

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

**BOARD MEETING AGENDA**

April 25, 2019

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, April 25, 2019, in the BART Board Room, 2040 Webster Street, Oakland, California.

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

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

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

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

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

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

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>); at [bart.legistar.com](http://bart.legistar.com); 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 and [bart.legistar.com](http://bart.legistar.com) 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.

Patricia K. Williams  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of April 11, 2019.\*  
Board requested to authorize.
- B. Appointment of BART Police Citizen Review Board Member.\* Board requested to ratify.
- C. Delegation of Recruitment Activity and Relocation.\*  
Board requested to authorize.
- D. Amendment to Agreement No. 6M4636 with Krauthamer & Associates, Inc. to provide Executive Recruitment Services.\*  
Board requested to authorize.
- E. Mandatory Amendment to the Non-Federal Small Business Program to include a Policy to prevent fraud and abuse.\*  
Board requested to adopt.
- F. Resolution Authorizing Execution of a Master Funding Agreement with the California Department of Transportation for State Funded Projects.\*  
Board requested to adopt.

3. PUBLIC COMMENT – 15 Minutes

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda. An additional period for Public Comment is provided at the end of the Meeting.)

4. ADMINISTRATION ITEMS

Director Simon, Chairperson

- A. Approval of Title VI Fare Equity Analysis for BART Participation in Regional Means – Based Fares Pilot Program.\*  
Board requested to authorize.
- B. Performance and Audit Department Overview.\* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

- A. Award of Contract No. 01VM-120, Union City Intermodal Phase 2A - BART Station Improvements.\* Board requested to authorize.
- B. Award of Contract No. 6M4549, Emergency Restoration, Preventive Maintenance, Non – Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Network.\* Board requested to authorize.
- C. Change Order to Contract No. 15TD-250, Track Geometry Car, with Mermec Inc., for Extension of Time (C.O. No. 002).\* Board requested to authorize.
- D. Asset Management Policy Update.\* Board requested to authorize.

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

Director Raburn, Chairperson

- A. Surveillance Policy: Automated License Plate Readers.\*
  - a. Surveillance Use Policy.
  - b. Surveillance Impact Report.Board requested to authorize.
- B. Federal and State Legislation for Consideration.\* Board requested to authorize.

7. GENERAL MANAGER’S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

8. BOARD MATTERS

- A. Earthquake Safety Program Citizens Oversight Committee Annual Report.\* For information.
- B. 2019 Organization of Committees and Special Appointments Revision: Creation of General Manager Ad Hoc Committee.\* Board requested to ratify. (President Dufty’s request.)
- C. Board Member Reports.  
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since last Board Meeting.)
- D. Roll Call for Introductions.  
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

- E. 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 LABOR NEGOTIATORS:

Designated representatives: Grace Crunican, General Manager; Michael Jones, Assistant General Manager, Administration; and Martin Gran, Chief Employee Relations Officer

Employee Organizations: (1) Amalgamated Transit Union, Local 1555;  
(2) American Federation of State, County and Municipal Employees, Local 3993;  
(3) BART Police Officers Association;  
(4) BART Police Managers Association;  
(5) Service Employees International Union, Local 1021; and  
(6) Service Employees International Union, Local 1021, BART Professional Chapter  
(7) Unrepresented employees (Positions: all)

Government Code Section: 54957.6

B. PUBLIC EMPLOYEE EMPLOYMENT:

Title: Inspector General  
Government Code Section: 54957(b)(1)

C. PUBLIC EMPLOYEE EMPLOYMENT/APPOINTMENT:

Title: General Manager/Interim General Manager  
Gov't Code Section: 54957(b)(1)

D. CONFERENCE WITH NEGOTIATORS:

Designated Representatives: Directors Dufty, McPartland and Simon  
Title: General Manager/Interim General Manager  
Gov't Code Section: 54957.6

E. CONFERENCE WITH LEGAL COUNSEL:

ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Government Code Section 54956.9(d)2: one potential case.

11. OPEN SESSION

- A. Announcement from Closed Session if any.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors  
Minutes of the 1,838th Meeting  
April 11, 2019

A regular meeting of the Board of Directors was held April 11, 2019, convening at 9:01 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California; and Hilton Garden Inn, 4201 Genesee Street, Buffalo, New York. President Dufty presided; Patricia K. Williams, District Secretary.

Directors present in Oakland: Directors Ames, Foley, McPartland, Raburn, Saltzman, Simon and Dufty.

Present in New York: Director Li.

Absent: None. Director Allen entered the meeting later.

President Dufty called for Introduction of Special Guests. General Manager Grace Crunican introduced the BART Leadership Academy Graduates.

Director Allen entered the meeting.

An overview of the program managed by the San Jose State University Mineta Institute. The following individuals introduced themselves and addressed the Board:

Wahid Amiri, Project Manager  
Robert Ballard, Manager of Mechanical Engineering  
Alma Basurto, Program Manager I  
Angela Borchard, Research Projects Supervisor  
Phaethon Brown, Manager of Transportation, Operations Support  
Sadie Graham, Project Manager  
Marlon Lewis, Rolling Stock Maintenance Superintendent  
Eric Matthews, Transportation Operations Manager  
Bradford Mitchell, Rolling Stock Maintenance Superintendent  
Davide Puglisi, Transportation Operations Manager  
Marshalette Ramsey, Manager of Central Control  
Jennella Sambour-Wallace, Manager of Special Projects  
Kate Jordan Steiner, Manager of Operating Budgets  
Jeana Zelan, Attorney III

General Manager Crunican read sentiments from Leadership Academy graduate Shana Dines, Assistant Chief, Employee Relations, who was not present.

Director Raburn introduced Leah Edwards, Bond Oversight Committee Appointee.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of March 21, 2019 (Special) and March 28, 2019 (Regular).
2. BART Earthquake Safety Program Citizens' Oversight Committee Membership Appointments.
3. Bond Oversight Committee Appointments and Re-Appointments.
4. Employee Recruitment and Relocation for the Chief of Police and Assistant General Manager, External Affairs.
5. Invitation For Bid No. 9052, Station Agent and Foreworker Uniforms.
6. Invitation For Bid No. 9057, Procurement of Fiber – Reinforced Yard Access Ladders.

Director Saltzman requested that Item 2-D, Employee Recruitment and Relocation for the Chief of Police and Assistant General Manager, External Affairs be removed and voted on separately. Director McPartland requested that Item 2-F, Invitation For Bid No. 9057, Procurement of Fiber – Reinforced Yard Access Ladders be removed and voted on separately.

Director Raburn made the following motions as a unit. Director Saltzman seconded the motions, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

1. That the Minutes of the Meetings of March 21, 2019 (Special) and March 28, 2019 (Regular), be approved.
2. That the Board appoints the nominated candidates for BART Earthquake Safety Program Citizens' Oversight Committee and appoints the nominated candidates for membership and/or alternate seat appointments for the 2019-2021 Term. (The summary is attached and hereby made a part of these Minutes.)
3. That the Board of Directors appoints the following individuals effective May 1, 2019 to fill the two vacated League of Women Voters seats in the current term of the Bond Oversight Committee, which ends June 30, 2019:
  - 1) Catherine Newman
  - 2) Leah E. Edwards

And that the BART Board re-appoint the following individuals to serve on the Bond Oversight Committee for two years beginning July 1, 2019 and ending June 30, 2021:

- 1) Michael McGill (Chair)
- 2) John Post (Vice-Chair)
- 3) Michael Day
- 4) Mariam Breitbart
- 5) Daren Gee
- 6) Catherine Newman

7) Leah E. Edwards

4. That the General Manager be authorized to award Invitation for Bid No. 9052, an estimated quantity contract for the procurement of Station Agent and Foreworker Uniforms, to M & H Uniforms, for the amount of \$1,263,309.64, including taxes, pursuant to notification to be issued by the General Manager.

(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.)

General Manager Crunican presented Item 2-D, Employee Recruitment and Relocation for the Chief of Police and Assistant General Manager, External Affairs. The item was discussed.

Director Saltzman moved that the General Manager or her designee be authorized, in conformance with established District procedures governing the use of executive search services to identify suitable candidates both inside and outside of California for the position of Chief of Police and Assistant General Manager, External Affairs, and that the General Manager be authorized to enter into a relocation agreement, if necessary, for each role, in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement. President Dufty seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

Ms. Tamar Allen, Assistant General Manager, Operations; Mr. Samuel Hoffman, Principal Mechanical Engineer; and Mr. Thomas Moloney, Senior Operations Safety Specialist, presented Item 2-F, Invitation For Bid No. 9057, Procurement of Fiber – Reinforced Yard Access Ladders. The item was discussed.

John Arantes addressed the Board.

Director McPartland moved that the General Manager be authorized to award Invitation for Bid No. 9057, to Fibergate Composite Structures, Inc. in the amount of \$165,752.13, including taxes an estimated quantity contract for purchase of fifty (50) Fiber Reinforced Plastic Access Ladders, subject to compliance with the District's protest procedures. Director Saltzman seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

(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 Dufty called for Public Comment.

The following individuals addressed the Board.

Rebecca Burke  
Jay Koslowsky  
Laura Klein

Director Simon, Chairperson of the Administration Committee, brought the matter of Fiscal Year 2020 Budget Procedural Actions: Set Date for Public Hearing, Publish Pamphlet before the Board. Ms. Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item. The item was discussed.

Director Raburn moved that staff be directed to publish a Budget Pamphlet for Fiscal Year 2020 to be available for distribution no later than May 1, 2019 and that a Public Hearing on the Fiscal Year 2020 Preliminary Budget be set for Thursday, May 23, 2019 in the Board Room. Director Foley seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

Director Simon brought the matter of Fiscal Year 2020 Preliminary Budget before the Board. Ms. Herhold; Ms. Tamar Allen; Mr. Robert Powers, Deputy General Manager; Ms. Kate Jordan Steiner, Department Manager, Budgets; and Mr. Michael Eiseman, Department Manager Financial Services, presented the item. The item was discussed.

Director Allen requested that a memo on the Quality of Life information be presented five working days prior to the May 9, 2019 Board meeting. Director Allen requested information regarding reimbursement for Santa Clara Valley Transportation Authority expenses, fare revenue loss, future means-based fare discounts, and the amount of resources allocated toward station hardening in Fiscal Year 2020. She requested the record reflect that she has not addressed her support of the MTAP/Ambassador program.

Director McPartland requested information on the dollar amount for station hardening.

Director Foley expressed support for additional station hardening, reduced fares during low ridership times, and CPI-based fare increases. He requested dialog with the unions when position decisions are made.

Director Saltzman expressed support for reduced fares during low ridership times, additional station hardening, and additional police officers. She requested staff look at ridership giveaways that people will actually use to incentivize weekend and night ridership, information on future budget cuts, and a memo on additional initiatives for the budget before Board approval. Director Saltzman stated she does not support additional fare inspectors due to no data showing that the program works and that she was disappointed in the memo from the General Manager regarding the MTAP/Ambassador Program.

President Dufty remarked that the elevator attendance program was one of the most successful programs at BART last year. He requested implementation of an Ambassador pilot program and more coordination with San Francisco International Airport.

Director Li expressed concerns regarding the criteria used to develop the quality of life package reflected in the budget.

Director Ames noted that total BART trips are decreasing, and expressed support for additional resources allocated to quality of life initiatives, an MTAP/Ambassador program, increased employee contributions to their pension plans, and a six-month plan to increase ridership.

Director Raburn expressed concern regarding future years' budgets. He requested evaluation of more flexibility in setting CPI-based fare increases and the possibility of adjusting fare increase

allocations and workers compensation reserves and an assessment of capital projects and future commitments. Director Raburn requested that Workers Compensation sources and uses be included in the Controller/Treasurers report, and that the Budget memo identify in the labor budget whether positions are union or non-represented.

Director Simon requested focus on Quality of Life issues and requested her fellow Board members to take into consideration the operating cost of the Ambassador program and find some of the funds themselves through other sources.

Gena Alexander addressed the Board.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Agreement No. 6M3388A, with Sperry Rail Services Inc. to provide Ultrasonic Rail Flaw Detection Testing Services before the Board. Ms. Tamar Allen; Mr. Laurence Farrell, Manager of Construction Services; and Mr. Gregory Shivy, Principal Track Engineer, presented the item. The item was discussed.

President Dufty moved that the General Manager be authorized to award Agreement No. 6M3388A to Sperry Rail Services, Inc. for Ultrasonic Rail Flaw Detection Testing Services for the two (2) year Base Agreement and two (2) one (1) year options in an amount not to exceed \$2,214,000.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures. Director Allen seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter Amendment with Scoop Technologies for Carpool Services before the Board. Mr. Carl Holmes, Assistant General Manager, Design and Construction; and Mr. Robert Franklin, Department Manager, Customer Access, presented the item. The item was discussed. Director Saltzman requested a memo on the Scoop data for the program.

Director Saltzman moved that the General Manager be authorized to increase the not-to-exceed amount for the Scoop Technologies Integrated Carpool to Transit Program services agreement to \$327,510.00 to provide interim carpool matching services between July 1, 2018 and June 30, 2019. Director Simon seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

President Dufty called for the General Manager's Report.

General Manager Crunican reported on steps she had taken and activities and meetings she had participated in, ridership, upcoming events, and outstanding Roll Call for Introductions items. She announced that Shirley Qian, Senior Planner, Capitol Corridor was selected by *Progressive Railroading* magazine as one of the railroad industry's "Rising Stars" for 2019

General Manager Crunican announced her retirement effective July 6, 2019, and spoke of the accomplishments during her tenure at BART.

