

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

BOARD MEETING AGENDA

February 12, 2015

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, February 12, 2015. This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20 <sup>th</sup> Street Mall – Third Floor 344 – 20 <sup>th</sup> Street Oakland, CA 94612	Hotel Hume 422 Vernon Street Nelson, British Columbia V1L 4E5 Canada
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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 ([https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic\\_id=CATRANBART\\_1904](https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904)) or via regular mail upon request submitted to the District Secretary. 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.

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

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meetings of January 22, 2015 (Regular), and January 29 and 30, 2015 (Special).\* Board requested to authorize.
- B. Award of Invitation for Bid No. 8944, Procurement of Quill, Bull Gear.\* Board requested to authorize.
- C. Execution of Agreement No. 6M3281, with the Regents of the University of California, Berkeley, for Membership in the Berkeley Seismological Lab Earthquake Research Affiliates Program.\* Board requested to authorize.

3. BOARD MATTERS

- A. Consideration of Position on Prosecution of Protestors at West Oakland Station on November 28, 2014.\* Board requested to approve. (Director Saltzman's request.)

4. ADMINISTRATION ITEMS

Director Keller, Chairperson

- A. Resolution Enacting Ordinance of the San Francisco Bay Area Rapid Transit District to Prohibit the Use of Electronic Smoking (Vapor) Devices (Electronic Cigarettes) on BART Trains, BART Facilities, and BART Property Whenever They Are Found within the District.\* Board requested to adopt.
- B. (CONTINUED from January 22, 2015, Board Meeting)  
Independent Auditor's Report on the Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2014.\* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Award of Contract No. 79HM-120, SFTS MB (San Francisco Transition Structure).\* Board requested to authorize.

- B. Sole Source Procurement with Knorr Brake Corporation for Brake, Split Disc and Hub Assemblies.\* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- C. (CONTINUED from January 22, 2015, Board Meeting)  
Customer Communications during Major Service Disruptions and Improvement Initiatives.\* For information.
- D. (CONTINUED from January 22, 2015, Board Meeting)  
Service Planning for Special Events.\* For information.

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

- A. 2015 State and Federal Legislative Goals.\* Board requested to authorize.

7. GENERAL MANAGER'S REPORT

- A. Agreement between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support.\* Board requested to authorize.
- B. Review of the Draft Agenda for the Capitol Corridor Joint Powers Board Meeting of February 18, 2015.\* For information.
- C. Report of Activities, including Update of Roll Call for Introductions Items.

8. BOARD MATTERS

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

9. 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.)

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

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Kirchenbauer vs. Peters and BART, Alameda County  
Superior Court Case No. RG13662225

Government Code Section: 54956.9(a)

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Shigeta vs. Washington Shoe Co., Nordstrom, and BART,  
San Francisco County Superior Court Case No. CGC-10-  
505362

Government Code Section: 54956.9(a)

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: San Francisco Bay Area Rapid Transit District vs. PPF  
Industrial Whipple Road/Bowman Place, LP, et al., Case No.  
RG13708269

Government Code Section: 54956.9(a)

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Doe vs. BART, Alameda County Superior Court Action  
No. R14-740455

Government Code Section: 54956.9(a)

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

Board of Directors  
Minutes of the 1,725th Meeting  
January 22, 2015

A regular meeting of the Board of Directors was held January 22, 2015, convening at 5:02 p.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

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

Absent: Director Keller.

President Blalock called for a moment of silence to recognize the contributions of Dr. Martin Luther King Jr.

President Blalock announced that the order of agenda items would be changed.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of January 8, 2015.
2. Award of Invitation for Bid No. 8945, Procurement of Modular Buildings.

Mr. Michael Petrelis requested that Approval of the Minutes of the Meeting of January 8, 2015, be removed from Consent Calendar.

Director Murray moved that the General Manager be authorized to award Invitation for Bid No. 8945, for the procurement of three modular buildings, to Mod Space Corporation, for a price of \$204,824.00, including all applicable taxes, subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protest procedures. Director McPartland seconded the motion, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent - 1: Director Keller.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller/Treasurer that funds are available for this purpose.)

President Blalock brought the matter of Approval of the Minutes of the Meeting of January 8, 2015, before the Board.

Mr. Michael Petrelis addressed the Board.

Director Murray moved that the Minutes of the Meeting of January 8, 2015, be approved. Director McPartland seconded the motion, which carried by unanimous acclamation. Ayes - 8:

Directors Josefowitz, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent – 1: Director Keller.

President Blalock called for public comment on the matter of Resolution in the Matter of Adoption of an Ordinance of the San Francisco Bay Area Rapid Transit District to Prohibit the Use of Electronic Smoking (Vapor) Devices (Electronic Cigarettes) on BART Trains, BART Facilities, and BART Property Whenever They Are Found within the District.

The following individuals addressed the Board.

Ms. Serena Chen  
Mr. Brian Davis  
Ms. Liz Williams  
Mr. Joseph Friedman  
Mr. Bruce Fiedler  
Mr. Jon Krueger

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

Mr. Pete Castelli  
Reverend Daniel Buford  
Dr. Michael Oshoosi Wright  
Mr. Bill Kalman  
Ms. Cynthia Crews  
Ms. Shirley Pena  
Ms. Betsey Stone  
Mr. Charles Minster  
Mr. Michael Lyon  
Mr. Stan Woods  
Ms. Mollie Costello  
Ms. Vanessa Moses  
Dr. Jennifer Davidson  
Ms. Tes Welborn  
Krystof  
Ms. Cat Brooks  
Ms. Elaine Brown  
Hon. Desley Brooks  
Ms. Karissa Lewis  
Ms. Robbie Clark  
Mr. Nedir Bey  
Mr. Robert S. Allen  
Ms. Levana Savon  
Ms. Simone Combs  
Ms. Sara Brink  
Ms. Thorne Coyle  
Ms. Anne Weills  
Ms. Liz Derias  
Ms. Ashley Yates  
Mr. Bob Allen  
Ms. Mignon Combs

Ms. Neva Walker  
Mr. Zach Murray  
Rabbi David J. Cooper  
Ms. Wazi Maret Davis  
Ms. Mary Elieisar  
Mr. Eddie Dillard  
Ms. Laila Williams  
Mr. Ernest Stokes  
Ms. Erin Stephens-North  
Mr. Malkia Cyril  
Ms. Rochelle Towers  
Mr. Asa Dodsworth  
Mr. Elliot Hughes  
Ms. Alicia Garza  
Mr. Richard Stone  
Mr. Charlie Walker  
Mr. Michael Petrelis  
Mr. John Arantes  
Ms. Tova Fry  
Ms. Jessica Lehman  
Ms. Andreana Clay  
Ms. Patricia St. Onge  
Ms. Kyla Lewis  
Ms. Ronnishia Johnson  
Mr. Josh Connor  
Mr. Michael Gast  
Ms. Celest Faison  
Mr. Reuben Telushkin  
Ms. Kelly Abraham  
Mr. Jerry Grace  
Ms. Rheema Calloway  
Ms. Cynthia Monoz

The Board Meeting recessed at 8:17 p.m.

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The Board Meeting reconvened at 8:30 p.m.

President Blalock called for Roll Call for Introductions.

Director Saltzman requested an item on the February 12, 2015 agenda addressing pending charges and restitution for protesters at West Oakland Station on November 28, 2014. Director Radulovich seconded the request

Director Mallett requested staff study/evaluate methods for increasing public participation in decision-making processes and bring the results back to the Board for discussion. Director Murray seconded the request.

Director McPartland, Chairperson of the Engineering and Operations Committee, announced that the items on Customer Communications during Major Service Disruptions and Improvement Initiatives and Service Planning for Special Events would be continued to a future meeting.

Director McPartland brought the matter of Award of Contract No. 01RQ-120, Construction of Hayward Maintenance Complex Project Site, Track, and Systems, before the Board. Mr. Thomas Horton, Manager of Earthquake Safety Programs, presented the item.

The following individuals addressed the Board.

Mr. Eddie Dillard

Omar

The item was discussed. President Blalock moved that the General Manager be authorized to award Contract No. 01RQ-120, for Construction of Hayward Maintenance Complex Project Site, Track, and Systems, to Proven Management, Inc., for the total Bid price of \$18,769,845.00, pursuant to notification to be issued by the General Manager, subject to the District's protest procedures and Federal Transit Administration's requirements related to protests. Director McPartland seconded the motion, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent - 1: Director Keller.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Art Policy and Program: Issues, Opportunities, and Draft Goals and Objectives, before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development; Ms. Abigail Thorne-Lyman, Principal Planner; Ms. Jeannene Przyblyski, Provost at the California Institute of the Arts; and Ms. Regina Almaguer, Regina Almaguer Fine Arts, presented the item.

The following individuals addressed the Board.

Mr. Eric Murphy

Mr. Bill Purcell

Ms. Rachel Dinno Taylor

Mr. Jerry Grace

The item was discussed.

Director Saltzman, Vice Chairperson of the Administration Committee, brought the matter of San Francisco Bay Area Rapid Transit District Pay Schedules before the Board. Ms. Allison Picard, Assistant General Manager, Employee Services, presented the item. Director Murray moved approval of the base pay schedules in effect January 1, 2009; July 1, 2013 and July 5, 2013; and January 1, 2015. President Blalock seconded the motion, which carried by electronic and voice vote. Ayes - 7: Directors Josefowitz, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Abstain - 1: Director Mallett. Absent - 1: Director Keller.



Director Saltzman brought the matter of Resolution in the Matter of Adoption of an Ordinance of the San Francisco Bay Area Rapid Transit District to Prohibit the Use of Electronic Smoking (Vapor) Devices (Electronic Cigarettes) on BART Trains, BART Facilities, and BART Property Whenever They Are Found within the District, before the Board. Mr. Benson Fairrow, Deputy Chief of Police, presented the item.

Mr. Jerry Grace addressed the Board.

