for everyone at all times.

**F. Innovation and Partnerships.** Be an innovation leader, and establish durable partnerships with municipalities, access providers, and technology companies.

1. Involve BART riders in station access decision-making.
2. Develop partnerships with municipalities, transit operators, developers, technology providers, corporate shuttle providers, Transportation Network Companies, bike share operators, advocacy groups and other entities to best meet access goals.
3. Continue to research and pilot emerging technologies and new forms of access services to keep up with the rapidly-changing transportation ecosystem.
4. Remain technology- and operator-agnostic; make long-term investments in the access technologies and services that best meet the needs of BART riders.
5. Prioritize projects that leverage other fund sources and local matches both to further build partnerships and to capture more value from BART investments.

## **STRATEGIES**

### **Plan, Innovate and Partner**

1. Plan for systemwide access mode shift to reduce drive alone rates.
2. Partner with interested stakeholders to improve access to the BART system.
3. Plan all BART facilities to be accessible to all users, including users with disabilities.

### **Invest and Implement**

1. Invest in the pedestrian and bicycle assets with a focus on BART property, and partner to advance projects off BART property, including partnering on local initiatives, such as Vision Zero, Safe Routes to School, and Safe Routes to Transit.

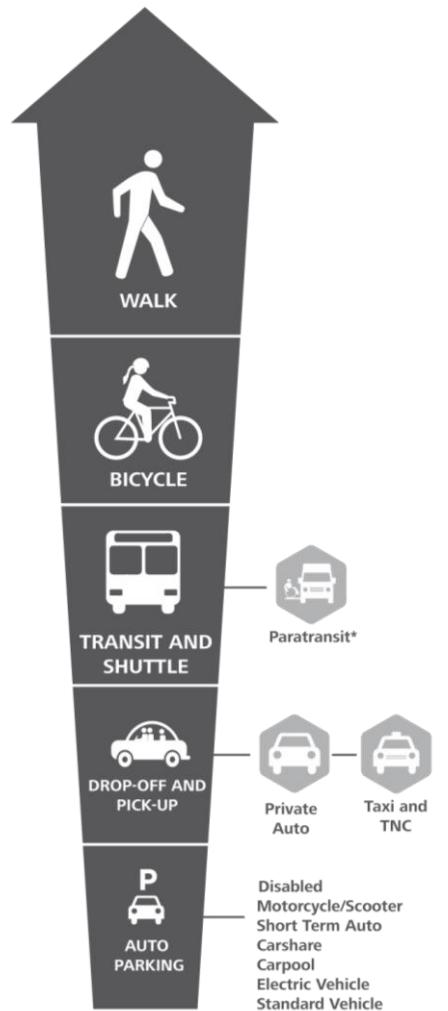
## BART STATION ACCESS POLICY

2. Invest in transit connections, including investments that improve passenger experience in transit transfers (shelters, real-time information); seek to reduce barriers to transit connections; and partner with local transit service providers on last mile improvements.
3. Prioritize station access investments that support ridership growth where and when the system has capacity.
4. Improve management of existing parking resources, and invest in or partner on strategic parking resources; including shared parking, on-street parking, programs to maximize existing parking assets, and locating new parking resources only where other approaches are not sufficient, consistent with the station typology investment matrix.

### Manage and Assess

1. Manage resources we have.
2. Regularly collect and analyze station access data, and consider emerging data sources.
3. Develop a 4-year work plan to identify projects BART staff will advance in the near-term.
4. Revisit the Station Access Policy every ten years.

**FIGURE 1: STATION ACCESS DESIGN HIERARCHY**



\*All Stations must be paratransit accessible

Note: All stations must always remain readily accessible to and usable by persons with disabilities

## BART STATION ACCESS POLICY

FIGURE 2: STATION ACCESS INVESTMENT FRAMEWORK

STATION TYPE	PRIMARY INVESTMENTS	SECONDARY INVESTMENTS	ACCOMMODATED	NOT ENCOURAGED
URBAN	Walk  Bicycle 	Transit and Shuttle 	Taxi and TNC  Drop-Off and Pick-Up 	Auto Parking* 
URBAN WITH PARKING	Walk  Bicycle 	Transit and Shuttle 	Taxi and TNC  Drop-Off and Pick-Up 	Auto Parking* 
BALANCED INTERMODAL	Walk  Bicycle 	Transit and Shuttle  Drop-Off and Pick-Up 	Taxi and TNC  Auto Parking* 	
INTERMODAL/AUTO RELIANT	Walk 	Bicycle  Drop-Off and Pick-Up  Transit and Shuttle 	Taxi and TNC  Auto Parking* 	
AUTO DEPENDENT	Walk 	Bicycle  Drop-Off and Pick-Up  Auto Parking*  Transit and Shuttle 	Taxi and TNC 	

\*Parking Management is a secondary investment at all stations with parking.

\*Parking replacement for transit-oriented development to be determined by BART's Transit-Oriented Development Policy.

**Primary Investment:**  
BART will prioritize investments of funds and staff time on and off of BART property, consistent with access goals; priority projects best achieve policy goals, focus on safety and sustainability.

**Secondary Investment:**  
BART will invest funds and staff time on and off of BART property, consistent with policy goals; secondary investments balance policy goals.

**Accommodated:**  
BART will maintain and manage existing assets, and partner with other access providers as needed.

**Not Encouraged:**  
BART will not invest in construction of parking expansion.

Note: TNC is for Transportation Network Company (shared use mobility)