Directors thanked General Manager Crunican for her years of service, honesty, and leadership while running BART.

President Dufty called for Board Member Reports, Roll Call for Introductions, and In Memoriam.

Director Ames reported she had attended a study session for the Irvington BART Station.

Director Raburn reported he had attended two workshops regarding the Oakland Athletics and a dedication of Coliseum Connection housing project.

Director Simon reported she had attended a townhall meeting on Transportation for the 880 corridor with West Contra Costa Transportation Advisory Committee, BART, Mayor of Pinole and Assemblymember Buffy Wicks; and had participated in the North Richmond Community Day.

President Dufty requested a report by Chief Rojas regarding a report at the Fruitvale Station where a police officer tried to convince a victim to not make a report. Chief Rojas gave a report of the incident.

Director Saltzman reported she had attended the Wellstone Democratic Club regarding Housing, Committee of Minority Transportation Officials and Women's Transportation Seminar joint reception for Therese McMillan the new Chair of Metropolitan Transportation Commission, and Alameda County Transportation Commission Committee meeting.

Director Saltzman requested real-time arrival information for the Fleet Of The Future trains be placed on the District's website and applications.

Director Foley reported he had attended a meeting with Contra Costa Supervisor Federal Glover regarding homelessness, and the Contra Costa Mayors Conference.

Director Allen reported she had attended a townhall with Senator Glazier, Orinda Watch, a Contra Costa Realtors In Motion Breakfast meeting, and an Associated General Contractors meeting.

President Dufty made the following Roll Call For Introduction request that the BART Police Department make a presentation on its use of the Community Justice Center (CJC) within the San Francisco Superior Court for referral of misdemeanor and felony arrest. CJC was established over a decade ago to provide wrap around services and accountability for offenders who appear before a Judge and are required to pursue services, available on-site, that address needs for housing, health/mental health, employment and job training, and substance abuse treatment. In the past, BART Police leadership has reported difficulty processing arrested individuals into CJC. It would be helpful to know what these problems are and what can be done to improve coordination. It would be informative to have data on misdemeanor and felony arrests in the four downtown core stations and what percentage of these arrests were prosecuted and what the outcomes have been. It would also be helpful if the CJC and San Francisco Superior Court would be asked for its response on identified obstacles or problems making referrals from the BART Police Department to CJC.

President Dufty called for Public Comment. Jerry Grace addressed the Board.

President Dufty announced that the Board would enter closed session under Item 10-B (Public Employee Employment) of the Regular Meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting recessed at 12:05 p.m.

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The Board Meeting reconvened in closed session at 12:14 p.m.

Directors present in Oakland: Directors Allen, Ames, Foley, McPartland, Raburn, Saltzman, Simon and, Dufty.

in New York: Director Li.

Absent: None.

The Board Meeting recessed at 12:45 p.m.

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The Board Meeting reconvened in open session at 12:45 p.m.

Directors present: President Dufty.

Absent: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, and Simon.

President Dufty announced that the Board had concluded its closed session and that there were no announcements to be made

The Meeting was adjourned at 12:45 p.m.

Patricia K. Williams  
District Secretary

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**MEMORANDUM**

**TO:** Board of Directors

**DATE:** April 19, 2019

**FROM:** District Secretary

**SUBJECT:** Ratification of BART Police Citizen Review Board Member

In accordance with Chapter 2-05(A) of the BART Citizen Oversight Model (Model), vacancies on the BART Police Citizen Review Board (BPCRB) shall be filled by the respective Director for the unexpired portion of the term. Director McPartland has selected Robert Pirone to fill the vacancy that currently exists in the seat representing District 5. Information about Mr. Pirone accompanies this memorandum.

Mr. Pirone's appointment to the BPCRB must be ratified by the Board prior to the start of his service. Pending ratification, Mr. Pirone would be appointed to complete the term of service that currently ends on June 30, 2020. He would be eligible for reappointment, again pending ratification, to a full two-year term thereafter.

The motion below, if adopted by the Board, will ratify Mr. Robert Pirone's appointment to the BPCRB.

Please contact May Cooper at (510) 464-6089 or [mcooper@bart.gov](mailto:mcooper@bart.gov) or me at (510) 464-6084 or [pwillia@bart.gov](mailto:pwillia@bart.gov) if you have any questions about this matter.

Thank you.



**RATIFICATION OF BART POLICE CITIZEN REVIEW BOARD APPOINTMENT**

**MOTION:**

That the Board of Directors ratifies the appointment of Robert Pirone – District 5, to the BART Police Citizen Review Board, for a term expiring on June 30, 2020.

# ROBERT PIRONE

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## EXPERIENCE

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**MAY 2010 TO PRESENT**

**ADMINISTRATOR, HAYWARD – CASTRO VALLEY MOOSE LODGE #1491**

DUTIES INCLUDE BUT NOT LIMITED to: Agenda and minutes of all Lodge meetings, maintain all membership applications and records, LCL records of membership, QuickBook entries, reports and financial operations and all taxes, licenses, insurance, and Corporation taxes.

**MAY 2009 TO APRIL 2010**

**GOVERNOR, HAYWARD – CASTRO VALLEY MOOSE LODGE #1491**

**1991**

**ASCII INTERNATIONAL, HAYWARD, CA**

Moved warehouse from Cerritos, ca to Hayward, CA . Managed Warehouse until closure. Hiring, firing, negotiated trucking rates.

**MOHAWK CARPETS, HAYWARD, CA**

Ran distribution center, Norther California until moved to Los Angeles, ca

**1989 TO 2009**

**DRIVER, YELLOW FREIGHT LINES**

Local driver for deliveries throughout bay area. Proficient with forklifts, Semi tractors and trailers and yard goats.

## EDUCATION

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**1966 TO 1967**

**TACOMA COMMUNITY COLLEGE**

Drafted – US Army

**1967 to 1968**

**Vietnam – 1 year**

Promoted to E5 in eighteen months



# EXECUTIVE DECISION DOCUMENT

|  |  |   |                    |   |
|--|--|---|--------------------|---|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Pearce</i> 17 APRIL 2019   |  | GENERAL MANAGER ACTION REQ'D:                             |                    |   |
| DATE: 4/12/2019  |  | BOARD INITIATED ITEM: No                                  |                    |   |
| Originator/Prepared by: Gia Ilole<br>Dept: Human Resources Administration<br><i>Gia Ilole</i><br>Signature/Date: 4/16/19 | General Counsel<br><i>[Signature]</i><br>4/17/19 [ ] | Controller/Treasurer<br><i>[Signature]</i><br>4/17/19 [ ] | District Secretary | BARC<br><i>[Signature]</i><br>4/17/19 [ ] |

## Delegation of Recruitment Activity and Relocation

### PURPOSE:

To delegate authority to the General Manager or his/her designee to approve recruitment activities, including utilization of a search firm to employ a person who is not a current District employee, and to provide relocation assistance.

### DISCUSSION:

On March 11, 1993, the Board adopted Resolution 4487, which requires Board approval prior to any recruiting activity to employ a person who is not a current District employee for a District position with an annual salary of \$50,000 or more. The resolution also states that the District should confine its recruiting to the State of California, consistent with provisions of the law, and that no relocation or moving expenses would be offered to new employees without prior Board approval.

Periodically, staff has requested that the Board approve the use of an executive search firm to conduct recruitments for executive/senior management-level, or hard to fill information technology or engineering classifications. Utilization of a search firm is requested when the expertise of a recruiting firm with a familiarity with the subject area and/or a transit environment is required or when sourcing talent will require resources beyond those which are available internally. In order to expedite the recruitment process of critical District positions, staff is requesting the Board delegate this administrative function to the General Manager.

In addition, while the District does recruit in the San Francisco Bay Area as well as within the State of California, certain specialized positions may require the District to broaden its

search beyond the State. It has not been the District's practice to confine all recruitment efforts to only the State of California as it may restrict the District from creating a diverse and highly qualified applicant pool. Therefore, staff also recommends elimination of this provision.

In order to expedite the hiring offer phase of critical District positions, staff is also requesting the Board delegate the administrative function of approving relocation assistance to the General Manager or his/her designee. A memo will be sent to the Board whenever relocation assistance has been approved by the General Manager or his/her designee. Relocation assistance will continue to be processed in accordance with Management Procedure Number 70. Currently, staff is in the process of updating Management Procedure Number 70 and the District's practice of capping the reimbursement to \$18,000.

**FISCAL IMPACT:**

There is no fiscal impact for this proposed resolution.

**ALTERNATIVES:**

Continue the District's practice of operating in accordance with Resolution 4487, adopted on March 11, 1993.

**RECOMMENDATION:** Adopt the following motion:

**MOTION:**

That the Board approve the attached resolution to delegate authority to the General Manager or his/her designee to approve recruitment activities/utilization of a search firm to employ a person who is not a current District employee and relocation assistance, and eliminate the requirement to confine recruitment to the State of California.

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

In the matter of recruitment  
and hiring District employees/

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

WHEREAS, by Resolution No. 4487, adopted by the Board on March 11, 1993, the Board imposed certain limitations on the General Manager's authority without prior Board approval to advertise, recruit and provide relocation and reimbursement expenses to prospective employees; and

WHEREAS, the Board now wishes to afford the General Manager greater flexibility in such hiring and recruitment efforts; and

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 4487 is hereby repealed; and

BE IT RESOLVED FURTHER that the General Manager or his/her designee may without prior Board authorization or prior notice engage the services of consultants in employee recruitment; and

BE IT RESOLVED FURTHER that General Manager or his/her designee is authorized to determine the appropriate geographical scope of any and all advertising and recruitment efforts; and

BE IT RESOLVED FURTHER that the General Manager or his/her designee is authorized to offer prospective employees relocation expense reimbursement when he/she deems it is in the District's best interest to do so, including reimbursement for costs associated with the rental, sale and purchase of real estate, e.g. rental service specialist fees and real estate closing costs and related fees; provided however, the District shall not provide loans, down payments, nor engage in the purchase and/or resale of real properties due to relocation. The General Manager shall promptly notify the Board in writing whenever relocation expense reimbursement has been provided.

Adopted \_\_\_\_\_



# EXECUTIVE DECISION DOCUMENT

|   |   |  |                           |  |
|---|---|--|---------------------------|--|
| GENERAL MANAGER APPROVAL: <i>17 APRIL 2019</i><br><i>Rhet M. Pevan</i>  |   | GENERAL MANAGER ACTION REQ'D:                                    |                           |  |
| DATE: 4/15/2019   |   | BOARD INITIATED ITEM: Yes  |                           |  |
| Originator/Prepared by: Gia Hiole<br>Dept: Human Resources Administration<br>Signature/Date: <i>Gia Hiole</i><br><i>4/17/2019</i> | General Counsel<br><i>[Signature]</i><br><i>4/17/19</i> [ ] | Controller/Treasurer<br><i>[Signature]</i><br><i>4/17/19</i> [ ] | District Secretary<br>[ ] | BARC<br><i>[Signature]</i><br><i>4/17/19</i> [ ] |

## Amendment to Agreement No. 6M4636, Provide Executive Recruitment Services

### PURPOSE:

To obtain Board authorization for the General Manager to execute an amendment to agreement No. 6M4636, Provide Executive Recruitment Services, awarded to Krauthamer & Associates, Inc to increase funding by \$125,000 from \$99,000 to \$224,000 and extend the timeframe until June 30, 2020.

### DISCUSSION:

The present agreement, No. 6M4636, is for the period of November 19, 2018 through June 30, 2019. On April 11, 2019, Grace Crunican, General Manager announced she would be retiring on July 6, 2019. As this executive leadership role is vital to the District, it is essential that we begin immediate recruitment for this position. Krauthamer & Associates is currently the executive recruitment firm for the Inspector General position and was the executive recruitment firm that hired the current General Manager. Their experience with the District will provide continuity to the Board and their expertise and knowledge in this industry will help search for top talent. The extended time period and additional funds will allow for continued services and time to fulfill the General Manager search in the most expeditious manner.

### FISCAL IMPACT:

Costs for search firm fees will be funded by the FY19 and/or FY20 Operating Budget of Human Resources (Talent and HRIS Cost Center 0502420 and Account 681300) and not exceed \$125,000. Funding for services to be rendered in the FY20 is included in the

operating budget of the Human Resources Department for that year, subject to approval. This action is not anticipated to have any fiscal impact on unprogrammed District reserves in the current Fiscal year.

**ALTERNATIVE:**

To not amend agreement No. 6M4636 to increase funding expenditure and service agreement duration, which would cause a significant delay in starting an executive search for this critical position and which will directly impact the recruitment of other executive roles that will be vacated soon and expected to be subject to a new General Manager's approval.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

That the Board authorizes the General Manager to execute an amendment to Agreement No. 6M4636, Provide Executive Recruitment Services, awarded to Krauthamer & Associates, Inc to increase funding by \$125,000 from \$99,000 to \$224,000 and extend the timeframe until June 30, 2020.