Director Raburn moved adoption of Resolution No. 5286, In the Matter of the Adoption of an Ordinance of the San Francisco Bay Area Rapid Transit District to Prohibit the Use of Electronic Smoking (Vapor) Devices (Electronic Cigarettes) on BART Trains, BART Facilities, and BART Property whenever they are found within the District. President Blalock seconded the motion, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent – 1: Director Keller.

President Blalock called for the General Manager's Report. General Manager Grace Crunican thanked staff for the excellent job in keeping the trains running during the recent protests, reported on steps she had taken and activities and meetings she had participated in, and gave a report on the progress of outstanding Roll Call for Introductions items.

President Blalock called for the Independent Police Auditor's Report. Mr. Mark Smith, Independent Police Auditor, gave a presentation on the activities of the Office.

President Blalock called for Board Member Reports.

Director Mallett reported he had attended the Transportation Research Board meeting in Washington, D.C.

Director McPartland reported he had been in the Emergency Operations Center during the recent protests and thanked Police staff for their efforts.

President Blalock reported he had attended the Fremont mayor's conference and the District's annual Martin Luther King day event.

Director Murray thanked staff for handling the Board Meeting logistics.

President Blalock, bringing In Memoriam before the Board, requested the Meeting be adjourned in memory of Dr. Martin Luther King, Jr. Director Murray requested the Meeting be adjourned in honor of the retirement of Sergeant Tommy Smith's badge.

The Board Meeting was adjourned at 10:50 p.m. in memory of Dr. Martin Luther King, Jr. and Sergeant Tommy Smith.

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 1,726th Meeting  
January 29 and 30, 2015

A special meeting of the Board of Directors was held January 29 and 30, 2015. The meeting was a Board Workshop. The first session, convening at 9:06 a.m. on January 29, was held in the Renaissance Room of Renaissance ClubSport, 2805 Jones Road, Walnut Creek, California. President Blalock presided; Kenneth A. Duron, District Secretary.

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

Absent: None. Director Radulovich entered the Meeting later.

President Blalock recognized Mr. Alan Smith, Vice Chairperson of the BART Accessibility Task Force, as a special guest.

President Blalock called for Public Comment. The following individuals addressed the Board.  
Mr. Bob Haun  
Mr. Joel Ramos

The Workshop was held.

Mr. Daniel Iacofano, workshop facilitator, General Manager Grace Crunican, and Mr. Val Menotti, Department Manager, Planning, gave a presentation on the Workshop Overview.

Director Radulovich entered the Meeting.

The item was discussed.

Ms. Kerry Hamill, Assistant General Manager, External Affairs, and Mr. Aaron Weinstein, Department Manager, Marketing and Research, gave a presentation on Customer Satisfaction Survey 2014. The item was discussed.

The Board Meeting recessed at 10:52 a.m.

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The Board reconvened at 11:05 a.m.

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

Absent: None.

Ms. Ellen Smith, Planning Division Manager, gave a presentation on BART Draft Strategic Framework. The item was discussed.

Mr. Iacofano led the Roundtable Discussion on Approach to Priority Setting.

The Board Meeting recessed at 12:09 p.m.

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The Board reconvened at 12:37 p.m.

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

Absent: None.

Ms. Abigail Thorne-Lyman, Principal Planner, gave a presentation on the Role of BART in the Region. The item was discussed.

Mr. Thomas Tumola, Program Manager; Mr. Duncan Watry, Principal Planner; Mr. Dave Hardt, Acting Chief Mechanical Officer, Rolling Stock and Shops; and Mr. Menotti gave a presentation on District Infrastructure: Capacity, State of Good Repair, and Asset Management.

Director McPartland exited the Meeting.

The item was discussed.

The Board Meeting recessed at 2:45 p.m.

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The Board reconvened at 2:53 p.m.

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

Absent: Director McPartland.

Mr. Paul Oversier, Assistant General Manager, Operations; Ms. Tamar Allen, Acting Chief Maintenance and Engineering Officer; Mr. Hardt; and Mr. John McCormick, Department Manager, Operations Planning & Support, continued the presentation on District Infrastructure: Capacity, State of Good Repair, and Asset Management. The item was discussed.

Mr. Carter Mau, Assistant General Manager, Administration and Budgets; Mr. Michael Tanner, Manager, Grant Development and Compliance; and Mr. David Metz, of FM3 Partners, gave a presentation on Financial Outlook and Funding Priorities. The item was discussed.

Mr. Iacofano reviewed the day's topics.

Director McPartland re-entered the Meeting.

Mr. Christian Peeples addressed the Board.

President Blalock announced the Board would enter into closed session in the Renaissance ClubSport Board Room under Item No. 3-A (Public Employee Performance Evaluation) of the Special Meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Meeting recessed at 5:18 p.m.

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The Board reconvened in closed session at 5:53 p.m.

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

Absent: None.

The Board Meeting recessed at 7:16 p.m.

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The Board reconvened in open session at 7:16 p.m.

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

Absent: None.

President Blalock announced that the Board had concluded its closed session under Item 3-A, and that there was no further announcement to be made.

The Meeting was adjourned at 7:16 p.m.

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The Board reconvened on January 30, 2015, at 9:09 a.m., in the Renaissance Room of Renaissance ClubSport, 2805 Jones Road, Walnut Creek, California. President Blalock presided; Kenneth A. Duron, District Secretary.

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

Absent: None. Director Radulovich entered the Meeting later.

President Blalock introduced and welcomed Mr. Mark Green, former mayor of Union City.

Director Radulovich entered the Meeting.

President Blalock called for Public Comment. Mr. Alan Smith addressed the Board.

Mr. Iacofano reviewed the previous day's discussions and gave an overview of the coming day's discussion items.

Mr. Robert Powers, Assistant General Manager, Planning and Development; Mr. Menotti, Ms. Sadie Graham, Senior Planner; and Mr. Tian Feng, District Architect, gave a presentation on Advancing Sustainability in the Region and at BART. The item was discussed.

Mr. Powers, Mr. Menotti, Ms. Graham, Mr. Tim Chan, Manager of Planning; and Mr. Jeffrey Ordway, Department Manager, Real Estate and Property Development, gave a presentation on Stations: Connecting and Creating Great Places. The item was discussed.

The following individuals addressed the Board.

Mr. Jerry Grace

Mr. Chris Finn

The Board Meeting recessed at 11:53 a.m.

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The Board reconvened at 12:29 p.m.

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

Absent: None.

Mr. Iacofano led a discussion on Guidance on District Policies.

Mr. Chris Finn addressed the Board.

The Board Meeting recessed at 1:59 p.m.

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The Board reconvened at 2:11 p.m.

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

Absent: None.

Ms. Allison Picard, Assistant General Manager, Employee Relations; Ms. Carol Isen, Chief Employee Relations Officer; Mr. Art Hartinger, Meyers Nave Riback Silver & Wilson, a Professional Law Corporation; Mr. Matthew Burrows, General Counsel; and Mr. Rick Bolanos, Liebert Cassidy Whitmore, gave a presentation on Human Resources Modernization Initiatives and Labor Report Follow-up. The item was discussed.

Mr. John Arantes addressed the Board.

The Board Meeting recessed at 3:36 p.m.

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The Board reconvened at 3:54 p.m.

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

Absent: None.

Mr. Iacofano led the discussion on Workshop Review.

Mr. Jerry Grace addressed the Board.

The Board Meeting was adjourned at 4:30 p.m.

Kenneth A. Duron  
District Secretary



### EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE:		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kirtland Smith Dept: <i>[Signature]</i> Signature/Date: 1-28-15	General Counsel <i>[Signature]</i> 1-28-15 [ ]	Controller/Treasurer <i>[Signature]</i> [ ]	District Secretary [ ]	BARC <i>[Signature]</i> for P.O. [ ]
Status: <b>Approved</b>		Date Created: 12/03/2014		

TITLE:

### Invitation For Bid #8944 - Procurement of Quill, Bull Gear

NARRATIVE:

**Purpose:** To obtain Board authorization to award Invitation For Bid (IFB) No. 8944 to Qual-Tran Products of Hatfield, PA, in the amount of \$350,640.90 (including sales tax) for the purchase of bull gear quills.

**Discussion:** Each of the vehicles in the District's revenue vehicle fleet is powered by four traction motors. Each traction motor is attached to an axle wheel assembly through a gearbox. The gearbox is the main mechanical device that transfers power from the traction motor to the axle. The District dismantles each gearbox during the gearbox rebuild process, which is part of the five year truck overhaul program. As part of the rebuild work scope, the bull gear quill is carefully evaluated and is replaced if worn or damaged beyond repair. The bull gear quill is also replaced to support certain gearbox repairs.

This is a thirty-six (36) month estimated quantity Contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the Contract, the District is required to purchase from the supplier a minimum amount of fifty (50) percent of the Contract Bid price. Upon Board approval of this Contract, the General Manager will also have the authority to purchase up to one hundred and fifty (150) percent of the Contract Bid price, subject to availability of funding.

A Notice Requesting Bids was published on September 26, 2014, and Bid requests were mailed to seven (7) prospective Bidders. Bids were opened on October 21, 2014 and the following four (4) Bids were received:

<u>Bidder</u>	<u>Unit Price</u> <u>(540 each)</u>	<u>Grand Total including</u> <u>9.50% Sales Tax</u>
Qual-Tran Products Hatfield, PA	\$ 593.00	\$ 350,640.90
Merit Gear, LLC Antigo, WI	\$ 710.00	\$ 419,823.00

Mance & Associates, Inc Fremont, CA	\$ 963.99	\$ 570,007.28
Bombardier Transportation Pittsburgh, PA	\$ 1218.00	\$ 720,203.40

Independent cost estimate by BART staff: \$508,500.00 (including sales tax).

Staff has determined that the Bid submitted by the apparent low Bidder, Qual-Tran Products, is responsive and the Bid amount of \$350,640.90 (including 9.50% sales tax) is fair and reasonable based on Bid competition.

The District's Non-Discrimination Program for Subcontracting does not apply to Emergency Contracts, Sole Source Contracts, and Contracts under \$50,000, or any Invitation for Bid. Pursuant to the Program, the Office of Civil Rights did not set availability percentages for this Contract.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% prime preference for this Contract. One of the four Bidders, Mance & Associates, is a state certified small business. Application of the Small Business Program will not alter the award.

**Fiscal Impact:** The bull gear quills are scheduled to be procured over the Contract's three (3) year period at the following estimated annual costs:

FY 15	\$70,128.18
FY 16	\$140,256.36
FY 17	\$140,256.36

Funding for \$70,128.18 for FY2015 is currently available in the General Fund, Materials & Supplies Inventory build-up account. Subsequent funding for this Contract will be provided by the Rolling Stock & Shops (RS&S) Maintenance, Repair and Other account #680230 as the parts are ordered from inventory. Any additional orders of bull gear quills over and above the currently available funds of \$70,128.18 for FY2015 will only be placed upon certification by the Controller-Treasurer that funds are available. Expenditures for the out year portions of the Contract will be included in future RS&S operating budgets which are subject to future board adoption.

**Alternatives:** An alternative to awarding the Contract would be to reject all Bids and re-advertise the Contract. Re-advertising is not likely to lead to increased competition or lower prices.


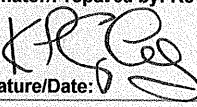
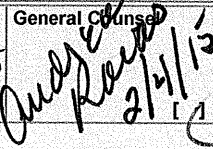
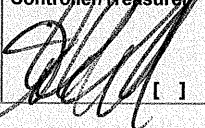
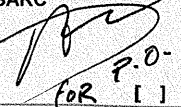
**Recommendation:** On the basis of analysis by Staff, and certification by the Controller/Treasurer that the funds for FY2015 are available for this purpose, it is recommended that the Board adopt the following motion.



**Motion:** The Board authorizes the General Manager to award IFB No. 8944, an estimated quantities Contract for Procurement of Quill, Bull Gear, to Qual-Tran Products of Hatfield, PA, for the Bid price of \$350,640.90 (including all taxes), pursuant to notification to be issued by the General Manager, subject to the District's Protest Procedures.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE:		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Copley Dept:  2/2/2015	General Counsel  2/4/15	Controller/Treasurer 	District Secretary [ ]	BARC  P.O. for [ ]
Status: Routed		Date Created: 12/30/2014		

TITLE:

### Agreement No. 6M3281 with University of California for Membership of Earthquake Research Affiliates Program

NARRATIVE:

#### PURPOSE:

To obtain Board authorization for the General Manager to execute an Agreement with The Regents of the University of California, Berkeley (UCB) for a five-year membership in the Berkeley Seismological Lab (BSL) Earthquake Research Affiliates Program (ERAP) for an amount not to exceed \$300,000.

#### DISCUSSION:

The ERAP is an industry membership program operated by UCB and administered by the BSL. BART has been a member of the ERAP since 2012. As an ERAP member, BART is entitled to access to a continuous data stream containing real-time ground motion observations. This data provides early warning for many potential earthquakes. BART uses this early warning to automatically trigger the Train Control System to initiate train braking down to 26mph and to hold trains in stations, when appropriate. The amount of warning depends on how far the epicenter is from BART. The further away the epicenter is, the greater the length of the warning, which can be as much as one minute in some cases.

A more detailed description of the ERAP, including a list of additional membership benefits, can be seen at <http://earthquakes.berkeley.edu/ERA>, a copy of which is attached to this EDD. UCB is uniquely equipped to provide this service and there is currently no reasonable alternative.

BART's current membership in the ERAP expires in March 2015. This Agreement is needed to renew BART's membership in the ERAP. Pursuant to the Agreement, BART's membership in the ERAP will be extended for an additional five years for an annual fee of \$60,000. This annual fee is the same as paid by all other ERAP members and is low compared to fees for other similar industry affiliate programs run by UCB. The fee goes towards the cost of the infrastructure required to generate and feed the data, the general operating cost of ERAP and to support relevant research projects. The Office of the General Counsel will approve the Agreement as to form prior to execution.

In conjunction with this partnership, BART is participating in the California Earthquake Early Warning System (CEEWS) Standards Committee. CEEWS is mandated by California Senate Bill 135, and will likely lead to more competitive options in the future for dissemination of earthquake early warning.

**FISCAL IMPACT:**

This Agreement is funded under the M & E Operating Budget. \$60,000 per year will be made available for FY 2016 to FY 2020.

**ALTERNATIVES:**

Do not execute this Agreement. In such case, BART's membership in the ERAP will expire in March 2015 and BART will no longer receive any earthquake early warning services after that time.

**RECOMMENDATION:**

Approve the following motion:

**MOTION:**

The General Manager is authorized to execute Agreement No. 6M3281 with The Regents of the University of California, Berkeley in an amount not to exceed \$300,000 for membership in the Berkeley Seismological Lab Earthquake Research Affiliates Program for a five-year period.

## Earthquake Research Affiliates Program

The mission of the Berkeley Seismological Laboratory's (BSL) Earthquake Research Affiliates (ERA) Program is to inspire, nurture, and sustain vibrant public-private/industrial-academic partnerships focused on the development and use of innovative earthquake information products including alert services and other novel seismological measurement technologies. The program is designed to promote the use of new research and technology and provide a forum for inviting optimal and essential users to participate in the development and testing of new technologies, with a goal of introducing them into the marketplace.

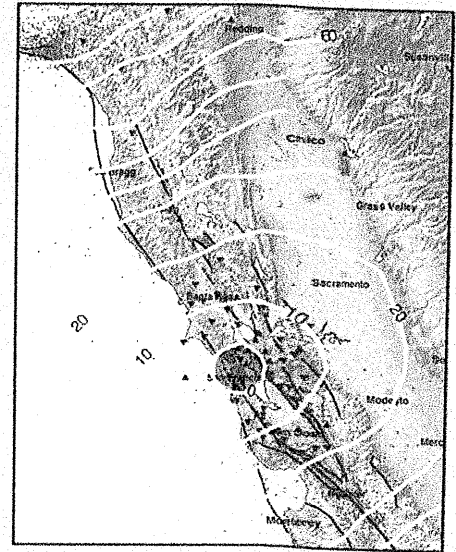
UC Berkeley (UCB) has significant experience and a rich research history in the area of seismology dating back to the installation of the first seismometers in the western hemisphere in 1887. BSL currently operates more than 70 seismological and geodetic field stations throughout Northern California with state-of-the-art instrumentation, communications and data processing, and analysis and archiving capabilities. BSL draws on the diverse strengths of the interdisciplinary earthquake and solid earth research community at UCB. Augmenting these efforts, the ERA program provides a forum for the exchange of ideas and information between industry and public sector groups with an interest in BSL research and the scientists themselves.

The ERA program is designed to serve groups with an interest and need for rapid, robust and reliable earthquake information. This includes industrial groups with high-value equipment and products sensitive to earthquake ground shaking, public groups responsible for the safety of large cross-sections of society, and those actively working to reduce the impacts of future earthquakes. Examples include transportation and lifeline agencies, manufacturing companies, public and private utilities, emergency management groups, the news media, and voluntary organizations. Current ERA members include the Bay Area Rapid Transit District, University of California Police Department, Berkeley (UCBPD), the San Francisco Department of Emergency Management (SFDEM), and Google.

ERA membership benefits include:

- Invitation to ERA meetings where current developments are presented and your feedback elicited
- Participation in the earthquake early warning early adopter program.
- Participation in special focus groups and workshops as necessary and desirable
- Access to the CISN Display—a dedicated earthquake information service
- Access to other data feeds
- Support from BSL researchers in the immediate aftermath of significant earthquakes
- Connection to students interested in internship opportunities

For more information, please contact Dr. Jennifer Strauss (510-642-1067), or [jastrauss@berkeley.edu](mailto:jastrauss@berkeley.edu).



How much warning time will you have? The lines on this map show warning times for San Francisco for major earthquakes at other locations, and quickly detected by an early warning system. The gray area marks the "blind zone." There will be no warning for earthquakes in this area.



# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** February 6, 2015  
**FROM:** General Counsel  
**SUBJECT:** Proposed Motion re: November 28, 2014 protest

At the request of Director Saltzman, following up on her stated intention to bring forward for consideration at the February 12<sup>th</sup> Board meeting a District position regarding the desired outcome for protestors at the West Oakland BART station on November 28, 2014, below please find a Proposed Motion for your consideration. The matter will be introduced by Director Saltzman.

Proposed Motion:



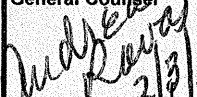

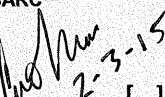
The General Manager is directed to notify the Alameda County District Attorney that the San Francisco Bay Area Rapid Transit District urges her office to forgo the prosecution (including seeking restitution and/or community service) of the Black Friday 14 for their November 28th actions at the West Oakland BART station.



Matt Burrows



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Benson Fairow Dept: Police Signature:  Date: 02/03/15	General Counsel  2/3/15	Controller/Treasurer 	District Secretary [ ]	BARC  2-3-15 [ ]

TITLE:

### Adoption of an Ordinance to Restrict E-Cigarette Use in the BART System

NARRATIVE:

#### PURPOSE:

To propose the enactment of an ordinance to prohibit the use of e-cigarettes in the BART District, in the same manner as smoking is prohibited by State law.

#### DISCUSSION:

E-Cigarettes are battery powered devices used to vaporize their liquid contents for consumption in a manner similar to smoking tobacco cigarettes, but without the combustion and resulting smoke. For the most part, the liquid contents of these devices contain varying amounts of nicotine and other chemicals, and may be flavored. The devices were first developed in China in 2004, with the intent to efficiently deliver nicotine to a user without the harmful effects of inhaling smoke. E-cigarettes have been gaining in popularity in the United States and have attracted increased scrutiny over the last few years. A recent news article claims there are 466 brands of e-cigarettes, representing a rapidly growing, three billion dollar industry.