# EXECUTIVE DECISION DOCUMENT

|   |                                |                                |                    |                                |
|---|--------------------------------|--------------------------------|--------------------|--------------------------------|
| GENERAL MANAGER APPROVAL:<br><i>Rhett M. Powner</i> 17 APRIL 2019 |                                | GENERAL MANAGER ACTION REQ'D:  |                    |                                |
| DATE: 4/12/2019   |                                | BOARD INITIATED ITEM: No       |                    |                                |
| Originator/Prepared by: Hoa Sin<br>Dept: Office of Civil Rights   | General Counsel                | Controller/Treasurer           | District Secretary | BARC                           |
| Signature/Date: <i>Hoa Sin</i> 4/16/19                            | <i>[Signature]</i> 4/16/19 [ ] | <i>[Signature]</i> 4/16/19 [ ] | [ ]                | <i>[Signature]</i> 4/16/19 [ ] |

## Mandatory Updates to the Non-Federal Small Business Program

**PURPOSE:** To request that the Board adopt modifications to the BART Small Business (SB) Program to include a policy to prevent potential fraud and abuse on the part of contractors or suppliers as required by Public Contract Code (PCC) Section 2002.

### DISCUSSION:

In September 2011, the Board approved a Small Business Program for non-federally funded contracts (SB Program), as authorized by California Public Contract Code (PCC) Section 2002. The District started implementation of the program in 2012. The SB Program provides bid preferences for SB Prime Bidders and, on larger contracts, for Bidders that meet an SB subcontractor participation goal. PCC Section 2002 was recently amended to set a maximum SB preference of 7% with a maximum financial value of \$150,000. As a result, the Office of Civil Rights (OCR) amended the SB Program to conform to this new requirement as follows:

- For non-Measure RR funded contracts/agreements, the SB preference remains at 5% with the new maximum financial value of \$150,000.
- For Measure RR funded contracts/agreements, the Local SB preference has increased from 5% to 7% with the new maximum financial value of \$150,000.

Additionally, the amendment to PCC 2002 included a mandatory policy change to the SB Program which requires the District to prevent potential fraudulent behavior on the part of a Contractor, Supplier, Consultant, Subcontractor, Subsupplier, Subconsultant or individual by ensuring, among other things, that ineligible firms do not qualify as an SB and are not granted a preference. The updated SB program requires verification that listed SBs meet the eligibility requirements to qualify as an SB under PCC Section 2002. The Office of Civil

Rights will monitor contracts subject to the District's SB Program to identify potential fraud and abuse and develop appropriate procedures for monitoring and preventing fraud and/or abuse of the SB Program.

**FISCAL IMPACT:** There is no fiscal impact with this modification.

**ALTERNATIVES:** The alternative is to make no modifications to the Small Business Program and reject the modifications which would lead to the elimination of the District's SB Program.

**RECOMMENDATION:** It is recommended that the Board adopt the following motion:

**MOTION:** The Board hereby adopts proposed modifications to BART's Small Business Program for Non-Federal Contracts, to include the District's monitoring to prevent potential fraud and abuse on the part of contractors or suppliers as required by Public Contract Code Section 2002.

## SMALL BUSINESS PROGRAM

Policy Description (V09-01-11)

Amendment 1 (V11-16-12)

Amendment 2 (05-11-17)

Amendment 3 (09-14-17)

Amendment 4 (02-27-19)

Amendment 5 (04-02-19)

### 1. SMALL BUSINESS PROGRAM POLICY

It is the Policy of the San Francisco Bay Area Rapid Transit District (“BART”) to encourage the participation of Small Businesses in BART contracts. Accordingly, BART hereby adopts this Small Business (“SB”) Program pursuant to California Public Contract Code Section 2002. The purpose of the SB Program is to encourage and facilitate full and equitable participation by Small Businesses in BART construction, procurement, and services Contracts and Agreements that are awarded through a competitive process and are financed solely with local and state funds (“non-federal contracts”). As appropriate, the SB Program seeks to achieve these objectives on three levels: (1) BART’s award of Contracts and Agreements to SBs, (2) the award of First Tier Subcontracts to SBs by Prime Contractors, Suppliers, and Consultants, and (3) the award to Lower Tier SB Subcontractors by First or Other Tier Subcontractors. BART shall implement and monitor this SB Program to prevent potential fraudulent behavior on the part of a Contractor, Supplier, Consultant, Subcontractor, Subsupplier, Subconsultant, or individual.

### 2. FINDINGS

- **BART** enters into non-federal Contracts and Agreements for construction, procurement, and services. Many of the Contracts and

- Agreements in each of these areas afford opportunities for SBs to perform work as Contractors, Suppliers, Consultants, and as Subcontractors, Subsuppliers, and Subconsultants.
- **SBs** generate jobs, provide economic opportunity, and boost economic output throughout California and, in particular, in the counties in which BART operates and does business – Alameda County, Contra Costa County, City and County of San Francisco, and San Mateo County.
- **BART** desires to contribute to the growth and stability of the small business community.
- **BART** recognizes, and through the SB Program, works to address and mitigate, the difficulties SBs may encounter when competing against larger more established businesses for BART Contracts and Agreements.
- **BART** recognizes that this SB Program is only applicable to non-federal construction and procurement Contracts and services A g r e e m e n t s , such as repair services, technical support services, real estate support services, and professional services Agreements, as well as Design-Build Contracts issued pursuant to Public Contract Code Section 20209.5, to be awarded through a competitive process where price and other factors are considered in the award.
- **BART** recognizes that Disabled Veteran Business Enterprises (“DVBES”) should be utilized to the extent possible in BART’s construction, procurement, and services Contracts and Agreements as part of the SB Program.
- **BART** recognizes that Lesbian, Gay, Bisexual, and Transgender Business Enterprises (“LGBTBEs”) should be utilized to the extent possible in BART’s construction, procurement, and services Contracts and Agreements as part of the SB Program.

### 3. DEFINITIONS

- **“Agreement”** means an agreement between BART and a Consultant for services.
- **“Bid”** means the proposal or offer of the Bidder for the Construction or Procurement Contract when completed and submitted on the prescribed Bid Form.
- **“Bidder”** or **“Proposer”** means any individual, firm, partnership, joint venture, corporation, or combination thereof (collectively **“firm”**), submitting a Bid or Proposal for a Contract or services Agreement, acting directly or through a duly authorized representative.
- **“Broker”** means a firm which arranges sales of goods or services from other firms absent its own inventory of those goods or its own forces to conduct the services.
- **“Consultant”** means a firm that has entered into an Agreement with BART.
- **“Contract”** refers collectively to Prime Construction Contracts, First Tier Subcontracts, and Procurement Contracts.
- **“Contractor”** means a Prime Construction Contractor awarded a construction Contract by BART.
- **“Disabled Veteran Business Enterprise”** or **“DVBE”** means a firm that is certified as a Disabled Veteran Business Enterprise and as a Small Business by the State of California, Department of General Services and in its database for SBs found at [www.dgs.ca.gov](http://www.dgs.ca.gov).
- **“First Tier Subcontract”** means a contract between a Prime Contractor and First Tier Subcontractor or Subsupplier.
- **“First Tier Subcontractor,”** **“Subcontractor,”** or **“Subsupplier”** means a firm that has been awarded a First Tier Contract by a Prime Contractor or a Supplier.
- **“Lesbian, Gay, Bisexual, and Transgender Business Enterprise”** or **“LGBTBE”** means a firm that is certified as an LGBTBE firm by a certifying body listed in Appendix B and certified as a Small Business by the State of California, Department of General Services,

found in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov).

- **“Local Disabled Veteran Business Enterprise”** or “Local DVBE” means a firm that is certified as a DVBE and as a Small Business by the State of California, Department of General Services, found in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov), and whose principal place of business is located in one of the three counties of Alameda, Contra Costa, or San Francisco.
- **“Local LGBTBE”** means a firm certified as an LGBTBE by a certifying body listed in Appendix B, and as a Small Business by the State of California, Department of General Services, and found in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov), and whose principal place of business is located in one of the three counties of Alameda, Contra Costa, or San Francisco.
- **“Local Small Business”** or “LSB” means a firm that is certified as an SB by the State of California, Department of General Services, found in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov), and whose principal place of business is located in one of the three counties of Alameda, Contra Costa, or San Francisco.
- **“Prime Construction Contract”** means a construction Contract between BART and a Prime Contractor.
- **“Prime Construction Contractor”** or “Contractor” means a firm that has been awarded a prime construction Contract by BART.
- **“Principal Place of Business”** means the fixed office or location where the business conducts, on a regular basis, all the services for which Local SB verification is sought, other than work required to be performed at the Jobsite. None of the following constitute a principal place of business: a satellite or regional office, a post office box, a temporary location, a movable property, or a location that was established to oversee a project, such as a construction project office.
- **“Procurement Contract”** means a Contract between BART and a Supplier.
- **“Proposal”** means the offer of the Proposer for the Services Agreement, in response to

BART's request when completed and submitted on the prescribed Proposal Form.

- **“Second Tier Subcontractor”** means a firm that has been awarded a Subcontract by a First Tier Subcontractor.
- **“Small Business”** or “SB” means a firm certified as an SB by the State of California, Department of General Services and found in its database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov).
- **“Subconsultant”** means a firm that has entered into a subcontract with a Consultant.
- **“Subcontract”** means a Contract entered into between a Contractor, Supplier, or Consultant with a Subcontractor, Subsupplier, or Subconsultant, respectively.
- **“Subsupplier”** means a firm that has entered into a Contract with a Supplier or Contractor.
- **“Supplier”** means a firm that has been awarded a Procurement Contract by BART.

#### 4. RESPONSIBILITIES AND DUTIES OF THE OFFICE OF CIVIL RIGHTS

- (a) BART's General Manager has designated the Department Manager of the Office of Civil Rights as the SB Liaison Officer. As SB Liaison Officer, the Department Manager is responsible for implementing and monitoring the SB Program, coordinating with the District staff in implementing the SB Program, establishing participation goals in Contracts and Agreements where there are subcontracting opportunities for SBs, and making amendments to the SB Program, including alternative SB certification requirements, as needed, with the approval of the Deputy General Manager.
- (b) Where Prime Construction Contractors, Suppliers, Consultants, or First Tier Subcontractors, Subsuppliers, or Subconsultants, where applicable, commit in their Bid or Proposal to utilize SB First or Second Tier Subcontractors, Subsuppliers, or Subconsultants in order to meet the applicable SB goal, the Office of Civil Rights shall monitor the performance of the Contract or Agreement to confirm that the SB utilization

level included in the Bid or Proposal is met throughout the performance of the Contract or Agreement, including reviewing and, if acceptable, approving any request for substitution of listed SB Subcontractors, Subsuppliers, or Subconsultants, and reviewing and approving change orders, where appropriate. The Office of Civil Rights shall monitor potential fraudulent behavior on the part of a Contractor, Supplier, Consultant, Subcontractor, Subsupplier, Subconsultant or individual to ensure, among other things, that ineligible firms do not qualify as an SB, are not granted a preference, or are offered as a substitute SB for a listed SB during the performance of the Contract or Agreement.

5. QUALIFICATION AS AN SB, LSB, DVBE, AND LGBTBE

- (a) A Bidder or Proposer seeking an SB preference Contract or Agreement with BART, or a firm seeking to be recognized as an SB Subcontractor, Subsupplier, or Subconsultant, shall be certified as an SB and be listed in the State of California, Department of General Services (“DGS”) database for SBs, at [www.dgs.ca.gov](http://www.dgs.ca.gov) prior to the submission of the Bid or Proposal.
- (b) A firm seeking to be recognized as a Local Small Business (LSB) as a Bidder, Proposer, or as an LSB Subcontractor, Subsupplier, or Subconsultant, shall be a certified SB in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov) prior to the submission of the Bid or Proposal and shall have its principal place of business in Alameda, Contra Costa, or San Francisco counties, as verified by BART staff prior to Award. (See Appendix A – Verification of LSB Firms.)
- (c) A firm seeking to be recognized as a DVBE Bidder, Proposer, or as a DVBE Subcontractor, Subsupplier, or Subconsultant shall be certified as an SB and as a DVBE by the State of California DGS, and be listed in the DGS database for SBs, at [www.dgs.ca.gov](http://www.dgs.ca.gov), prior to the submission of the Bid or Proposal.

- (d) A firm seeking to be recognized as an LGBTBE Bidder, Proposer, or as an LGBTBE Subcontractor, Subsupplier, or Subconsultant shall be certified by one of the BART-recognized certifying bodies listed in Appendix B, be certified as an SB by the State of California DGS, and be listed in the DGS database for SBs, at [www.dgs.ca.gov](http://www.dgs.ca.gov), prior to the submission of the Bid or Proposal.
- (e) Independence and Affiliation: SBs, including LSBs, shall be independent businesses and shall not be dependent upon other firms for resources, management, or other aspects of their businesses. The District may take into consideration the affiliation of other businesses that may or may not be SBs or LSBs. The District, in considering affiliation, will consider identities of interest; the sharing of facilities, employees, ownership, or equipment; contractual relationships between the businesses; or other similar factors.
- (f) Commercially Useful Function: In order to be counted as an SB or LSB, SBs and LSBs shall perform a commercially useful function. An SB or LSB performs a commercially useful function when it does all of the following:
- 1) Is responsible for the execution of a distinct element of the work of the Contract or Agreement.
  - 2) Carries out its obligation by actually performing, managing, or supervising the work involved.
  - 3) Performs work that is normal for its business services and functions.
  - 4) Is responsible, with respect to products, inventories, materials, and supplies required for the Contract or Agreement, for negotiating price, determining quality and quantity, ordering, installing material or equipment (where applicable) and making payment for the products, inventories, materials, or supplies.
  - 5) Is not further subcontracting a portion of the work that is greater than expected to be subcontracted by normal industry practices.

An SB or LSB shall not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or Agreement through which funds are passed in order to obtain the appearance of an SB performing the work.

#### 6. SB PROGRAM ANNUAL LIMIT

An annual limit of \$3,000,000 will be available for the total dollar preferences allowed under the SB Program for each fiscal year for Contracts up to a maximum value of \$10,000,000. For Contracts over \$10,000,000, BART's Office of Civil Rights, in conjunction with the project sponsor, will determine on a Contract-by-Contract basis whether the SB Program will apply and if so, any applicable limits to the total dollar preference.

#### 7. PRIME CONTRACTS AND AGREEMENTS ELIGIBLE FOR SB PREFERENCE

- (a) BART may, at its sole discretion, designate specific Prime Contracts or Agreements with a maximum value of \$10,000,000, as eligible for an SB Bidder or Proposer preference (including LSBs, DVBEs, Local DVBEs, LGBTBEs, and Local LGBTBEs) of up to 7% of the lowest responsible Bidder's or Proposer's Bid or Proposal price, with the exact percentage applicable to a particular Contract or Agreement determined by BART. The maximum Bid preference is \$150,000. Any SB Prime Preference Contract or Agreement shall have a minimum self-performance percentage to be set by BART prior to advertisement of the solicitation, which is applicable to any awarded SB Prime Bidder or Proposer.
- (b) SB Prime Contractors, Suppliers, or Consultants who bid on such Contracts or Agreements will be granted the percentage preference set by BART on their Bid or Proposal price

only during evaluation for determining the award of the Contract or Agreement. However, the actual Contract or Agreement awarded will be for the amount of the original Bid or Proposal. The amount of the preference will be based on the following:

- 1) If the Contract or Agreement is projected to be for less than \$5 million, and the funding for the Contract or Agreement does *not* include Measure RR money, the SB preference will be 5% of the lowest responsible Bid up to \$150,000, for SBs, DVBEs, and LGBTBEs.
  - 2) If the Contract or Agreement is projected to be for less than \$5 million and the funding for the Contract or Agreement *does* include Measure RR money, the SB preference will be 7% of the lowest responsible Bid up to \$150,000, for LSBs, Local DVBEs, and Local LGBTBEs.
- (c) For Contracts or Agreements that are at least \$5 million and less than \$10 million, BART will decide if the Contract or Agreement will have an SB prime preference or a preference based on meeting the SB Subcontractor Participation Goal, but not both. The amount of the preference for Contracts and Agreements with an SB prime preference will be based on the following:
- 1) If the Contract or Agreement has a value of between \$5 million and \$10 million and the funding for the Contract or Agreement does *not* include Measure RR money, the SB preference will be 5% of the lowest responsible Bid for SBs, DVBEs, and LGBTBEs, with the maximum dollar amount of \$150,000.
  - 2) If the Contract or Agreement has a value of between \$5 million and \$10 million and the funding for the Contract or Agreement *does* include Measure RR money, the SB preference will be 7% of the lowest responsible Bid for LSBs, Local DVBEs, and Local

LGBTBEs, with a maximum dollar amount of \$150,000.

## 8. CONTRACT-SPECIFIC SB SUBCONTRACTOR PARTICIPATION GOALS

(a) BART, in its sole discretion, may establish, for a particular Construction or Procurement Contract or Services Agreement, with a value at or above \$5,000,000, an SB Subcontractor Participation Goal. For Contracts or Agreements that are at least \$5 million and less than \$10 million, BART staff will decide if the Contract or Agreement will have an SB prime preference or a preference based on meeting the SB Subcontractor Participation Goal, but not both. The SB Subcontractor Participation Goal shall be expressed as a percentage of the total Bid or Proposal price for a Contract or Agreement, less allowances and options. The Bidder or Proposer that meets the SB Subcontractor Participation Goal will be eligible for a preference of up to 7% of the lowest responsible Bidder's or Proposer's Bid or Proposal price up to \$150,000, only during evaluation for determining the award of the Contract or Agreement, based on the following funding:

- 1) If *not* funded by Measure RR, a preference of up to 5% for meeting the SB Subcontractor Participation Goal with SBs, DVBES, and/or LGBTBEs. The dollar limit cap on the Subcontractor Participation Goal on Contracts not funded by Measure RR is \$150,000.
- 2) If funded in whole or in part by Measure RR, a preference of 7% for meeting the Local SB Subcontractor Participation Goal solely with LSBs, Local DVBES, and/or Local LGBTBEs. The dollar limit cap on the Subcontractor Participation Goal on Measure RR-funded Contracts is \$150,000.

(b) In calculating whether the SB Subcontractor Participation Goal has been met, BART will count the value of subcontracts with SB or LSB Subcontractors, as follows:

- 1) For an SB or LSB Subcontractor, a prime Bidder or Proposer shall receive 100% credit of the SB or LSB Subcontract value towards the SB or LSB Subcontractor Participation Goal, with the exception that any work that an SB or LSB Subcontractor subcontracts to a non-SB or non-LSB, respectively, shall not be counted toward the SB or LSB Subcontractor Participation Goal;
- 2) For an SB or LSB Subsupplier, a prime Bidder or Proposer shall receive 60% credit of the value of the Subcontract towards an SB or LSB Subcontractor Participation Goal;  
and
- 3) For an SB or LSB Broker, a prime Bidder or Proposer shall receive 8% credit of the value of the Subcontract towards an SB or LSB Subcontractor Participation Goal.

(c) Regardless of the preference, the actual Contract or Agreement awarded will be for the original Bid or Proposal. Bidders that do not meet the SB or LSB Subcontractor Participation Goal are not eligible for the preference.

#### 9. CONTRACT-SPECIFIC SB LOWER TIER SUBCONTRACTOR PARTICIPATION

BART, in its sole discretion, may recognize Lower Tier SB firms towards meeting the Contract SB Subcontractor Participation Goal on designated prime construction Contracts subject to subsections (a) through (c), below. On Measure RR funded Contracts, a Lower Tier LSB firm shall count towards meeting an LSB Subcontractor Participation Goal with LSB Subcontractors. The Prime Contractor shall include provisions in its First Tier Subcontracts providing for the following:

- (a) A provision requiring that the First or Lower Tier Subcontractor provide copies of the SB Lower Tier subcontracts to BART, and provide other documentation deemed needed by BART to confirm the SB participation.
- (b) A provision requiring that the Subcontractor at any tier provide BART with the information designated by BART which BART deems necessary for determining whether the SB Lower Tier Subcontractor is performing work on the Contract, including reports on payments made to SB Lower Tier Subcontractors.
- (c) A provision requiring the First or Lower Tier Subcontractor to replace an SB Lower Tier Subcontractor with another SB firm if a substitution is deemed necessary.

#### 10. SB SUBCONTRACTOR PARTICIPATION GOALS IN DESIGN-BUILD CONTRACTS

For Design-Build Contracts issued pursuant to Public Contract Code Section 22160, BART may establish three SB Subcontractor Participation Goals for services, procurements, and construction, respectively.

The Proposers for the Design-Build Contracts may be required to meet the SB Subcontractor Participation Goal for services and commit to meeting the SB Subcontractor Participation Goals for procurement and construction in order to be eligible for a preference of up to 7% up to \$150,000, which will be credited in the price portion of the Proposal, subject to following the provisions of Section 8. BART staff will monitor the Contractor's performance of the Contract following award to ensure that the Contractor meets the SB Subcontractor Participation Goals for services, procurement, and construction.

## 11. THE CONTRACTOR'S SB OBLIGATIONS AFTER THE AWARD OF THE CONTRACT

In Contracts and Agreements with an SB Subcontractor Participation Goal, the Contractor shall take all reasonable steps to ensure that its SB Subcontractors, Subsuppliers, or Subconsultants are able to successfully perform their subcontract responsibilities.

## 12. SUBSTITUTION OF SBs

Substitution of any certified SB or LSB shall be only for good cause and subject to verification with the subject SB or LSB firm being substituted. Good cause includes, but is not limited to:

(a) When the listed SB or LSB subcontractor, Subsupplier, or Subconsultant, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the SB or LSB subcontractor, Subsupplier or Subconsultant's bid or proposal and at the price specified in the SB or LSB subcontractor, Subsupplier or Subconsultant's bid or proposal, when that written contract, based upon the general terms, conditions, plans, and specifications for the District Contract or Agreement involved or the terms of that SB or LSB Subcontractor, Subsupplier or Subconsultant's written bid or proposal, is presented to the SB or LSB Subcontractor, Subsupplier or Subconsultant's by the prime Contractor, Supplier, or Consultant.

(2) When the listed SB or LSB subcontractor, Subsupplier or Subconsultant becomes insolvent or the subject of an order for relief in bankruptcy.

(3) When the listed SB or LSB subcontractor, Subsupplier, or Subconsultant fails or refuses to perform its subcontract.

(4) When the listed SB or LSB Subcontractor, Subsupplier, or Subconsultant fails or refuses

to meet the bond requirements of the prime Contractor, Supplier, or Consultant as set forth in CA PCC Section 4108 .

(5) When the prime Contractor, Supplier, or Consultant demonstrates to BART, that the name of the SB or LSB Subcontractor, Subsupplier, or Subconsultant was listed as the result of an inadvertent clerical error.

(6) When the listed SB or LSB Subcontractor, Subsupplier, or Subconsultant is not licensed pursuant to the California Contractors License Law.

(7) When BART determines that the work performed by the listed SB or LSB Subcontractor, Subsupplier, or Subconsultant is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the SB or LSB Subcontractor, Subsupplier or Subconsultant is substantially delaying or disrupting the progress of the work.

(8) When the listed SB or LSB subcontractor, Subsupplier, or Subconsultant is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code .

(9) When BART determines that a listed SB or LSB Subcontractor, Subsupplier, or Subconsultant is not a responsible Contractor, Supplier, or Subconsultant.

In any event, any SB or LSB qualified under the SB Program shall be entitled to a process for approving such substitutions consistent with the terms of the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 et seq.).

Should the Contractor, Supplier, Consultant or Other Tier Subcontractor, where applicable, establish that the substitution of any SB or LSB Subcontractor, Subsupplier, Subconsultant or, where applicable, Lower Tier SB or LSB Subcontractor, Subsupplier, or Subconsultant, is necessary, the Contractor, Supplier, Consultant or Other Tier Subcontractor, Subsupplier, or Subconsultant, shall, subject to the approval of BART, replace the affected SB or LSB Subcontractor, Subsupplier, or Subconsultant with another SB or LSB as applicable. In the

event that the Contractor, Supplier, Consultant or Other Tier Subcontractor, where applicable, is unable to replace the affected SB or LSB Subcontractor, Subsupplier, or Subconsultant with another SB or LSB, as applicable, due to the unavailability of SBs or LSBs, as applicable, the Contractor, Supplier, Consultant or Other Tier Subcontractor, where applicable, shall request approval from OCR of substitution of the affected SB or LSB Subcontractor, Subsupplier, or Subconsultant with a non-SB or non-LSB, as applicable. OCR shall either deny such request if it is determined that SBs or LSBs, as applicable, are in fact available or require the Contractor, Supplier, Consultant or Other Tier Subcontractor, where applicable, to demonstrate that it made good faith efforts to replace the affected SB or LSB Subcontractor, Subsupplier, or Subconsultant with another SB or LSB as applicable consistent with the following terms:

- ***In determining whether*** good faith efforts have been made, BART will consider the steps taken by the Contractor, Supplier, Consultant, or Other Tier Subcontractor, where applicable, on the actions listed below. These steps are reflective of good faith efforts taken by a Contractor, Supplier, Consultant, or Other Tier Subcontractor seeking to replace an SB or LSB with another SB or LSB in order to maintain its commitment to meet the SB Subcontractor Participation Goal.
- ***Identify and select*** specific subcontracting areas of the Contract or Agreement to be performed by SB or LSB Subcontractors, Subsuppliers or Subconsultants.
- ***Advertise*** the subcontracting opportunity in one or more daily or weekly newspapers, small business association publications, trade-oriented journals or other media specified by BART. Advertise in publications, newspapers, and other media, including local media as appropriate, likely to be available to SBs, DVBEs, and LGBTBEs. The required advertising shall be completed sufficiently in advance of the selection decision to allow potential SB or LSB Subcontractors, Subsuppliers, or Subconsultants a reasonable time in which to bid for or otherwise seek the Subcontract.
- ***Provide*** written solicitation notice of subcontracting opportunities to a reasonable number of SB or LSB Subcontractors, Subsuppliers, or Subconsultants with enough time

prior to the selection decision to allow the SBs or LSBs to offer a proposal.

- **Follow up** initial solicitations to SB or LSB Subcontractors, Subsuppliers, or Subconsultants to confirm whether the potential SB or LSB Subcontractors are interested in performing the Subcontracts.
- **Provide** interested SB or LSB Subcontractors, Subsuppliers, or Subconsultants with information about the proposal, plans, specifications, and/or requirements for the subcontracting work to be performed.
- **Request** assistance in identifying potential SB or LSB Subcontractors, Subsuppliers, or Subconsultants from community organizations, contractor groups, DVBE organizations, or BART's Office of Civil Rights.
- **Offer** assistance with regard to bond or insurance requirements for SBs or LSBs.
- **Negotiate** in good faith with SB or LSB Subcontractors, Subsuppliers, or Subconsultants who express an interest in subcontracting, as appropriate.
- **SB or LSB Availability.** If SBs or LSBs, where applicable, are deemed to be available then the Contractor, Supplier, Consultant or Other Tier Subcontractor, where applicable, shall not be deemed to have demonstrated sufficient good faith efforts and such substitution request shall be denied.