In 2009, the Food and Drug Administration (FDA) expressed its concern over potential health risks associated with the use of e-cigarettes. The agency specifically expressed concerns over increased youth nicotine addiction, the toxicity of the substances contained in the devices, as well as the lack of study to determine whether or not the devices are safe. In April 2014, the FDA announced a proposal to regulate e-cigarettes, but the agency has yet to issue any rules.

BART currently regulates smoking in and around its premises through enforcement of the California Penal Code (PC). PC Section 640(b)(3) makes it an infraction to smoke "...in or on a system facility or vehicle in areas where those activities are prohibited by that system." Smoking is currently a citable offense throughout the District. E-cigarette use in the BART District is not currently regulated.

A Senate Bill (SB648/Corbett) was introduced in February 2013, which would have amended PC 640(b)(4) to prohibit the use of e-cigarettes in the same manner as smoking. This bill passed the Senate, but eventually failed in the Assembly Appropriations Committee after it was significantly amended.

Just as with tobacco cigarette use, the primary concern from the District comes from any harm that might result from second-hand exposure to the vapor delivered from e-cigarettes. Studies on

the effects of e-cigarette use are scarce and sometimes conflicting.

Several communities in California have included e-cigarettes in their smoking ordinances, while others have included the devices in their tobacco retailer license programs. The American Nonsmokers' Rights Foundation reports, as of January 1, 2015, 43 jurisdictions in California have enacted laws regulating the use of e-cigarettes.

Transit agencies throughout the state have had a varied response to e-cigarettes. The Los Angeles County Metropolitan Transportation Authority amended its municipal code controlling cigarettes in March 2014 to include e-cigarettes. Similarly, the Santa Clara Valley Transportation Authority is working toward adding the devices to their special district ordinance related to smoking in and around their facilities. Others, such as the San Diego Metropolitan Transit System and Sacramento Regional Transit District do not currently have ordinances or rules addressing the use of e-cigarettes, choosing instead to wait for State or Federal guidelines.

Considering the failure of SB648 to pass with any significant restrictions on the use of e-cigarettes, the District's only immediate option to create enforceable restrictions on the use of the devices is through the enactment of an ordinance. In doing so, the District may ban or restrict the use of e-cigarettes under its own authority, within the three counties (Alameda, San Francisco, and Contra Costa) included in the District. An ordinance passed by the Board would provide the authority needed to enforce e-cigarette use restrictions in a manner similar to those for smoking, as detailed in the California Penal Code. While such an ordinance would not initially be enforceable in San Mateo County, having such an ordinance would be the first step needed to approach those jurisdictions through which BART passes to solicit their acceptance of the ordinance.

This ordinance is exempt from California Environmental Quality Act pursuant to CEQA Guidelines Section 15061 (b)(3), because it can be seen with certainty that the project will not have a significant effect on the environment and thus no further review under CEQA is required.

This ordinance was introduced and the title read during the January 22, 2015 regular meeting of the Board of Directors. At that time, the Board waived further reading and noticed February 12, 2015 as the date for considerations and adoption of the proposed ordinance.

**FISCAL IMPACT:**

Some initial cost would be realized due to signage changes in stations and on train cars to include the ban of e-cigarettes. Tentative plans for these changes involve the use of stickers to cover the pertinent portion of existing signage, thereby alleviating the need for new signs. Public outreach and education may also result in some additional cost.

The District may realize some income from fines associated with the enforcement of an ordinance, but that amount is likely to be negligible. Conversely, the District may have expenses resulting from legal challenges to an ordinance. While such challenges are a possibility, particularly since the enactment of such an ordinance would be a first for the District, BART would likely have wide-spread support from a broad coalition of government and activist

organizations.

**ALTERNATIVE:**

Should the Board wish to not enact an ordinance, it may still pass a resolution against the use of e-cigarettes. Such a resolution would be more symbolic in nature and would not have the same authority of an ordinance, which would negatively impact any enforcement efforts.

The District may also choose to support and encourage legislation similar to the original version of the failed SB648, but such an effort would likely be long-term and face many challenges. Likewise, Federal restrictions may eventually be put in place. Like any State legislation effort, any Federal solution is also likely to be long-term.

**RECOMMENDATION:**

Staff recommends the Board execute the steps necessary to enact the proposed ordinance, establishing the same restrictions on e-cigarettes as those currently enforced for smoking.

**MOTION:**

Adopt the attached Resolution enacting Ordinance No. 2015-1 entitled "An Ordinance of the San Francisco Bay Area Rapid Transit District to Prohibit the Use of Electronic Smoking (Vapor) Devices (Electronic Cigarettes) on BART Trains, BART Facilities, and BART Property whenever they are found within the District" to take effect and be enforceable upon the expiration of 30 days following its adoption.



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

In the Matter of the Adoption of an  
Ordinance of the San Francisco Bay  
Area Rapid Transit District to Prohibit  
the Use of Electronic Smoking  
(Vapor) Devices (Electronic Cigarettes)  
on BART Trains, BART Facilities, and  
BART Property whenever they are found  
within the District \_\_\_\_\_ /

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

WHEREAS, no ordinance of the San Francisco Bay Area Rapid Transit District shall be passed by the Board on the day of its introduction, nor within three days thereafter, nor at any time other than a special, regular, or adjourned regular meeting (Public Utilities Code section 28793), and

WHEREAS, an ordinance entitled “ An ordinance of the San Francisco Bay Area Rapid Transit District to prohibit the use of electronic smoking (vapor) devices (electronic cigarettes) on BART trains, BART facilities and BART property whenever they are found within the District,” has been introduced and title read on January 22, 2015, and

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District has waived further reading of the proposed ordinance, and

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District had noticed February 12th, 2015 as the date for consideration and adoption of the proposed ordinance, and

WHEREAS, the Board desires to adopt the proposed ordinance;

NOW, THEREFORE, BE IT RESOLVED, THAT the Board of Directors of the San Francisco Bay Area Rapid Transit District hereby resolves and orders that ORDINANCE NO. 2015-1, AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT TO PROHIBIT THE USE OF ELECTRONIC SMOKING (VAPOR) DEVICES (ELECTRONIC CIGARETTES) ON BART TRAINS, BART FACILITIES AND BART PROPERTY WHENEVER THEY ARE FOUND WITHIN THE DISTRICT, attached hereto as Exhibit “A” and incorporated herein by this reference, is hereby adopted to be enforceable thirty (30) days hereafter to the greatest extent possible under the laws of the State of California.

Adopted: \_\_\_\_\_

SO ORDERED.

# # #

ORDINANCE NO. 2015-1

AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT TO PROHIBIT THE USE OF ELECTRONIC SMOKING (VAPOR) DEVICES (ELECTRONIC CIGARETTES) ON BART TRAINS, BART FACILITIES AND BART PROPERTY WHENEVER THEY ARE FOUND WITHIN THE DISTRICT.

WHEREAS, the San Francisco Bay Area Rapid Transit District has a substantial interest in protecting the health and welfare of its patrons and persons coming on to District property; and

WHEREAS, the San Francisco Bay Area Rapid Transit District has a substantial interest in protecting such persons from the health hazards associated with nicotine inhalation; and

WHEREAS, the potential health risks of the inhalation of vaporized nicotine are largely unknown; and

WHEREAS, the manufacturing of electronic smoking (vapor) devices often employ the use of a nicotine cartridge, designed to deliver vaporized nicotine to the user; and

WHEREAS, the U.S. Food and Drug Administration (FDA) conducted laboratory analysis of electronic smoking device cartridges and found the following:

- Diethylene glycol, an ingredient used in antifreeze and toxic to humans, was found in one cartridge;
- Certain tobacco-specific nitrosamines, which are human carcinogens, were detected in half of the samples tested;
- Tobacco-specific impurities suspected of being harmful to humans – anabasine, myosmine, and B-nicotyrine – were detected in a majority of the samples tested;
- All but one tested cartridge labeled as containing no nicotine did in fact contain low levels of nicotine;
- Three identically labeled cartridges emitted markedly different amounts of nicotine with each puff. Nicotine levels per 100 milliliter puff ranged dramatically from 26.8 to 43.2 micrograms of nicotine; and
- One high-nicotine cartridge delivered trice as much nicotine to users as was delivered by a nicotine inhalation product approved by the FDA for use as a smoking cessation aid which was used as a control;

WHEREAS, electronic smoking (vapor) devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products, and

WHEREAS, the use of electronic smoking (vapor) devices in smoke free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment; and

WHEREAS, in accordance with similar health concerns, the State of California implemented Health and Safety Code Section 119405, which prohibits the sale of electronic cigarettes to minors in order to protect their welfare and to reduce the chances of nicotine addiction in youth; and

WHEREAS, it is the purpose and intent of the Board of Directors, in enacting this Ordinance, to augment current laws restricting the use of tobacco products to include electronic smoking devices, thus improving the health, safety, and welfare of its patrons and visitors by preventing the harmful effects of nicotine and tobacco products in new forms and in new delivery devices to the extent permitted by law; and

WHEREAS, Public Utilities Code Section 28793 authorizes the Board to pass ordinances; and

WHEREAS, Public Utilities Code Section 28763 authorizes the Board to do any and all things necessary to carry out the purposes of the District; and

WHEREAS, the Board has determined that the adoption of this ordinance, in the absence of adequate State laws, is necessary to preserve the health and safety of BART riders, and those who come on to BART facilities and properties;

NOW THEREFORE, be it enacted by the Board of Directors of the San Francisco Bay Area Rapid Transit District: (Public Utilities Code Section 29795)

**SECTION I.** Chapter 8 of the San Francisco Bay Area Rapid Transit District Ordinance Code is hereby adopted and made a law of the District as follows:

8.10 Findings and declaration.

The San Francisco Bay Area Rapid Transit District Board of Directors does find that:

(a) Electronic Smoking (Vapor) Device Findings.