### 13. SB PARTICIPATION REPORTS

Contractors, Suppliers, and Consultants shall submit on a form provided by BART a monthly SB or LSB Subcontractor Utilization Report to the Office of Civil Rights (OCR) showing the total amount paid to date to each listed SB or LSB. Prime Contractors, Suppliers, or Consultants must submit all reports requested by OCR related to the participation of Subcontractors, Subsuppliers, or Subconsultants on BART Contracts or Agreements.

## FAILURE TO ADHERE TO SB REQUIREMENTS

The failure of a Contractor, Supplier, or Consultant, or First-Tier Subcontractor, where applicable, to adhere to any of the requirements of the SB Program shall constitute a material breach of the Contract or Agreement and may result in BART terminating the Contract or Agreement or imposing appropriate sanctions. Among other things, BART may withhold payments or portions of payments to the Contractor, Supplier, or Consultant or undertake other enforcement measures due to the failure of the Contractor, Supplier, or Consultant or where applicable, the First-Tier Subcontractors, to comply with the SB participation requirements. Such payments withheld will be released once the Contractor, Supplier, or Consultant, or First-Tier Subcontractors, conform with the SB participation requirements.

APPENDICES MAY BE SUBJECT TO REVISION, SUBSTITUTION, DELETION OR ADDITION BY THE OFFICE OF CIVIL RIGHTS CONSISTENT WITH THE TERMS OF THE PROGRAM WITHOUT REQUIRING BOARD APPROVAL OF THE REVISION OR CHANGES TO THE PROGRAM.

## APPENDIX A: VERIFICATION OF THE LOCAL STATUS OF SMALL BUSINESSES

Verification is the process by which all firms seeking to participate as Local Small Businesses (LSBs) are determined to have met the eligibility requirements to participate as LSBs on Measure RR funded Contracts or Agreements, including Local DVBEs and Local LGBTBEs. This Appendix provides guidance for verifying firms as LSBs.

### 1. Declaration of Eligibility for Local Small Business Preference

DGS certified Small Businesses bidding on a BART Contract or Agreements must declare their Small Business eligibility including DGS certification number in the Declaration of Eligibility for Local Small Business Preference. On Measure RR funded Contracts or Agreements, the Declaration of Eligibility for Local Small Business Preference will also include a Local status declaration, including the address of the principal place of business.

### 2. Verifying information on the California Department of General Services Website

Upon receiving a Declaration of Eligibility for Local Small Business Preference or Local Verification Request form, OCR will verify whether the address and city listed on the DGS Small Business database is located within the three Measure RR counties: Alameda, Contra Costa, or San Francisco. If not, the request is denied and the firm is not considered to be Local for BART. The firm may re-request verification of local status if its address has changed on the DGS website to one of the Measure RR counties.

### 3. Verifying Local Status of a Small Business within Alameda, Contra Costa, or San Francisco Counties

a) After verifying the location listed on the DGS website, OCR will check to see if the SB is already certified as local by one of the following agencies:

- Alameda County (Small and Local Business or Emerging and Local Business)
- City/County of San Francisco (Local Business Enterprise)
- City of Oakland (Local Business Enterprise)

If the SB is certified as local by one of the above agencies, the SB shall be considered a verified Local SB by BART.

b) For firms not certified as local by a neighboring county or city, BART will request that the Small Business owner(s) provide documentation to demonstrate that the business qualifies as Local:

- A copy of the firm's business license in the city where the business is based (or county if in an unincorporated area);
- A copy of a real estate property tax assessment or lease in the name of the firm or owner;
- A copy of the firm's (or owner's, if applicable) most recent federal tax return

c) These documents must be provided and examined prior to the award of the Contract or Agreement in order to be granted the Local Small Business preference. If any of the documents show an address other than the one in the DGS database, it is grounds for rejection of local status, although the business owner may be given an opportunity to explain the discrepancy.

d) In some cases, a range of factors may be considered to determine the firm's principal place of business. These factors include:

- Location where the firm's owner(s) and Chief Executive Officer (CEO) work on a regular basis;
  - Where the headquarters facility is located, which may be indicated by signage, reception, and administrative and project records;
  - Where employees, in quality and quantity, report regularly to work;
  - Where the firm's primary operations take place;
  - Where resources such as major equipment or supplies are kept,
  - The address listed for the firm on any other certification, including Disadvantaged Business Enterprise (CUCP), Micro/Small Business Entity (BART), Minority and Women Business Enterprise (BART), and Local Business Enterprise (Contra Costa County); and
  - Analysis of Google map images – or similar – of the address listed as the principal place of business.
- e) The District expects all SBs seeking Local status to cooperate fully with requests for information relevant to the verification process and other requests for information. Failure or refusal to provide such information is cause for denial or removal of status as a Local SB to BART.

4. Declaration of Eligibility for Local Small Business Subcontractors

On Contracts or Agreements with a SB Preference for Bidders meeting a Local SB Subcontractor Participation Goal, any Bidder wishing to meet the SB Goal must list Local SB Subcontractors on the Designation of Subcontractors, M/WBE, and SB Participation Form. After the Bids are submitted, OCR will confirm that the address listed in the DGS database for each designated Local SB Subcontractor is Local and will ask any Bidder

appearing to meet to Local SB Subcontractor Participation Goal to gather and submit Local status documentation for each of the listed Local SB Subcontractors including a Local Verification Request form and the three items listed in Paragraph #3, above. OCR will evaluate the documentation to verify Local status of each SB Subcontractor.

5. Already Verified Local SBs

Once an SB has been verified as Local, the firm will be added to a database maintained by BART. A Small Business Bidder previously verified as Local by BART will still need to submit a Declaration of Eligibility for Local Small Business Preference as part of its Bid. But its Local status does not need to be verified as described in Paragraph #3, above.

6. Requesting Verification of Local Status Outside of the Bid Process

A DGS certified Small Business may request that OCR verify its Local status outside of any Contract Bid process. This can be done by completing a Local Verification Request form available on the OCR website. OCR staff will follow the steps in Paragraphs #2 and #3, above, to verify the Local status of the SB.

7. List of Verified Local SB Firms

OCR will provide notification to the firm that it has been verified as Local and will add it to the list of verified LSB, Local DVBE, and Local LGBTBE firms. This list is a supplement to the DGS list of certified SBs and potential LSBs but is not meant to replace it for outreach purposes. The list of currently verified LSBs will be made available on the BART website. If an SB, DVBE, or LGBTBE is removed from the DGS website, they are regarded as removed from BART's LSB list as well.

- OCR will use the industry codes – North American Industry Classification System (NAICS) – listed on the DGS website for the firm and add them to the list of verified

LSBs. The assignment of a NAICS code is only for informational purposes to assist potential Bidders in identifying LSBs capable of performing work to be subcontracted.

8. Possible Site Visits

From time to time the District may request additional information or conduct site visits to ensure that an SB verified as Local remains eligible for Local status. Failure to timely cooperate or comply with a request for a site visit is a ground for denial or removal of status as an LSB.

9. Renewal of Local Status

Each year on or near the anniversary of the SB's verification as Local, OCR will ask the Local Small Business to complete a Declaration of No Change in Address, in order to keep its Local Small Business status current. If an SB has changed address but still remains within Alameda, Contra Costa, or San Francisco Counties, it must submit a lease, utility bill, or property tax assessment as verification of its new address as Local. If a Local SB moves outside of Alameda, Contra Costa, and San Francisco Counties it loses its Local status with BART. Every three years in order to renew its Local status, all verified Local SBs must re-submit the documentation listed in Paragraph #3, above.

APPENDIX B: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER (LGBTBE)  
CERTIFICATION

The Bidder or Proposer is responsible for indicating the LGBTBE certification status, whether of an SB or LSB Prime seeking a Prime Preference based on LGBTBE status, or of a LGBTBE Subcontractor.

1. BART accepts the LGBTBE certification of the following organizations:
  - a) National Gay and Lesbian Chamber of Commerce (NGLCC). The NGLCC, a national organization based in Washington, D.C.;
  - b) California Public Utilities Commission (CPUC), through its Supplier Clearinghouse. OCR will provide information on the District's website regarding the CPUC's searchable database of certified LGBTBE firms.
2. Any LGBTBE certified firm must also be certified as a Small Business by the State of California, Department of General Services, and listed in the DGS database for SBs at [www.dgs.ca.gov](http://www.dgs.ca.gov).
3. In order to be eligible for the SB Prime Preference or the SB Subcontractor Participation Preference, the LGBTBE shall be certified by one of the above certifying bodies listed in Paragraph #1, above, and as an SB by the DGS at the time of the Bid.
4. BART will list verified Local LGBTBEs on its website along with other verified LSBs.



**LOCAL VERIFICATION REQUEST FORM**

San Francisco Bay Area Rapid Transit District (BART) Local Small Business  
for Small Businesses (SB) certified by the California Department of General Services (DGS)

Name of Business \_\_\_\_\_

Principal Place of Business (address) \_\_\_\_\_

City, State, Zip \_\_\_\_\_ County \_\_\_\_\_

DGS Small Business Cert. ID: \_\_\_\_\_

Check all that apply:  SB  Disabled Veteran Business Enterprise  LGBT Business Enterprise

Owner or Owner's representative \_\_\_\_\_ Title \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

*Only DGS-certified SBs located in Alameda, Contra Costa, or San Francisco may be verified as Local SBs.*

BART's list of Verified Local Small Businesses can be accessed at <https://www.bart.gov/about/business/ocr>.

**CHECKLIST**

If you answer 'yes' to any of the following, you do not need to provide any documentation with this request form:

- Certified as Small/Local Business or Emerging/Local Business by Alameda County and listed on: [https://www.acgov.org/sleb\\_query\\_app/gsa/sleb/query/slebresultlist.jsp?smEmnd=C](https://www.acgov.org/sleb_query_app/gsa/sleb/query/slebresultlist.jsp?smEmnd=C)
- Certified as San Francisco Local Business Enterprise by City/County of San Francisco and listed on: [http://mission.sfgov.org/hrc\\_certification/](http://mission.sfgov.org/hrc_certification/)
- Certified as Local Business Enterprise by City of Oakland and listed on: <http://www2.oaklandnet.com/government/o/CityAdministration/d/CP/s/CertifiedContractors/index.htm>

If you did not answer 'yes' to any of the above criteria, please provide the following documentation with your Local Verification Request Form:

- A copy of your business license from the city where your business (SB) is based (should match above). May be from a county if your business is based in unincorporated area.
- If you own the property above, please provide a copy of the most recent real estate property tax assessment. If you rent or lease the property above, please provide a copy of the lease agreement (summary page is sufficient) under the name of the SB or the SB's owner.
- A copy of SB's or owner's (if applicable) most recent 1040 federal tax return (i.e. Schedule C).

Preferred method of delivery is scanned PDF copies of this form and documentation (if required), emailed to [measurerr@bart.gov](mailto:measurerr@bart.gov). The form and documentation may also be sent to:

BART Office of Civil Rights  
Local Small Business Verification  
300 Lakeside Dr, 16<sup>th</sup> Floor  
Oakland, CA 94612

Questions?  
Call: 510-287-4700  
Email: [measurerr@bart.gov](mailto:measurerr@bart.gov)



## EXECUTIVE DECISION DOCUMENT

|   |  |   |                    |  |
|---|--|---|--------------------|--|
| GENERAL MANAGER APPROVAL: <i>17 APRIL 2019</i><br><i>Richard M. Perna</i> |  | GENERAL MANAGER ACTION REQ'D:<br>Execute Master Agreement |                    |  |
| DATE: 4/3/2019  |  | BOARD INITIATED ITEM: No                                  |                    |  |
| Originator/Prepared by: Richard Fuentes<br>Dept: Grant Development        | General Counsel                          | Controller/Treasurer                                      | District Secretary | BARC                                     |
| Signature/Date: <i>Richard Fuentes</i><br><i>4/15/2019</i>                | <i>[Signature]</i><br><i>4/15/19</i> [ ] | <i>[Signature]</i><br><i>4/15/19</i> [ ]                  | [ ]                | <i>[Signature]</i><br><i>4/15/19</i> [ ] |

### Resolution "In the Matter of Authorizing the General Manager to Execute the Master Agreement, and Program Supplements for State-Funded Transit Projects"

#### PURPOSE:

To obtain General Manager approval of the Master Project Funding Agreement (Master Agreement) between California Department of Transportation and BART. The Master Agreement sets forth the general terms and conditions for receipt of Transit and Intercity Rail Capital Program (TIRCP) funding for BART's Transbay Core Capacity Project.

#### DISCUSSION:

BART's Transbay Core Capacity Project, which consists of multiple project elements and includes many funding partners, has regional and statewide significance in reducing greenhouse gas emissions, providing access to jobs, stimulating the economy, providing mobility, and regional and statewide transportation connections for all residents including those in disadvantaged communities.

Funding provides \$318.6 million for BART's new state-of-the-art, communications-based train control system (CBTC). This project will improve system reliability and greatly enhance the customer experience.

General terms in the Master Agreement include the following: project management, invoicing and reporting requirements, and compliance with applicable state and federal laws and regulations.

Resolution "In the Matter of Authorizing the General Manager to Execute the Master Agreement, and Program Supplements for State-Funded Transit Projects

Execution of the Master Agreement is a prerequisite for receipt of TIRCP funding for the Transbay Core Capacity Project. Following execution of the Master Agreement BART will be able to proceed forward with an allocation request through the California Transportation Commission.