The San Francisco Bay Area Rapid Transit District has a substantial interest in protecting the health and welfare of its residents from the health hazards associated with nicotine ingestion.

The San Francisco Bay Area Rapid Transit District has a substantial interest in protecting the public health and welfare by prohibiting smoking and the emission of nicotine vapor in public places, and in protecting the rights of non-smokers to breathe smoke-free and nicotine vapor-free air.

The potential health risks of the inhalation of vaporized nicotine are largely unknown.

The manufacturing of electronic smoking (vapor) devices, often known as electronic cigarettes, remains largely unregulated.

Electronic smoking (vapor) devices often employ the use of a nicotine cartridge, designed to deliver vaporized nicotine to the user.

The World Medical Association has determined that electronic smoking devices are not comparable to scientifically-proven methods of smoking cessation and that neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements has been established.

The U.S. Food and Drug Administration (FDA) conducted laboratory analysis of electronic smoking device cartridges and found the following:

- Diethylene glycol, an ingredient used in antifreeze and toxic to humans, was found in one cartridge;
- Certain tobacco-specific nitrosamines, which are human carcinogens, were detected in half of the samples tested;
- Tobacco-specific impurities suspected of being harmful to humans – anabasine, myosmine, and B-nicotyrine – were detected in a majority of the samples tested;
- All but one tested cartridge labeled as containing no nicotine did in fact contain low levels of nicotine;
- Three identically labeled cartridges emitted markedly different amounts of nicotine with each puff. Nicotine levels per 100 milliliter puff ranged dramatically from 26.8 to 43.2 micrograms of nicotine; and
- One high-nicotine cartridge delivered trice as much nicotine to users as was delivered by a nicotine inhalation product approved by the FDA for use as a smoking cessation aid which was used as a control;

Electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products.

The use of electronic smoking devices in smoke free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.

In accordance with similar health concerns, the State of California implemented health and Safety Code Section 119405, which prohibits the sale of electronic cigarettes to minors in order to protect their welfare and to reduce the chances of nicotine addiction in youth.

(b) Declaration.

Accordingly, the San Francisco Bay Area Rapid Transit District Board of Directors finds and declares that the purposes of this District enactment are: (A) to protect the public health and welfare by prohibiting the use of electronic smoking (vapor) devices and nicotine vapor inhalation in public places and places of employment (i.e. where an employee works for a business or employer) when state statutes would not otherwise apply; (B) to enforce the state law prohibiting smoking in the workplace; (C) to guarantee the rights of nonsmokers to breathe smoke-free and nicotine vapor free air, and to recognize that the need to breathe smoke-free and nicotine vapor free air shall have priority over the desire to smoke; (D) to reduce addiction to nicotine and tobacco products by minors; and to generally

promote the health, safety, and welfare within the District of all people who ride within BART trains, or otherwise use BART facilities and BART owned properties against the health hazards and harmful effects of the use of tobacco and nicotine products to the extent permitted by law.

#### 8.20 Definitions.

The following words and phrases, whenever used within this ordinance and this chapter, shall be construed as defined in this section:

“Business” means any sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

“Electronic Smoking (Vapor) Device” means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine. “Electronic Smoking (Vapor) Device” includes any such device and parts thereof, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. “Electronic Smoking (Vapor) Device” includes nicotine cartridges used in such devices, which may be separately sold or distributed as refills. “Electronic Smoking (Vapor) Device” includes similar devices and cartridges that purport to contain no nicotine.

“Employee” means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity, and shall have the same meaning as the term “employee” as defined in Sections 3350 through 3352.94, inclusive, of the California Labor Code.

“Employer” means every person or public service corporation which has any natural person in service, and shall have the same meaning as the term “employer” in Section 3300 and Section 3301 of the California Labor Code.

“Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant, or other combustible substance in any manner or in any form. “Smoking” also includes the use of an electronic smoking (vapor) device. For purposes of this enactment and this Chapter, the tobacco smoking restrictions in section 6404.5 of the California Labor Code and Penal Code Section 640 shall extend to restrictions on the use of electronic smoking (vapor) devices.

#### 8.30 Prohibition on the Use of Electronic Smoking (Vapor) Devices within the BART District.

The use of Electronic Smoking (Vapor) Devices is prohibited on BART trains, BART facilities and BART property whenever they are found within the District. Any use of Electronic Smoking (Vapor) Devices shall be regulated pursuant to this ordinance in the same manner as tobacco smoking restrictions in section 6404.5 of the California Labor Code and Penal Code Section 640, and shall subject the violator to the penalties established by this ordinance when used within the BART District.

Section 8.40 Limitation of Remedies.

In enacting and implementing this ordinance, the San Francisco Bay Area Rapid Transit District is only undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 8.50 Preemption.

Nothing in this ordinance shall be interpreted or applied so as to create any power, duty or obligation in conflict with, or preempted by, any Federal or State law. Even if not preempted by Federal or State law, the provisions of this Chapter shall not apply if the Federal or State law is more restrictive toward the practices, activities and/or uses banned herein. If the Board of Directors determines that a provision included herein has become preempted by Federal or State law, that preempted provision shall be automatically rescinded from this Chapter. Such rescission shall not affect the validity of the remaining portions of this Chapter.

Section 8.60 Penalties.

Any person found to be in violation of any provision of this ordinance or Chapter shall be guilty of an infraction, and may be punishable by:

- (a) A fine, not exceeding one hundred dollars (\$100.00), for the first violation;
- (b) A fine, not exceeding two hundred dollars (\$200.00), for a second violation of this ordinance or Chapter within one year;
- (c) A fine, not exceeding five hundred (\$500.00), for each additional violation of this ordinance or Chapter within five (5) years.

Section 8.70 Statutory Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

Section 8.80 Liberal Construction.

It is the intention of the Board of Directors that this Chapter shall be liberally construed to accomplish its remedial objectives and to be compatible with Federal and State enactments.

**SECTION II.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that

any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION III.** This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published in the Counties of the District. (Public Utilities Code Sections 28794)

In regular session of the Board of Directors of the San Francisco Bay Area Rapid Transit District introduced on the \_\_\_ day of January, 2015, and finally passed and adopted this \_\_\_ day of February, 2015, on regular roll call of the members of said Board by the following vote:

Directors:

Blalock: Josefowitz: Keller: Mallett: McPartland: Murray: Radulovich: Rayburn: Saltzman:

Ayes: Noes: Absent: Abstain:

**WHEREUPON**, the Chair declared the above and foregoing ordinance duly adopted and SO ORDERED.

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President

(Public Utilities Code Section 28796)

ATTEST:

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District Secretary

(Public Utilities Code Section 28796)



### EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Macia DelBueno</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/14/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Christopher Gan Dept:	General Counsel	Controller/Treasurer	District Secretary	BARC
<i>Chris Gan</i> 1/12/15	<i>Audrey Lee</i> 1/13/15	<i>[Signature]</i>	<i>[Signature]</i> 01-13-15	<i>Mark Mann</i> 1-12-15
Signature/Date:		[ ]	[ ]	[ ]

Status: <b>Approved</b>	Date Created: <b>01/07/2015</b>
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TITLE:  
**INDEPENDENT AUDITOR'S REPORTS ON THE BASIC FINANCIAL STATEMENTS AND INTERNAL CONTROL FOR THE FISCAL YEAR ENDED JUNE 30, 2014**


NARRATIVE:

Section 28769 of the Public Utilities Code requires that an annual audit be made of all books and accounts of the District. For fiscal year 2014, the independent certified public accounting firm of Macias, Gini and O'Connell conducted the audit and issued their report on December 30, 2014.

The District's annual financial report provides information on the District's Enterprise Fund and Fiduciary Fund. The Enterprise Fund includes all revenues, expenses, assets, liabilities and net assets related to the District's transit operations. The Fiduciary Fund shows all financial transactions of the Retiree Health Benefit Trust, which was created by the District to administer and account for assets which are restricted for the payment of retiree health premiums and administrative costs. The results of the audit concluded that the District's basic financial statements for the year ended June 30, 2014 present fairly, in all material respects, the financial position of the Enterprise Fund and the Fiduciary Fund, and are in conformity with accounting principles generally accepted in the United States of America.

As part of the examination, the auditors performed a review and evaluation of the District's internal accounting controls. The results of the evaluation are discussed in the Independent Auditor's Report on Internal Control. The report indicates that all of the prior year's issues related to the PeopleSoft Financial system implementation were addressed by the District in fiscal year 2014. However, there is a significant deficiency finding related to review and accounting of significant transactions. In fiscal year 2014, the District re-evaluated the various provisions of the Settlement Agreement entered on April 27, 2007 between the District and San Mateo County Transportation District (Samtrans), as well as the Tri-Party Agreement between the District, Samtrans and the Metropolitan Transportation Commission (MTC), which was entered on February 27, 2007, and have concluded that the construction loans provided to the District by Samtrans and MTC during the construction of the SFO Extension amounting to \$88,500,000 were no longer required to be paid. The District recognized the extinguishment of the debt in fiscal year 2014 as a special item in the District's financial statements. The extinguishment of the loans from Samtrans and MTC were not recognized by the District at the time of the transactions due to the complexity of the language in the settlement agreements and key terms decided and agreed upon by all relevant parties were not conveyed to finance, or understood by finance. The





report recommends that the District should establish a procedure or process whereby members of finance, legal, and operations are gathered to discuss key terms of significant transactions.

**FISCAL IMPACT**

None.