**FISCAL IMPACT:**

The Master Agreement facilitates an allocation request through the California Transportation Commission for \$318.6 million over two funding cycles of FY19-23 and FY24-28. This funding is included in the total project budget for the CBTC project. This action does not have any Fiscal Impact on unprogrammed District reserves.

**ALTERNATIVES:**

If the Board declines to approve the Resolution "In the Matter of Authorizing the General Manager to Execute the Master Agreement, and Program Supplements for State-Funded Transit Projects," then BART will not be able seek an allocation of TIRCP funds.

**RECOMMENDATION:**

Adoption of the following motion.

**MOTION:**

The BART Board approves adoption of the attached Resolution "In the Matter of Authorizing the General Manager to Execute the Master Agreement, and Program Supplements for State-Funded Transit Projects."

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

**In the Matter of Authorizing the General Manager  
To Execute the Master Agreement, and Program  
Supplements for State-Funded Transit Projects**

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

**AUTHORIZATION FOR THE EXECUTION OF A MASTER AGREEMENT, AND  
PROGRAM SUPPLEMENTS FOR STATE-FUNDED TRANSIT PROJECTS**

**WHEREAS**, the San Francisco Bay Area Rapid Transit District may receive state funding from the California Department of Transportation (Department) now or sometime in the future for transit projects; and

**WHEREAS**, substantial revisions were made to the programming and funding process for the transportation projects programmed in the Transit and Intercity Rail Capital Program, by Chapter 36 (SB 862) of the Statutes of 2014; and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to execute an agreement with the Department before it can be reimbursed for project expenditures; and

**WHEREAS**, the Department utilizes Master Agreements for State-Funded Transit Projects, along with associated Program Supplements, for the purpose of administering and reimbursing state transit funds to local agencies; and

**WHEREAS**, the San Francisco Bay Area Rapid Transit District wishes to delegate authorization to execute these agreements and any amendments thereto to the General Manager.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the San Francisco Bay Area Rapid Transit District that the fund recipient agrees to comply with all conditions and requirements set forth in this agreement and applicable statutes, regulations and guidelines for all state-funded transit projects.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the General Manager be authorized to execute the Master Agreement, all Award Agreements, and all Program Supplements for State-Funded Transit Projects and any Amendments thereto with the California Department of Transportation.

**AGENCY BOARD DESIGNEE:**

**BY:** \_\_\_\_\_



# EXECUTIVE DECISION DOCUMENT

|  |                                       |  |                    |                                |
|--|---------------------------------------|--|--------------------|--------------------------------|
| GENERAL MANAGER APPROVAL: <i>17 April 2019</i><br><i>Robert M. Powner</i>        |                                       | GENERAL MANAGER ACTION REQ'D:              |                    |                                |
| DATE: 4/11/2019  |                                       | BOARD INITIATED ITEM: No                   |                    |                                |
| Originator/Prepared by: Jennella Sambour-Wallace<br>Dept: Office of Civil Rights | General Counsel<br><i>[Signature]</i> | Controller/Treasurer<br><i>[Signature]</i> | District Secretary | BARC                           |
| Signature/Date:<br><i>[Signature]</i> 4/16/19                                    | 4/16/19 [ ]                           | 4/16/18 [ ]                                | [ ]                | <i>[Signature]</i> 4/15/19 [ ] |

## Title VI Fare Equity Analysis and Public Participation Report for BART's Participation in MTC's Regional Means-Based Transit Fare Discount Pilot Program

### PURPOSE:

To request the Board to approve the Title VI Fare Equity Analysis and Public Participation Report for BART Participation in the Metropolitan Transportation Commission's Regional Means-Based Transit Fare Discount Pilot Program.

### DISCUSSION:

To ensure compliance with federal and state civil rights regulations, BART performs an analysis of any fare change to determine if the change has a disparate impact on minority riders or a disproportionate burden on low-income riders. The fare change in this case is a potential new discount fare type for eligible low-income riders. BART would make this discount available through participation in the Metropolitan Transportation Commission's (MTC's) Regional Means-Based Transit Fare Discount Pilot Program, which will last up to 18 months. An analysis of the Pilot Program impacts is required in accordance with applicable implementing guidance (FTA Title VI Circular 4702.1B, dated October 1, 2012) because the term of the Pilot Program would exceed six months.

The Pilot Program participants are BART, Caltrain, Golden Gate Transit (bus and ferry), and San Francisco Muni. The eligible low-income rider will use a specially encoded, free-of-charge, Clipper smart card to receive a means-based discount when traveling on any of the four above-mentioned operators. BART's proposed discount to the regular fare is 20% per trip, which is the same discount proposed by Caltrain and Golden Gate Transit. For

example, the discounted fare for a BART trip between Pittsburg/Bay Point and Embarcadero stations would be \$5.35 instead of the regular \$6.75 Clipper fare.

### **Analysis Results**

The Federal Transit Administration (FTA) Circular 4702.1B (Circular) requires a transit agency to use ridership survey data when evaluating whether a fare change (such as a new discount fare type) has adverse effects on low-income and minority populations. Impacts are considered disproportionate when the difference between the affected fare type's protected ridership share and the overall system's protected ridership share is greater than 10%, per BART's Disparate Impact/Disproportionate Burden Policy (DI/DB Policy).

The 2018 BART Customer Satisfaction Survey data found that BART's overall ridership is 20.2% low-income. Every low-income rider is eligible to get the free Clipper card and receive the new benefit of a 20% discount on each BART trip. As the discount fare type would be available to all low-income riders, introduction of this new benefit would not place a disproportionate burden on BART's low-income riders.

The 2018 Customer Satisfaction Survey also shows that BART's overall ridership is 64.5% minority, while the share of low-income riders who are minority is higher at 81.5%. This difference of 17.0% exceeds the DI/DB Policy threshold of 10% for new fare types, which indicates that low-income riders are disproportionately minority. Therefore, minority riders would be more likely to receive the benefit of the 20% discount on each trip, and so this new discounted fare type would not result in a disparate impact on minority riders.

### **Public Outreach**

As part of the Title VI assessment, BART undertook public outreach, including three in-station events, to receive input on the potential means-based discount from low-income, minority, and Limited English Proficient (LEP) populations, in accordance with BART's Public Participation Plan and the Circular.

BART received 3,708 surveys, the majority of which were online. The survey included an open-ended question on the potential new discount program for low-income riders, and a total of 2,053 comments were received. An analysis of the open-ended responses by low-income populations shows that 96% of low-income respondents and 84% of non low-income respondents either fully or conditionally supported the low-income discount.

Members of BART's Title VI/Environmental Justice Advisory Committee and Limited English Proficiency Advisory Committee provided input in December 2018. Members were very supportive of the potential low-income discount.

### **Equity Finding**

An equity finding is made after considering both the fare change analysis results and public comments received.

Analysis results show that the discount fare type would be available to all low-income riders, and so introduction of this new benefit would not place a disproportionate burden on BART's low-income riders. 2018 Customer Satisfaction data indicates that low-income riders are disproportionately minority and so minority riders would be more likely to receive the benefit of the 20% discount on each trip; thus, this new discounted fare type would not result in a disparate impact on minority riders. Public input received overwhelmingly supports offering the low-income discount. Therefore, the equity finding of this report is that the new fare type will not disproportionately impact minority or low-income riders, and the report concludes that the new fare type will not result in a disparate impact or disproportionate burden on minority riders or low-income riders, respectively.

The equity finding of this report is that the new fare type will not disproportionately impact minority or low-income riders. Therefore, the report concludes that the new fare type will not result in a disparate impact or disproportionate burden on minority riders or low-income riders, respectively.

### **FISCAL IMPACT:**

There is no fiscal impact associated with approving the Title VI Fare Equity Analysis. FTA requires the Board to approve the Title VI Fare Equity Analysis and Public Participation Report before BART can participate in the low-income discount pilot program.

### **ALTERNATIVES:**

Do not approve or defer approval of the Title VI Fare Equity Analysis and Public Participation Report. Either of these alternatives could delay BART's participation in the pilot program.

### **RECOMMENDATION:**

Approval of the following motion.

**Title VI Fare Equity Analysis and Public Participation Report for BART's Participation in MTC's Regional Means-Based Transit Fare Discount Pilot Program**

**MOTION:**

**The Board of Directors approves the Title VI Fare Equity Analysis and Public Participation Report for BART Participation in the Metropolitan Transportation Commission's Regional Means-Based Transit Fare Discount Pilot Program.**

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors

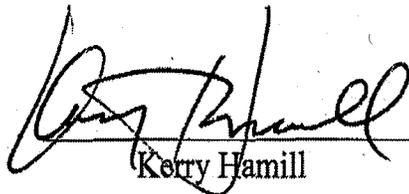
**DATE:** April 19, 2019

**FROM:** General Manager

**SUBJECT:** Performance & Audit Overview presentation

Attached is the "Performance & Audit Overview" presentation that will be presented to the Board at the April 25, 2019 meeting as an information item. The presentation provides an overview and summarizes the work of the Performance & Audit department.

If you have any questions about the document, please contact Pamela Herhold, Assistant General Manager - Performance and Budget, at 510-464-6168.



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Kerry Hamill

For Grace Crunican

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



## EXECUTIVE DECISION DOCUMENT

|  |   |   |                                      |  |
|--|---|---|--------------------------------------|--|
| <b>GENERAL MANAGER APPROVAL:</b> <i>17 APRIL 2019</i><br><i>Robert M. Pourn</i>  |   | <b>GENERAL MANAGER ACTION REQ'D:</b><br>Approve and Forward to the April 25, 2019 E&O Committee Meeting |                                      |  |
| <b>DATE:</b> 4/4/2019  |   | <b>BOARD INITIATED ITEM:</b> Yes  |                                      |  |
| <b>Originator/Prepared by:</b> Shrenik Shah<br><b>Dept:</b> Planning, Development and Construction<br><i>[Signature]</i><br><b>Signature/Date:</b> 4/12/2019 | <b>General Counsel</b><br><i>[Signature]</i><br>4/12/19 [ ] | <b>Controller/Treasurer</b><br><i>[Signature]</i><br>4/12/19 [ ]  | <b>District Secretary</b><br><br>[ ] | <b>BARC</b><br><i>[Signature]</i><br>4.15.2019 [ ] |

### Award of Contract No. 01VM-120, Union City Intermodal Station Phase 2A – BART Station Improvements

**PURPOSE:** To obtain the Board’s authorization for the General Manager to award Contract No. 01VM-120, Union City Intermodal Station Phase 2A – BART Station Improvements to Clark Construction Group – California, LP of Irvine, CA.

**DISCUSSION:**

The work of this Contract expands the vertical circulation elements on the east side of the Union City Station, specifically adding one stairway, two new escalators and retrofitting one existing stairway. The work includes selective demolition of existing structure and the construction of new structural elements and facilities to support the new escalators and stairways. It includes the construction of extended canopies over the expanded platform area and all associated components including signage, lighting, CCTV and communications systems.

On July 9, 2018, the Advance Notice to Bidders was e-mailed to 180 prospective Bidders. The Contract was advertised on July 13th, 2018 in construction trade publications and posted on BART’s website. A total of 48 online plan holders viewed the contract documents. A pre-Bid meeting and site tour was conducted on July 27, 2018, with 5 prospective Bidders attending. One (1) Bid was received and publicly opened on August 28, 2018. The Bid received and the Engineer’s Estimate are shown below:

| <b>BIDDER</b>                             | <b>LOCATION</b> | <b>BID PRICE</b> |
|---|-----------------|------------------|
| Clark Construction Group – California, LP | Irvine, CA      | \$18,492,910.00  |
| <b>Engineer's Estimate:</b>               |                 | \$13,435,753.00  |

After review by the District staff, Clark Construction's Bid was determined to be responsive to the solicitation. Examination of Clark Construction's business experience and financial capabilities has resulted in a determination that the Bidder is responsible. The Bid Price of \$18,492,910 is 37% above the engineer's estimate. Since the solicitation resulted in a single bid, it represents a non-competitive bid environment and the Bid Price is fair given the market conditions.

In accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), review for the Intermodal Station Phase 2A Project was conducted by the respective federal and state lead agencies, Federal Transit Administration (FTA) and Union City, in 2002 and 2003 as part of a larger project. As a result of some project modifications in 2005, an evaluation of potential project impacts was conducted by Union City to document that the project changes would not cause significant environmental impacts. The City submitted a letter to FTA summarizing the project changes and the evaluation of potential impacts. FTA concluded there were no significant environmental impacts related to the project modifications and no review under NEPA was required. BART staff reviewed the documentation and concurred with these findings and concluded the project continues to comply with applicable CEQA requirements.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 18.2% for Minority Business Enterprises ("MBEs") and 9.3 % for Women Business Enterprises ("WBEs"). The Office of Civil Rights has determined that Clark Construction Group has exceeded both the MBE and WBE Availability Percentages for this Contract at 21.2% for MBEs and 9.5% for WBEs.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 23% Small Business (SB) Subcontractor Participation Goal for this Contract. Bidders who meet the SB Subcontractor Participation Goal are eligible for a Small Business Preference of 5% of the lowest responsible Bidder's Bid, with a cap of \$1 Million. Clark Construction Group committed to subcontracting 24.6% to SBs. Clark Construction Group met the SB Subcontractor Participation Goal and, therefore, is eligible for the 5% Bid Preference. However, since Clark Construction Group is the only Bidder, this preference would not alter the award to Clark Construction Group.