**ALTERNATIVE**

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



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: c		BOARD INITIATED ITEM: No		
Originator/Prepared by: Anthony Hitchings Dept: P&D-ESP Signature/Date:  2/2/15	General Counsel/ 2-2-15 [ ]	Controller/Treasurer [ ]	District Secretary [ ]	BARC P.O. [ ]

TITLE:

### Award of Contract No. 79HM-120, SFTS MB

NARRATIVE:

#### PURPOSE:

To obtain the Board's authorization for the General Manager to award Contract No. 79HM-120, SFTS MB, to Manson Construction Company Inc., of Seattle, WA.

#### DISCUSSION:

The work to be performed under Contract No. 79HM-120 is for a permanent underwater mitigation structure at the San Francisco Transition Structure ("SFTS"). This Contract is classified as a Security Sensitive Contract. The work under this Contract is required to provide protection of the SFTS. Among other things, the Contract scope provides for a barrier in a steel frame supporting sealed mitigation pipes. The total Contract duration is 730 days from Notice to Proceed.

An outreach meeting was held on February 20, 2014. The Contract was advertised on April 3, 2014 in local publications. A total of 18 firms purchased copies of the Bid Documents and 18 prospective Bidders attended a mandatory pre-Bid meeting and site tour on July 8, 2014. A second site tour for third parties was conducted on September 3, 2014. A total of six Addenda were issued.

Five (5) Bids were received and publicly opened on October 28, 2014. A tabulation of the Bids, including the Engineer's Estimate, is as follows:

<u>BIDDER</u>	<u>LOCATION</u>	<u>TOTAL AMOUNT</u>
1. Shimmick Construction Company, Inc.	Oakland, CA	\$35,289,000
1. Manson Construction Company, Inc.	Seattle, WA	\$49,686,000
3. Power Engineering Construction, Inc.	Alameda, CA	\$59,647,000
4. Skanska Steel California District, Inc.	Riverside, CA	\$60,850,000
5. Golden State Bridge, Inc.	Benicia, CA	\$77,000,000
Engineer's Estimate:		\$50,470,839

After review by District staff, the Bid by Shimmick Construction Company, Inc. was determined to be non-responsive, because it omitted a unit price for Bid Item No. 18. Additionally, by letter

dated November 3, 2014, Shimmick submitted a request for relief of its Bid in accordance with the applicable provisions of the Public Contract Code, based on a \$2M clerical error. Shimmick was granted relief from its Bid on November 12, 2014.

Pursuant to the District's Disadvantaged Business Enterprise ("DBE") Program, the Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities and a DBE participation goal of 5% was set. The apparent low responsive Bidder, Manson Construction Company Inc. ("Manson") committed to 1.9% DBE participation. Manson did not meet the DBE goal, therefore, it was required to submit Good Faith Efforts documentation to the District. The subsequent analysis of the Good Faith Efforts documentation conducted by the Office of Civil Rights concluded that Manson did not make sufficient good faith efforts to meet the DBE goal, potentially rendering the Bid non-responsive.

As allowed by the terms of the District's DBE Program, Manson requested a Good Faith Efforts hearing to reconsider the initial decision reached by the Office of Civil Rights. A hearing was held on January 15, 2015, before an independent Hearing Officer. The Hearing Officer found that, although Manson failed to meet the DBE percentage goal for the Contract as part of its Bid, Manson made adequate good faith efforts expected to produce a level of DBE participation to meet the DBE goal for the Contract. The District accepted the Hearing Officer's decision.

After review by District staff, Manson's Bid was determined to be the lowest Bid that was responsive to the solicitation. Examination of Manson's business experience and financial capabilities has resulted in a determination that this Bidder is responsible.

**FISCAL IMPACT:**

Funding of \$49,686,000 for contract 79HM-120 SFTS MB will come from project budget 79HM000 TRANSITION BARRIERS. The following table depicts funding assigned to the referenced project since 05/26/2007, and is included in its totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. As of January 27, 2014, \$103,056,800.43 is available for this project from the following fund sources:

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
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
3754	FY2009 TSGP	\$1,957,507.32
3755	FY11 TSGP Security CCTC and WI	\$20,768,000.00
3757	FY2013 TSGP	\$10,009,500.00
3758	FY2014 TSGP	\$17,400,250.00

3907	FY06 HOMELAND SECURITY	\$1,900,000.00
3908	FY06 UASI REGIONAL FUN	\$213,937.00
535F	FY08-09 CTS GP PROP 1B (SECTY G	\$1,748,628.09
535T	FY07-08 CTS GP PROP 1B (HOMELND)	\$1,275,576.65
5371	FY09-10 CTS GP PROP 1B (HOMELND	\$204,834.00
5372	FY010-11 CTS GP PROP 1B (HOMELND	\$1,696,566.80
5373	FY11-12 CTS GP PROP 1B (HOMELND)	\$2,522,213.72
5374	FY012-13 CTS GP PROP 1B (HOMELND	\$3,874,704.00
5375	FY13-14 CTS GP PROP 1B (HOMELND)	\$5,374,704.00
6011	BRIDGE TOLL ALLOC 07376802	\$1,215,861.00
6015	BRIDGE TOLL ALLOC 09387201	\$95,929.00
6213	REGIONAL MEAS 2 08382301	\$3,122,709.00

TOTAL \$103,056,800.43

BART has expended \$30,586,080.95 and committed \$5,005,481.57 to date for other actions. This action will commit an additional \$49,686,000 leaving an uncommitted balance of \$17,779,237.91 in these fund sources.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The Board may decline to authorize award of the Contract, in which case the District will be unable to adequately protect the SFTS from potential damage, which would include consequential damages to the Transbay Tube. The District could also re-advertise the Contract, but this would result in loss of funding and additional incurred cost and time to the District. There is no assurance that if the Contract were rebid that it would result in lower prices.

**RECOMMENDATION:**


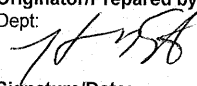
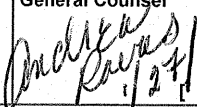
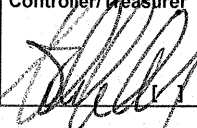
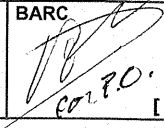
It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 79HM-120 SFTS MB to Manson Construction Company, Inc., for the Bid Price of \$49,686,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA requirements related to protest procedures.



### EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE:		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kirtland Smith Dept:  1-27-15	General Counsel  1/27/15	Controller/Treasurer 	District Secretary [ ]	BARC  1/27/15
Signature/Date:		[ ]		
Status: <b>Approved</b>		Date Created: 10/14/2014		

TITLE:

### Sole Source Procurement of Brake, Split Disc and Hub Assemblies (Two-Thirds Vote Required)

NARRATIVE:

**PURPOSE:** To obtain a Board finding that Knorr Brake Corporation of Westminster, MD is the single source of supply of Brake, Split Disc and Hub Assemblies and that the purchase of this equipment is for the sole purpose of duplicating or replacing equipment or material in use at the District; and to authorize the General Manager to execute a sole source, estimated quantities contract with Knorr Brake Corporation in the amount of \$3,726,230.40 (including all taxes) for the purchase of Brake, Split Disc and Hub Assemblies.

**DISCUSSION:** The District operates 669 revenue vehicles, each with four axles. Each axle uses one brake, split disc and hub assembly. All varieties of BART revenue vehicles have friction brake equipment designed, built and supplied by Knorr Brake Corporation. The brake, split disc and hub assembly works in a system with brake calipers and brake control equipment to form an integrated braking system. This assembly is inspected as part of scheduled maintenance, and periodically must be replaced when considered unservicable. This procurement is to provide ongoing parts replenishment to support these maintenance activities.

The brake, split disc and hub assembly is of a proprietary design and is unique to Knorr Brake Corporation. Purchase of this equipment from Knorr Brake Corporation will guarantee operational compatibility with the existing brake equipment.

Staff proposes to enter into a three (3) year estimated quantity contract with Knorr Brake Corporation for the purchase of replacement assemblies. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract, the District is required to purchase from the supplier a minimum amount of 50 percent of the contract price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract price, subject to availability of funding. Pursuant to Public Contract Code Section 20227, the Board may direct the purchase of any supply, equipment or material without observance of competitive bidding upon a finding by two-thirds of all members of the Board that there is only a single source of procurement and that the purchase is for the sole purpose of duplicating or replacing equipment currently in use.

Vehicle Systems Engineering has estimated the replacement cost for a quantity of 1,440 brake, split disc and hub assemblies to be \$3,726,230.40, including all taxes, based on a budgetary estimate by Knorr Brake Corporation of \$2,374 per assembly. District staff believes the Knorr Brake Corporation estimate to be fair and reasonable based on previous procurements with Knorr Brake Corporation.

<u>Bidder</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Grand total including 9.00% tax</u>
Knorr Brake Corporation Westminster, MD. 21157	1,440 ea.	\$2,374.00	\$3,726,230.40

The Procurement Department will review the contract to confirm compliance with the District's procurement standards. The Office of the General Counsel will approve the contract as to form.

The District's Non-Discrimination in Subcontracting Program does not apply to Emergency Contracts, Sole Source Contracts and Contracts under \$50,000 or any Invitation for Bid. Pursuant to the Program, the Office of Civil Rights did not set availability percentages for this contract.

**Fiscal Impact:**

The Split Disc and Hub Assemblies are scheduled to be procured over the contract's three (3) year period at the following estimated annual costs:

FY 15	\$621,038.40
FY 16	\$1,552,596.00
FY 17	\$1,552,596.00

Funding for \$621,038.40 for FY2015 is currently available in the General Fund, Materials & Supplies Inventory build-up account. Subsequent funding for this contract will be provided by the Rolling Stock & Shops (RS&S) Maintenance, Repair and other account #680230 as the parts are ordered from inventory. Any additional orders of Split Disc and Hub Assemblies over and above the currently available funds of \$621,038.40 for FY2015 will only be placed upon certification by the Controller-Treasurer that funds are available. Expenditures for the out year portions of the contract will be included in future RS&S operating budgets which are subject to future board adoption.

**Alternatives:** None. There are no other sources of supply for these assemblies.

**Recommendation:** On the basis of analysis by Staff, and certification by the Controller-Treasurer that the funds for FY2015 are available for this purpose, it is recommended that the Board adopt the following motion.

**Motion:** The Board finds pursuant to Public Contract Code Section 20227 that Knorr Brake Corporation is the single source of procurement of Brake, Split Disc and Hub Assemblies, and that the purchase is for the sole purpose of duplicating or replacing equipment in use at the District. The Board authorizes the General Manager to execute a sole source, estimated quantity contract for Brake, Split Disc and Hub Assemblies with Knorr Brake Corporation, for a price not to exceed \$3,726,230.40, including all applicable taxes.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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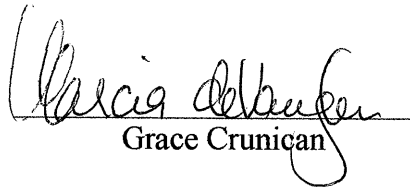
## MEMORANDUM

**TO:** Board of Directors **DATE:** January 15, 2015  
**FROM:** General Manager  
**SUBJECT:** E&O Agenda Item Customer Communications During Major Service  
Disruptions and Improvement Initiatives – For Information

The subject item was continued at the December 4, 2014 Board meeting. At the January 22<sup>nd</sup> Board meeting, staff will discuss the attached presentation on customer communications during major service delays and improvement initiatives that have been implemented or are planned for future implementation.

The presentation is the result of an inter-departmental committee that included staff from the Transportation, Computer Systems Engineering and Communications departments, and the Office of the Chief Information Officer.

If you have any questions, please contact Chief Transportation Officer Roy Aguilera at (510) 464-6797.

  
Grace Crunican

### Attachments

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

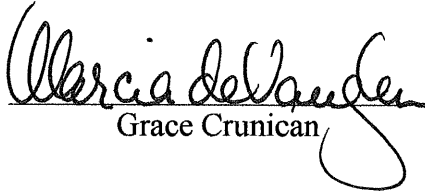
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## MEMORANDUM

**TO:** Board of Directors **DATE:** January 15, 2015  
**FROM:** General Manager  
**SUBJECT:** E&O Agenda Item Service Planning for Special Events – For Information

At the January 22, 2015 Board meeting, staff will discuss the attached presentation on Service Planning for Special Events. The discussion will include the various types of special events, the event planning process, service delivery tools, challenges and, lessons learned.

If you have any questions, please contact John McCormick, Group Manager Operations Planning and Support, at (510) 464-7557.

  
Grace Crunican

### Attachments

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:		GENERAL MANAGER ACTION REQ'D:		
DATE:		BOARD INITIATED ITEM: <input checked="" type="checkbox"/> No		
Originator/Prepared by: Paul Fadelli Dept:	General Counsel	Controller/Treasurer	District Secretary	BARC
 Signature/Date:	 2/3/15		[ ]	 2.4.15 [ ]
Status: Routed		Date Created: 01/07/2015		

TITLE:

### 2015 State and Federal Legislative Goals

NARRATIVE:

**PURPOSE:** To review and approve the District's 2015 State and Federal Legislative Advocacy Program.

**DISCUSSION:** The 2014 general election resulted in 35 new members being elected to the State Legislature. In Congress, the Republicans increased their majority in the House of Representatives and took over the US Senate with a 54 member advantage. A priority will be to build strong relationships with new and returning office holders and to educate them on the importance of public transit in the state. In addition to addressing any specific BART concern or problem that might arise in 2015, BART staff offers the following outline of proposed state and federal legislative goals and objectives for the year ahead.

#### A. Proposed 2015 State Advocacy Program for BART:

##### (1) Support Cap & Trade Funding for Transit

Last year, the legislature established in the state budget process, and the Governor signed into law a Cap & Trade program in response to landmark legislation which set goals to reduce the emission of greenhouse gases (GHG) in the state. The Cap & Trade program now presents the best option for long-term funding for a variety of transit, affordable housing and "sustainable community" programs in California. The key transit-related programs created as part of last year's budget, include:

- Formula grants to transit agencies through the State Transit Assistance (STA) program formula for operations and capital projects;
- Transit and intercity rail competitive grant program for capital projects; and
- An affordable housing and sustainable communities competitive grant program.

\$872 million was approved in the 2014-2015 state budget to provide initial support for these and other programs to reduce GHG. In subsequent years, these programs will receive specific percentages generated by the *total* Cap & Trade auction revenue raised, and this amount may

grow dramatically as transportation fuels are now included in the Cap & Trade program. Over the past few months, complicated guidelines related to the Cap & Trade program have been developed by several state agencies such as the California State Transportation Agency, the Strategic Growth Council, the California Natural Resources Agency, Caltrans, the Air Resources Board, the California Natural Resources Agency, and the California Environmental Protection Agency. These agencies must undertake the complex process of advancing and implementing these guidelines to distribute funding within each specific program. These evolving guidelines will become the roadmap as to how BART and other transit systems may compete for limited funds.

Last year, the BART Board opposed legislation (AB 69, Perea) that would have delayed the inclusion of transportation fuels into the Cap & Trade program. That bill would have prevented the larger sums of revenue from being raised that public transit and affordable housing programs will increasingly depend upon. Once again, legislation has been introduced by Cap & Trade opponents who say the program will raise gasoline prices. Working with the California Transit Association (CTA) and other state transit allies to retain this key funding program should remain a high priority for BART.

### **(2) Protect Existing and Seek New State Transit Funding**

The last session of the State Legislature provided new optimism that will help minimize what had become perennial transit funding concerns. The balanced state budget reduced the risk of the General Fund “borrowing” funds from historic public transit programs; the Governor finished appropriating transit funds from state passed propositions 1A, 1B and 1C; the new Cap & Trade legislation provides hope for long-term public transit funding; and more local financing tools for transit were made available with new laws (supported by BART) to allow the creation of local Benefit Assessment Districts and Enhanced Infrastructure Finance Districts (IFD). However, there is still a great need for BART to monitor how public transit is supported in the state budget and identify other opportunities to support new predictable streams of revenue for transit systems and projects. While the Cap & Trade program may be the current focus of attention, the Governor’s California Transportation Improvement Program (CTIP) working group, overseen by CalSTA Secretary Brian Kelly, is still actively exploring ways to secure future funding programs that could gain legislative support.

### **(3) Work to Optimize BART’s Ability to Generate Renewable Energy**

During Governor Brown’s inauguration in January he outlined a series of new goals to further push state renewable energy goals upward in his Administration. In the context of the state’s innovative policies to encourage renewable energy technologies and reduce the use of carbon for transportation fuels and power, BART has undertaken an initial review of ways that it might increase the amount of solar photovoltaic (PV) that can be integrated into its system as an energy source. Increasingly, funding for transit will likely be linked directly to GHG emission reduction and “sustainable” land use policies. While increasing BART’s solar portfolio is attractive, there are many hurdles that remain to achieve higher levels of renewable energy. For example, BART’s current agreements with PG&E limit the amount of solar generation interconnected to

the PG&E system which can be built on District property. Therefore, to increase its use of solar energy, BART will need to either amend its current agreements with PG&E, or negotiate for modification or removal of the limit after the agreements expire in 2016. This and other issues could involve legislative and/or regulatory changes at either the state or federal levels.

#### **(4) Investigate/Pursue Issues Raised by BART Police**

When necessary, BART has sought legislation, supported by BART Police, to improve its ability to fight crime and ensure a safe system for its riders and employees. Some of these efforts have included legislation (AB 1586, Swanson) to establish an Independent Police Auditor and a Citizen Review Board, (AB 716, Dickinson) to allow a pilot program for a BART Prohibition Order program, (SB 962, Leno) to support a kill switch for smart phones, and last year's BART sponsored bill (SB 1154, Hancock) to clarify BART Police authority to respond to domestic violence incidents on BART property. With a variety of police actions and civil demonstrations drawing attention around the nation, legislative ideas -- such as those involving additional police accountability -- have been suggested, and should be monitored in the State Capitol. In addition, this year some state transit systems (and CTA) are likely to pursue changes to the Public Utilities Code that involves improving transit agency ability to cite for certain infractions. BART Police would like to include in that effort a clarification that playing loud disruptive music on the BART system can be cited as an infraction.

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

The two-year \$105 billion Moving Ahead for Progress in the 21st Century Act (MAP-21) was extended in July, 2014 through May 2015. Hearings on a new multi-year reauthorization will move into full gear in the coming weeks with most discussions focused on identifying a source of revenue to support highway and transit projects as the Highway Trust Fund moves closer to insolvency. The House Committee Chair for Transportation and Infrastructure, Rep. Bill Shuster (R.-PA), said last year that all revenue options to address shortfalls in the Highway Trust Fund should be considered. However, the option of raising the federal gas tax does not seem likely in the present environment. MAP-21, which passed in 2012, did not include earmarks, lessened the number of discretionary grant programs, consolidated many other programs and put a new emphasis on asset management, performance and safety. Many of these important changes, however, have yet to be fully implemented as regulations are still being developed.

#### **(1) Participate in Reauthorization Effort**

BART participated in the California Transit Association's (CTA) federal reauthorization task force in 2014 and should continue to be actively involved with other major passenger rail systems, and with the American Public Transportation Association (APTA) to influence the following important issues in 2015:

- **Overall Funding.** BART should continue working with its congressional delegation and other passenger rail systems to support a "full funding" reauthorization bill signed into

law. BART should continue to oppose proposals that would cut formula funding by a significant percentage.