**FISCAL IMPACT:**

Funding in the amount of \$18,492,910 for the award of Contract 01VM-120 is included in the total budget for FMS# 01VM001, UC Intermodal Station Phase 2A. The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

| <b>Proposed Funding</b>                  |              |
|--|--------------|
| F/G 802A – 2017A Measure RR GOB          | \$10,000,000 |
| F/G 663V– 2011 Union City Phase II Bonds | \$14,600,000 |
| TOTAL                                    | \$24,600,000 |

As of April 9, 2019, \$24,600,000 is the total budget for this project. BART has expended \$7,011 and has committed and reserved \$0 to-date for other action. This action will commit \$18,492,910 leaving an available fund balance of \$6,100,079 in these fund sources for this project.

The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any fiscal impact on unprogrammed District Reserves.

**ALTERNATIVES:**

The Board may elect to reject all bids and authorize staff to re-advertise the Contract. Re-advertising the Contract would result in additional cost and time to the District with no assurance that rebidding will result in lower Bid prices or increased competition. Furthermore, if BART does not proceed with award, the City of Union City may elect to revoke the project funds and utilize the funds for alternate City projects.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 01VM-120, Union City Intermodal Station Phase 2A – BART Station Improvements to Clark Construction Group – California, LP for the Bid Price of \$18,492,910.00 pursuant to the notification to be issued by the General Manager.



## EXECUTIVE DECISION DOCUMENT

|   |  |   |                           |   |
|---|--|---|---------------------------|---|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Power</i> 17 April 2019   |  | GENERAL MANAGER ACTION REQ'D:                             |                           |   |
| DATE: 3/4/2019  |  | BOARD INITIATED ITEM: No                                  |                           |   |
| Originator/Prepared by: Greg Tedesco<br>Dept: Office of the CIO<br><i>Greg Tedesco</i><br>Signature/Date: 4/15/19 | General Counsel<br><i>[Signature]</i><br>4/17/19 [ ] | Controller/Treasurer<br><i>[Signature]</i><br>4/17/19 [ ] | District Secretary<br>[ ] | BARC<br><i>[Signature]</i><br>4.16.2019 [ ] |

### Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks

#### PURPOSE:

To authorize the General Manager to award Contract No. 6M4549 for the Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks to Phase 3 Communications, Inc.

#### DISCUSSION:

This contract provides emergency restoration services and maintenance services for the Commercial Communications Revenue Program (formerly known as the Commercial Telecommunication Revenue Program). Since 1994, the District contracted for emergency restoration services; these contracts provide emergency repair of commercial fiber optic cables and wireless network infrastructure. The District provides these cables and infrastructure are to commercial, educational and governmental entities under licensing agreements. Maintaining these facilities requires repairs to bring the fiber cables and network infrastructure to a sustainable level. Thereafter, continuing maintenance of the fiber and wireless infrastructure is provided as needed. The District's commercial fiber and wireless license contracts generate approximately \$7.8M of revenue annually and the District's license agreements specify that the District will provide certain maintenance services.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 18.2% for Minority Business Enterprises (MBEs) and 9.3% for Women Business Enterprises (WBEs). Phase 3 Communications will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-

Discrimination Program for Subcontracting do not apply.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services. The lowest responsive Bidder, Phase 3 Communication is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference.

The District sent out 85 Advance Notices to Bidders on December 5, 2018 for this two-step Contract Book. The Contract Book contains security sensitive information (SSI). The Contract was advertised in 3 publications on December 3, 2018. As an SSI Contract it was not posted to the BART Procurement Portal. Potential Bidders purchased the Contract Books from the office of the District Secretary. A Pre-Proposal Meeting was conducted on December 18, 2018, with 6 potential Proposers in attendance. A total of 4 firms purchased copies of the Contract Book. Two Bids were received on Tuesday, January 15, 2019.

The Qualification Bid Evaluation Committee met on January 17, 2019 to review the technical qualification Bids received from the 2 Bidders to determine if they met the Minimum Technical Requirements, as outlined in in the Contract Book Instructions to Bidders, Paragraph 19. After a thorough review of all Bids received, including review of information received from both Bidders in response to request for cure of deficiency letters sent to both Bidders on February 6, 2019, the Committee determined that only the technical qualification bid received from Phase 3 met all of the Minimum Technical Requirements.

| <b>Number</b> | <b>Bidder</b>                  | <b>Location</b> | <b>Total Bid</b> |
|---------------|--------------------------------|-----------------|------------------|
| 1             | Phase 3<br>Communications Inc. | San Jose, CA.   | \$1,561,814      |
|               | <b>Engineer's Estimate</b>     |                 | \$1,861,352      |

**FISCAL IMPACT:**

Total funding required for Program Contract No. 6M4549 for FY20-FY22 is **\$1,561,814.00**. The annual amount of **\$520,604.66** is included in the Office of the Chief Information Officer's (OCIO) proposed annual operating budget, which is subject to Board approval.

Funds will be budgeted in the Office of the Chief Information Officer operating budget (0802842 - Telecommunications Program, 680230 – Repairs and Maintenance) as follows:

| <b>Proposed Funding</b>                        |                    |
|--|--------------------|
| FY20*  | \$520,604.66       |
| FY21   | \$520,604.66       |
| FY22   | \$520,604.66       |
| <b>Total</b>                                   | <b>\$1,561,814</b> |
| <i>*Funding is expected to begin 7/1/2019.</i> |                    |

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year.

**ALTERNATIVES:**

To not award this contract or to rebid it. This action could prevent the District from continuously maintaining the commercial fiber optic and wireless network as required in its license agreements with commercial carriers, thereby subjecting the District to potential legal liability.

**RECOMMENDATION:**

Adoption of the following motion.

**MOTION:**

The General Manager is authorized to award Contract No. 6M4549 for the Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks for the Base Bid amount of \$1,561,814.00 to Phase 3 Communications Inc., pursuant to notification to be issued by the General Manager.

The General Manager is authorized to exercise a total Bid Price of \$1,561,814.00



# EXECUTIVE DECISION DOCUMENT

|   |                                       |   |                    |                                  |
|---|---------------------------------------|---|--------------------|----------------------------------|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Pearson</i> 17 APRIL 2019                 |                                       | GENERAL MANAGER ACTION REQ'D:<br>Approval and Presentation to the Board |                    |                                  |
| DATE: 3/1/2019  |                                       | BOARD INITIATED ITEM: No  |                    |                                  |
| Originator/Prepared by: Christopher Wasilewski<br>Dept: Maintenance and Engineering | General Counsel<br><i>[Signature]</i> | Controller/Treasurer<br><i>[Signature]</i>                              | District Secretary | BARC<br><i>[Signature]</i>       |
| Signature/Date: <i>[Signature]</i> 4/19/19  | <i>[Signature]</i> 4/17/19 [ ]        | <i>[Signature]</i> 4/17/19 [ ]  | [ ]                | <i>[Signature]</i> 4.17.2019 [ ] |
| Status: Approved  |                                       | Date Created: 3/1/2019  |                    |                                  |

## Change Order Number 002 to Contract Number 15TD-250 Track Geometry Car

### PURPOSE:

To authorize the General Manager to execute Change Order Number 002 to Contract Number 15TD-250 Track Geometry Car, in the amount not to exceed \$458,730.00, and extend the Contract completion date by 90 calendar Days.

### DISCUSSION:

On March 28, 2016, the District issued the Notice to Proceed on Contract Number 15TD-250. The Contract provided for the acquisition of a new Track Geometry Car with an original Contract value of \$12,450,178.00. Pursuant to this Change Order, the Contract value shall be increased to \$12,908,908.00.

The New Track Geometry Car is a highly specialized non-revenue measurement vehicle that utilizes optics and algorithms to inspect the running rail, 3<sup>rd</sup> rail and various Track components to identify exceptions and defects in the District rail network. It also will have the capability to provide information on the dynamic operating envelope to determine protrusions and clearances.

The four (4) week training period in the original contract included “on car” training which, due to the cars’ design, is constrained to 3 seats – one (1) for a trainer and two (2) for BART personnel. The number of trainees under this scenario is inadequate to ensure that an appropriate number of qualified BART personnel are available to safely operate the Geometry

Car, thereby necessitating three (3) months of additional training.

**FISCAL IMPACT:**

Funding of up to \$458,730 for the award of Change Order #2 to Contract 15TD-250 is included in the total project budget for 15TD000, Wayside Equipment. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in 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.

| Fund Group                           | Amounts    |
|--------------------------------------|------------|
| Federal Fund Sources                 | 55,126,359 |
| Local Fund Sources                   | 3,291,572  |
| BART Operating Allocation to Capital | 12,155,179 |
| Total                                | 70,573,110 |

As of April 10, 2019, \$70,573,110 is the total budget for this project. BART has expended \$37,837,753, committed \$13,877,519 and reserved \$4,222,200 to date. This action will commit \$458,730 leaving an available fund balance of \$14,176,908 balance for this project.

This action is not anticipated to have any Fiscal Impact on unprogrammed District Reserves.

**ALTERNATIVES:**

The Board can elect not to authorize the General Manager to approve the Change Order. In this case, the District would be limited to the number of employees who would currently be trained to safely operate the geometry car. Failure to issue this Change Order will cause this training to be done in the future at a potentially higher cost.

**RECOMMENDATION:**

Staff recommends that the Board approve the following Motion:

**MOTION:**

The General Manager is authorized to execute Change Order Number 002 to Contract Number 15TD-250, Track Geometry Car, in the not to exceed amount of \$458,730.00, and to extend the Contract completion date by 90 calendar Days.



## EXECUTIVE DECISION DOCUMENT

|   |  |   |                           |   |
|---|--|---|---------------------------|---|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Power</i> 17 APRIL 2019   |  | GENERAL MANAGER ACTION REQ'D:                             |                           |   |
| DATE: 4/11/2019   |  | BOARD INITIATED ITEM: No                                  |                           |   |
| Originator/Prepared by: John McCormick<br>Dept: Operations Planning<br><i>John McCormick</i><br>Signature/Date: 4/17/2019 | General Counsel<br><i>[Signature]</i><br>4/17/19 [ ] | Controller/Treasurer<br><i>[Signature]</i><br>4/17/19 [ ] | District Secretary<br>[ ] | BARC<br><i>[Signature]</i><br>4.17.2019 [ ] |

### Asset Management Policy Update

#### PURPOSE:

To obtain approval of an updated asset management policy.

#### DISCUSSION:

The San Francisco Bay Area Rapid Transit District has an important responsibility to its riders and the citizens of the San Francisco Bay Area to provide safe and reliable transit service by maintaining the District's assets in a State of Good Repair. The Federal Transit Administration (FTA) mandates Asset Management practices to measure progress towards a State of Good Repair and remain eligible for Federal funding. Asset Management encompasses the coordinated activities through which an organization optimally manages its assets and asset systems, their associated performance, risks and expenditures to achieve its organizational strategic plan.

The BART Board of Directors adopted the first Asset Management Policy in 2014. That policy had a scheduled expiration in 2019. Since 2014, BART, the FTA and the industry have evolved in several important ways:

- BART adopted its Strategic Plan Framework in 2015, which enables specific alignment of asset related risks to BART strategies.
- ISO 55000 Asset Management Standard was established in 2014 as the first international standard for Asset Management, enabling clearer understanding of best-practice and more meaningful benchmarking with peers.
- FTA established Transit Asset Management (TAM) rules in 2016, which placed specific asset management requirements regarding asset information, and condition assessment.

BART Asset Management processes and tools have evolved with these new developments. The proposed Asset Management Policy has been updated to reflect these developments, and will continue as a guiding document for BART's Asset Management Program.

**FISCAL IMPACT:**

There is no immediate fiscal impact associated with adoption of the Asset Management Policy. Implementation and support of the policy will require a financial commitment from the District including ensuring that resources are appropriately directed to address BART's asset management efforts.

**ALTERNATIVES:**

Do not adopt the proposed Asset Management Policy, defer adoption of the Policy to a later date, or extend the expiration of the previous policy from 2014.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The Board approves the attached Asset Management Policy

The San Francisco Bay Area Rapid Transit District has an important responsibility to its riders and the citizens of the San Francisco Bay Area to provide safe and reliable transit service by maintaining the District's assets in a State of Good Repair. The Federal Transit Administration (FTA) mandates Asset Management practices to measure progress towards a State of Good Repair and remain eligible for Federal funding. Asset Management encompasses the coordinated activities through which an organization optimally manages its assets and asset systems, their associated performance, risks and expenditures to achieve its organizational strategic plan.

To ensure that BART is positioned to advance its Strategic Plan, specifically its mission to "provide safe, reliable, clean, quality transit service for riders," the following Asset Management policy goals and objectives are adopted:

**Goal 1: Safe, Compliant & Proactive**

Perform responsible asset management activities that prioritize passenger and employee safety, comply with oversight agency requirements and international best practices, and ensure assets are maintained in a State of Good Repair:

- Meet regional and federal deliverables for Transit Asset Management (TAM) plans that include asset inventories, condition assessments, and National Transit Database (NTD) reporting requirements.
- Identify, measure and monitor BART's asset management maturity initiatives as well as the progress towards meeting the International Organization for Standardization's Asset Management standards (ISO 55000).

**Goal 2: Transparent, Connected & Collaborative**

Demonstrate transparent strategic asset management activities that support the BART Strategic Plan Framework and foster collaboration throughout the District:

- Engage staff by establishing line-of-sight between departmental activities and the BART Strategic Plan Framework to illustrate the value of the work performed and how it connects to the BART Goals and Strategies.
- Align and integrate BART's Asset Management activities with annual operating and capital budgets and the Short-Range Transit/Capital Improvement Program to help accurately assess the District's overall financial health.
- Educate stakeholders on Asset Management initiatives and provide training to staff members commensurate with their engagement in Asset Management activities.

**Goal 3: Risk-Based, Integrated & Balanced**

Inform decision-making to ensure that BART's services are provided and infrastructure is maintained in a safe, sustainable, fiscally responsible and socially equitable manner.

- Consider the risks and consequences of action, and inaction, when prioritizing asset replacement or repair, and when identifying and allocating funding sources.
- Incorporate lifecycle costs and social equity analysis to inform decision-making when planning for new assets and when considering upgrades and expansion of the existing physical infrastructure.

To achieve these goals and objectives, the following Strategies are adopted:

**Strategy 1: Invest**

- Ensure adequate resources are available to conduct asset management activities in compliance with this Policy including the creation of a detailed asset management maturity roadmap which will identify and prioritize asset management activities, document our progress towards ISO 55000, and serve as a valuable tool to guide the allocation of resources.

**Strategy 2: Knowledge**

- Share and gain knowledge of industry best practices by participating in international consortiums, government agency events (American Public Transportation Association, Transportation Research Board, FTA Roundtables, etc.) and specialized conferences to advance the effectiveness of the BART Asset Management Program and continually improve the District's Asset Management proficiency.

**Responsibility:**

The BART Board is responsible for adopting the Asset Management Policy, allocating resources, and providing high level oversight of the delivery of BART's Asset Management Program to ensure that resources are appropriately used to address BART's goals and objectives. BART's General Manager is the Asset Management Accountable Executive and has overall responsibility for developing asset management plans and reporting to the Board on the status and effectiveness of asset management within BART.



# EXECUTIVE DECISION DOCUMENT

|  |                               |                                |                    |                                  |
|--|-------------------------------|--------------------------------|--------------------|----------------------------------|
| GENERAL MANAGER APPROVAL: <i>17 APRIL 2019</i><br><i>Robert M. Pomeroy</i> |                               | GENERAL MANAGER ACTION REQ'D:  |                    |                                  |
| DATE: 4/2/2019   |                               | BOARD INITIATED ITEM: No       |                    |                                  |
| Originator/Prepared by: Mimi Bolaffi<br>Dept: Police Department            | General Counsel               | Controller/Treasurer           | District Secretary | BARC                             |
| Signature/Date:<br><i>Mimi Bolaffi</i> 4/2/19 [ ]                          | <i>[Signature]</i> 4/2/19 [ ] | <i>[Signature]</i> 4/19/19 [ ] | [ ]                | <i>[Signature]</i> 4/17/2019 [ ] |
| Status: Approved   |                               | Date Created: 4/2/2019         |                    |                                  |

## Surveillance Use Automated License Plate Recognition (ALPR) Technology

### PURPOSE:

To obtain 1) authorization to implement Automated License Plate Recognition (ALPR) Technology in BART Parking areas; and 2) approval of the attached Surveillance Use Policy and Impact Report and Annex.

### DISCUSSION:

The BART Police Department is proposing to use ALPR technology for Law Enforcement purposes as a tool to implement strategies to reduce auto theft and auto burglaries that are negatively impacting BART Customers when parking in BART owned and operated parking facilities.

The proposed implementation of the ALPR system in BART parking areas would serve the following key purposes:

### Crime Prevention

- Reduce the fear of crime and reassure the public and employees that they can safely park in BART parking facilities, which may increase BART ridership.
- Collect license plate numbers to assist in the identification, apprehension and prosecution of criminal offenders.
- Provide evidence to support the prosecution of offenders for criminal offenses.
- Provides both riders and employees a means of redress against property crimes, such as burglary and auto theft.

The District's Surveillance Technology Ordinance defines a "Surveillance Technology" in part as, "...any electronic device or system with the capacity to collect audio, visual, locational...or similar information." ALPR technologies meet this definition since it collects and captures photographs of license plate information.

Consistent with the District's Technology Surveillance Ordinance, staff has developed a Surveillance Use Policy, Surveillance Impact Report as well as addressed requirements of California Civil Code Sections 1798.90.51 and 1798.90.53 in an ALPR Annex.

Pursuant to the Ordinance, the Board was notified 21 days in advance, and the public was notified 15 days in advance (via posting on bart.gov and advertisement in several newspapers within the District).

**FISCAL IMPACT:**

There is no fiscal impact associated with this proposed action. Funding approval for this technology, if required in the future, will be handled by a separate action.

**ALTERNATIVES:**

While there are several manufactures of ALPR Technology, they serve the same purpose to photograph a license plate and digitize the information into readable information. There is no alternative to ALPR Technology outside of a uniformed officer taking a photograph of a plate and sending in the information. With the ever increasing number of parking spaces to more than 47,000 (and growing) the Police Department is not able to keep pace with this increase.

**RECOMMENDATION:**

Adoption of the following motion:

**MOTION:**

Pursuant to District Ordinance No. 2018-1, the Board of Directors finds:

- 1) That the benefits to the community arising from the implementation of ALPR Technology outweigh the costs, and thereby authorizes the General Manager or her designee is authorized to proceed with the ALPR implementation and data collection thereof.
- 2) That the Surveillance Use Policy for ALPR Technology will reasonably safeguard civil liberties and civil rights, and thereby approves the Surveillance Use Policy, Impact Report, and Annex for ALPR Technology.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

## MEMORANDUM

**TO:** Board of Directors

**DATE:** April 19, 2019

**FROM:** General Manager

**SUBJECT:** Federal and State Legislation for Consideration

At the April 25 Board of Directors meeting, staff will present federal and state legislation for your consideration.

Attached are analyses and text for each bill. The legislation being presented has a nexus to BART and aligns with the Board's State and Federal Advocacy Program for 2019.

### LEGISLATION FOR SUPPORT

#### FEDERAL

S. 654 / H.R. 1517

The Connecting Opportunities through Mobility Metrics and Unlocking Transportation Efficiencies Act

S. 793 / H.R. 1782

The American Apprenticeship Act

S. 923 / H.R. 1978

The Fighting Homelessness Through Services and Housing Act

H.R. 1507

The Bicycle Commuter Act of 2019

#### STATE

SB 40

Conservatorship: serious mental illness and substance use disorders

SB 128

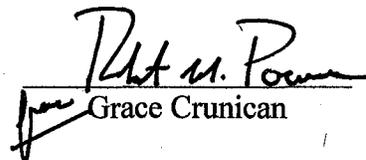
Enhanced infrastructure financing districts: bonds

SB 152

Active Transportation Program

Following the staff presentation, a request will be made of the Board to consider passing the draft motion shown below.

If you have any questions, please contact Rodd Lee, Department Manager, Government and Community Relations at 510-464-6235.

  
Grace Crunican

Attachments

cc: Deputy General Manager  
Board Appointed Officers  
Executive Staff

#### DRAFT MOTION:

That the Board of Directors supports S. 654/H.R. 1517, S. 793/H.R. 1782, S. 923/H.R. 1978, H.R. 1507, SB 40, SB 128, and SB 152.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** April 19, 2019

**FROM:** General Manager

**SUBJECT:** Report to the Board of Directors by the Earthquake Safety Program Citizens' Oversight Committee

The Earthquake Safety Program Citizens' Oversight Committee is required to periodically present a report on their activities and findings to the BART Board of Directors. The attached report is for information only and requires no action by the Board.

The Committee has prepared a Report to the Board to convey its consensus opinion of the Earthquake Safety Program expenditures. The Report is scheduled for the April 25, 2019 Board meeting and will be given by the Chair of the Committee, Derek Schaible, who occupies the Seismic Retrofitting Member Seat.

Committee members have received presentations covering a wide range of project details, including spending commitments, progress payments, contracting status, use of Bond funds and project progress reports.

The current committee is the sixth two-year committee to convene since 2006 when the committee first began its activities. The Committee is to verify that bond revenues are spent on earthquake retrofit upgrades as promised, and as was stated in the ballot language for the November 2, 2004, General Obligation Bond.

If you would like more information, please contact Zach Amare, Group Manager of Capital Projects for the Earthquake Safety Program at 510-287-4845.

  
*for* Grace Crunican

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:** April 19, 2019

**FROM:** District Secretary

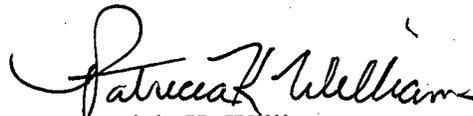
**SUBJECT:** 2019 Organization of Committees and Special Appointments Revision

Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board.

In accordance with Board Rule 3-3.2, President Dufty is bringing a revision to the 2019 Organization of Committees and Special Appointments before the Board of Directors for ratification at the Regular Board Meeting on April 25, 2019. President Dufty proposes the addition of the General Manager Recruitment Ad Hoc Committee, as shown on the draft revised 2019 Organization of Committees and Special Appointments (attached).

Should you have any questions about this addition, please contact President Dufty or me at your convenience.

Thank you.

  
Patricia K. Williams

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**MOTION:**

That the Board of Directors ratifies the following appointments to the General Manager Recruitment Ad Hoc Committee: Bevan Dufty, Chairperson; Rebecca Saltzman, Vice Chairperson; Debora Allen; and Mark Foley.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS**

**STANDING COMMITTEES**

**ADMINISTRATION\*\***

Lateefah Simon, Chairperson  
Debra Allen, Vice Chairperson  
Rebecca Saltzman

**ENGINEERING AND OPERATIONS\*\***

Mark Foley, Chairperson  
John McPartland, Vice Chairperson  
Janice Li

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

Robert Raburn, Chairperson  
Rebecca Saltzman, Vice Chairperson  
Liz Ames

**SPECIAL COMMITTEES**

**LABOR NEGOTIATIONS REVIEW SPECIAL COMMITTEE\*\***

Bevan Dufty, Chairperson                      Rebecca Saltzman, Vice Chairperson                      Mark Foley

**PERSONNEL REVIEW SPECIAL COMMITTEE\*\***

Bevan Dufty, Chairperson                      John McPartland, Vice Chairperson                      Lateefah Simon

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY PARTNERSHIP SPECIAL COMMITTEE\*\***

Bevan Dufty                      Liz Ames                      John McPartland                      Robert Raburn

**AD HOC COMMITTEES**

**INSPECTOR GENERAL AD HOC COMMITTEE**

Bevan Dufty, Chairperson                      John McPartland, Vice Chairperson                      Debra Allen                      Lateefah Simon

**GENERAL MANAGER RECRUITMENT AD HOC COMMITTEE**

Bevan Dufty, Chairperson                      Rebecca Saltzman, Vice Chairperson                      Debra Allen                      Mark Foley

**SPECIAL APPOINTMENTS – LIAISON**

**CONTRA COSTA TRANSPORTATION AUTHORITY\*\* LIAISON**

Debra Allen, Primary                      Mark Foley, Alternate

**PARATRANSIT SERVICE REVIEW ADVISORY COMMITTEES LIAISON**

Robert Raburn                      Debra Allen

**SAN FRANCISCO TRANSPORTATION AUTHORITY\*\* LIAISON**

Janice Li, Primary                      Bevan Dufty, Alternate

\*\* Brown Act Committee, subject to public meeting requirements.

NOTE: BART Directors discharging liaison functions do not serve as members of either a committee of BART or the other organization, nor as members of a joint committee. Any action on behalf of BART must be taken by the full Board.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS**

**SPECIAL APPOINTMENTS – EXTERNAL**

**ALAMEDA COUNTY TRANSPORTATION COMMISSION \*\***

Rebecca Saltzman, Primary                      John McPartland, Alternate

**ALTERNATE REPRESENTATIVE TO THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION BOARD OF DIRECTORS**

Robert Raburn

**BART AND AC TRANSIT COORDINATING COMMITTEE \*\***

Robert Raburn (Co-Chair)                      Rebecca Saltzman                      Lateefah Simon

**CAPITOL CORRIDOR JOINT POWERS BOARD\*\*\***

Debora Allen, Contra Costa County                      Robert Raburn, Alameda County  
Bevan Dufty, San Francisco County                      Rebecca Saltzman, Alameda County  
Mark Foley, Contra Costa County                      John McPartland, Alameda County Alternate  
Janice Li, San Francisco County

**DIRIDON STATION AREA JOINT POLICY ADVISORY BOARD (City of San Jose)\*\*\***

Robert Raburn

**OVERSIGHT BOARD TO SUCCESSOR AGENCY OF SAN FRANCISCO REDEVELOPMENT AGENCY\*\*\***

Bevan Dufty

**PLEASANT HILL BART STATION LEASING AUTHORITY BOARD OF DIRECTORS\*\*\***

Debora Allen                      Mark Foley

**SOUTH HAYWARD BART STATION ACCESS AUTHORITY\*\***

Liz Ames                      John McPartland                      Robert Raburn, Alternate

**TRI-VALLEY – SAN JOAQUIN REGIONAL RAIL AUTHORITY\*\*\***

John McPartland

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE (WCCTAC)\*\***

Lateefah Simon, Primary                      Mark Foley, Alternate

\*\* Brown Act Committee, subject to public meeting requirements.

\*\*\* Brown Act Board, subject to public meeting requirements.