- **State of Good Repair (SOGR) & Formula Funding.** BART should continue to support the Administration's priority of SOGR funding and especially the efforts by the Federal Transit Administration (FTA) to increase SOGR funding for the nation's metropolitan rail systems.
- **Transportation Enhancements/Livability.** BART should continue its support of the Obama Administration's efforts to maintain "livability" programs which assist transit access goals, and the enhancement of bicycle and pedestrian projects. Under Map-21, funds for such enhancement programs were shifted to the states.
- **Core Capacity.** As part of the MAP-21 reforms, the New Starts Program was renamed the "Capital Investment Grant" program to include a "core capacity" provision allowing for the renovation of an existing system with discretionary funding if the project increases corridor capacity by 10%. Encouraged by the FTA, BART worked closely with the MTC and submitted a Core Capacity application for a grant that could help fund a variety of projects to alleviate growing capacity issues on the system.
- **Safety.** MAP-21 gave FTA the authority to monitor the safety of the nation's passenger rail systems and restrict federal funding as a means of enforcement, and regulations are still being formulated. Specific federal regulations should be monitored and commented on, as appropriate.

## **(2) Seek Assistance, if Necessary, for New BART Railcars**

BART has continued to educate the Bay Area congressional delegation on the status of BART's "Fleet of the Future" and has received good support. Should it be necessary, BART should seek congressional assistance for the cars to accommodate their production.

## **(3) Seek Funding for Transit Security Needs**

Last year, BART was awarded the second of two transit security grants to help secure a critical structural asset involving the Trans Bay Tube. BART security needs, however, continue to warrant additional funding to guarantee a secure system for riders. BART should continue to work with congressional allies to resist efforts to cut appropriations for transit security needs.

## **(4) Support a Permanent Transit Commuter Tax Benefit**

In recent years, transit commuter tax benefits have needed to be extended and restored annually in order to equalize the transportation fringe benefits for parking and transit. The BART Board has consistently supported the passage of legislation to establish permanent parity between the parking and transit portions of the commuter tax benefit. However, Congress has not been able

to garner enough support for a permanent fix and continues to provide relief on an annual basis. In 2014, the transit-parking benefit parity provision was extended retroactively for the 2014 tax year. In 2015, BART should continue to push for a permanent extension.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

That the Board approves the following motions.

**ALTERNATIVE:**

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

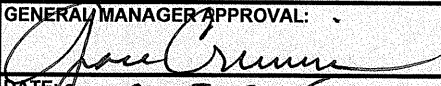
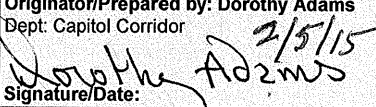
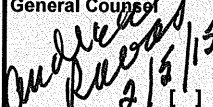

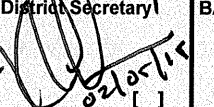
**MOTIONS:**

The Board approves the state advocacy program, as presented by staff at this time.

The Board approves the federal advocacy program, as presented by staff at this time.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Board of Directors		
DATE: 2-5-2015		BOARD INITIATED ITEM: No		
Originator/Prepared by: Dorothy Adams Dept: Capitol Corridor	General Counsel	Controller/Treasurer	District Secretary	BARC
 Signature/Date: 2/5/15	 2/5/15	 2/5/15	 2/5/15	[ ]

TITLE:  
**Extend Agreement Between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support**

NARRATIVE:

### PURPOSE

For the BART Board to authorize the execution of the Administrative Services Agreement between the District and the Capitol Corridor Joint Powers Authority for a five-year term, effective February 20, 2015.

### BACKGROUND

Pursuant to the Joint Exercise of Powers Agreement to Establish the Capitol Corridor Joint Powers Authority (JEPA), Section 10.0 of the JEPA requires that the CCJPA enter into a contract with the Managing Agency to identify the responsibilities of the Managing Agency. Effective February 20, 1999, the CCJPA and BART entered into an Administrative Support Agreement (ASA) for an initial term of three years to set forth the manner in which BART would provide all necessary administrative support to the CCJPA with its own staff to enable the CCJPA to perform its duties and responsibilities. Some of the key elements of the ASA include:

- Description of Managing Agency's administrative support duties;
- Appointed staff of Managing Agency;
- Invoicing procedures and availability;
- Audit provisions;
- Liability (Allocated Losses); and
- Initial Term (through February 20, 2002)

Prior to the expiration of the initial term of the ASA, the CCJPA Board agreed at its February 2002 meeting to select BART as the Managing Agency and to extend the ASA with BART for a further three-year term through February 2005 pursuant to the enabling legislation then in effect. BART concurred with this action by the CCJPA at its March 14, 2002 Board meeting and the Board President executed the ASA, effective through February 20, 2005.

The CCJPA's enabling legislation was further amended to eliminate the CCJPA's sunset date (June 30, 2004) and also to lengthen the CCJPA Managing Agency's agreement term from three

to five years (effective February 2002) so that the CCJPA Board could better assess the performance of the Managing Agency.

Upon the expiration of the renewal term of the ASA on February 20, 2005, the CCJPA Board (CCJPB) has continuously selected BART to continue in its role in providing administrative support to the CCJPB for five-year terms in February 2005 (valid through February 2010) and again in February 2010 (valid through February 2015). The renewals of these ASAs were based on the continuing success of the Capitol Corridor Service performance as well as the positive, cross-beneficial, cooperative relationship between BART and the CCJPA member agencies.

Subsequently, at its November 19, 2014, the CCJPA Board of Directors approved the extension of the ASA with the District for another 5-year term (February 2015 – February 2020), once again, citing their renewal of the ASA with BART was due to BART's professional partnership with the CCJPA and the continuing positive results in the performance of the Capitol Corridor services (i.e., nation-leading on-time performance, commitment to passenger/employee safety, increased ridership and revenues, high customer satisfaction). The terms of the Agreement during the renewal term remain the same.

#### **Fiscal Impact**

Pursuant to the terms of the ASA and the Interagency Transfer Agreement (ITA) between the CCJPA and the State of California, all expenses incurred by BART as Managing Agency of the CCJPA will be reimbursed by the CCJPA through the State of California. Therefore, there is no fiscal impact to BART.

#### **Recommendation**

Accordingly, the General Manager requests that the Board of Directors of the San Francisco Bay Area Rapid Transit District adopt the following motion, authorizing the District to enter the Administrative Support Agreement with the CCJPA for a five-year term as provided for by the amended statute.

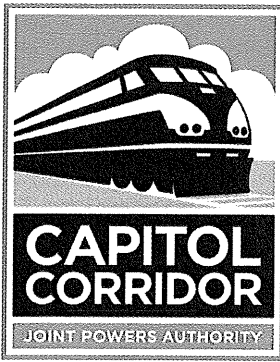
The agreement has been approved as to form by the Office of General Counsel.

#### **MOTION:**

The Board of Directors of the San Francisco Bay Area Rapid Transit District (Board) hereby executes the Agreement Between the Capitol Corridor Joint Powers Authority and the San Francisco Bay Area Rapid Transit District for Administrative Support for a consecutive five-year term through February 19, 2020 under the same terms as the current agreement.

The Board hereby authorizes and directs the President of the Board to execute the Agreement on behalf of the Board.





# CAPITOL CORRIDOR JOINT POWERS AUTHORITY

## MEETING OF THE BOARD OF DIRECTORS

Wednesday February 18, 2015

10:00 a.m.

City Council Chambers  
Suisun City Hall  
701 Civic Center Blvd., Suisun City, CA  
(see attached map)

A simultaneous teleconference call will take place at:

Santa Clara Valley Transportation Agency  
3331 North First Street, Conference Room C-118  
San Jose, CA

### DRAFT AGENDA

- I. Call to Order
- II. Roll Call and Pledge of Allegiance
- III. Report of the Chair
- IV. Minutes of the November 19, 2014 Meeting *Action*
- V. Consent Calendar *Action*
  1. CalEOS FY 14-15 Safety/Security Project Program
  2. Budget Update: Oleum Tunnel Safety Improvement Project
  3. CCJPA Operations Database Business Intelligence Project
- VI. Action and Discussion Items
  1. Business Plan Update (FY 2015/16 – FY 2016/17) *Action\**
  2. Legislative Matters/Governor's Draft FY 15/16 Budget *Action*
  3. Capitol Corridor Project List: FY 14/15-FY15/16 Cap and Trade Transit/Intercity Rail Program *Action*
  4. On-Board Information System Project Implementation Agreement *Action*
  5. Vision Plan Implementation Program *Action*
  6. Capitol Corridor Station Bicycle eLocker Project *Action*
  7. Managing Director's Report *Info*
  8. Work Completed *Info*
    - a. Capitol Corridor Annual Performance Report (FY 2014)
    - b. CCJPA Annual Independent Audit (FY14)
    - c. CCJPA/BART Administrative Services Agreement (February 2015 – February 2020)
    - d. Marketing Activities (November 2014 – January 2015)
  9. Work in Progress *Info*
    - a. Oakland – San Jose Phase 2 Project
    - b. Sacramento-Roseville 3<sup>rd</sup> Track Environmental Review/Preliminary Engineering
    - c. Positive Train Control Update
    - d. Station and Platform Safety Upgrades
    - e. Proposition 1B Transit Safety/Security Improvement Projects
    - f. Proposed Extension of Capitol Corridor Trains to Salinas
    - g. Upcoming Marketing Activities
- VII. Board Member Reports
- VIII. Public Comments
- IX. Adjournment. Next Meeting Date: 10:00 a.m., April 15, 2015, at City Council Chambers, Suisun City Hall, 701 Civic Center Blvd., City of Suisun City, CA

#### Notes:

Members of the public may address the Board regarding any item on this agenda. Please complete a "Request to Address the Board" form (available at the entrance of the Boardroom and at a teleconference location, if applicable) and hand it to the Secretary or designated staff member 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. Speakers are limited to three (3) minutes for any item or matter. The CCJPA Board reserves the right to take action on any agenda item.

Consent calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for discussion or explanation is received from a CCJPA Board Director or from a member of the audience.

\* Approval of the business plan requires an affirmative vote of at least two-thirds (11) of the appointed members.

The CCJPA Board provides services/accommodations upon request to persons with disabilities who wish to address Board matters. A request must be made within one and five days in advance of a Board meeting, depending on the service requested. Call (510) 464-6085 for information.