

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

BOARD MEETING AGENDA

May 22, 2014

4:00 p.m.

Please note: The first business item on the agenda is Closed Session. The Board will reconvene in open session to conduct the Public Hearings at 5:00 p.m. or immediately following the Closed Session, whichever is later.

A regular meeting of the Board of Directors will be held at **4:00 p.m.** on Thursday, May 22, 2014, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

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

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

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

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

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

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

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

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

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

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

A. CONFERENCE WITH LABOR NEGOTIATORS

Designated representatives: Grace Crunican, General Manager; Carter Mau, Assistant General Manager, Administration and Budgets; and Ericka Mitchell, Acting Department Manager – Labor Relations

Employee Organizations: (1) BART Police Officers Association;
(2) BART Police Managers Association;

Government Code Section: 54957.6

3. PUBLIC HEARING – 5:00 p.m., or immediately following the Closed Session, whichever is later

- A. BART to Oakland International Airport Project Fares.*
- B. Fiscal Year 2015 Annual Budget.*

4. 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.)

5. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of May 8, 2014.* Board requested to authorize.
- B. Fiscal Year 2015 Proposition 4 Appropriations Limit.* Board requested to adopt.
- C. Fiscal Year 2014 Third Quarter Financial Report.* For information.

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

Director Raburn, Chairperson

- A. Amendment to Agreement No. 6M7066, Poster Advertising Franchise Services, with Titan Outdoor LLC, for Conversion of 34 Poster Advertising Frames to 17 Digital Screens.* Board requested to authorize.
- B. 2014 State and Federal Legislation.* Board requested to support.

7. ADMINISTRATION ITEMS

Director Saltzman, Chairperson

- A. Extension of Agreement with Giesecke & Devrient America, Inc., for Maintenance and Repair Services, Currency Processing Systems, and Option to Continue Services (Agreement No. 6M2021).* Board requested to authorize.
- B. BART to Oakland International Airport Project Fares. For information.
- C. Fiscal Year 2015 Annual Budget. For information.

8. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. (CONTINUED from May 8, 2014, Board Meeting)
Award of Contract No. 04SF-130, Construction of East Contra Costa BART Extension Project Trackwork, Systems, and Facility Finishes.* Board requested to authorize.
- B. Award of Invitation for Bid No. 8931, Procurement of Axle Bearings.* Board requested to authorize.

9. GENERAL MANAGER'S REPORT

10. BOARD MATTERS

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

11. 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.)

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

Board of Directors
Minutes of the 1,708th Meeting
May 8, 2014

A regular meeting of the Board of Directors was held May 8, 2014, convening at 9:02 a.m. in the Board Room, 344 20th Street, Oakland, California. President Keller presided; Kenneth A. Duron, District Secretary.

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

Absent: None. Directors Raburn, Radulovich, and Saltzman entered the Meeting later.

President Keller announced that under the provisions of the Rules of the Board of Directors of the San Francisco Bay Area Rapid Transit District, this was the time set to hold a public hearing on Modifications to the South Hayward Parking Fee Program, that staff would give a brief presentation on the item, and that the meeting would then be opened for comments from the public.

Mr. Jeffrey Ordway, Department Manager, Real Estate and Property Development, presented the item.

Directors Radulovich and Raburn entered the Meeting.

Mr. John De Clerq addressed the Board.

There being no further public comment, the Public Hearing was closed.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of April 24, 2014.
2. Award of Contract No. 15QL-110, Maintenance Yards Surface Improvement – OHY.
3. Award of Contract No. 15SV-120, BART Earthquake Safety Program Seismic Retrofit Miscellaneous Structures.

Director Raburn requested that Award of Contract No. 15QL-110, Maintenance Yards Surface Improvement – OHY, be removed from the Consent Calendar.

Director Blalock moved the following motions as a unit. Director Murray seconded the motions, which carried by unanimous acclamation. Ayes - 8: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, and Keller. Noes - 0. Absent – 1: Director Saltzman.

1. That the Minutes of the Meeting of April 24, 2014, be approved.
2. That the General Manager be authorized to award Contract No. 15SV-120, Earthquake Safety Program Seismic Retrofit – Miscellaneous Structures, to Ashron Construction and Restoration, Inc., for the Bid Price of \$1,037,715.00, pursuant to notification to be issued by the General Manager, and subject to the District’s protest procedures.

President Keller brought the matter of Award of Contract No. 15QL-110, Maintenance Yards Surface Improvement – OHY, before the Board.

Director Saltzman entered the meeting.

The item was discussed.

The following individuals addressed the Board.

- Mr. Darrel Carey
- Mr. Dustin Jones
- Mr. Eddie Dillard

Director Murray moved that the General Manager be authorized to award Contract No. 15QL-110, Maintenance Yards Surface Improvement – OHY, to Bay Cities Paving and Grading, Inc., of Concord, California, for the Bid Price of \$1,030,000.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District’s protest procedures; and that the General Manager also be authorized to exercise the Option Bid Price of \$149,500.00. Director Blalock seconded the motion, which carried by electronic vote. Ayes – 7: Directors Blalock, Mallett, McPartland, Murray, Radulovich, Saltzman, and Keller. Noes – 2: Directors Fang and Raburn.

President Keller announced that the Board would enter into closed session in the adjacent conference room under Item 4-A (Conference with Legal Counsel) of the regular meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Meeting was recessed at 9:44 a.m.

The Board reconvened in closed session at 9:46 a.m.

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

Absent: None.

The Board Meeting was recessed at 9:53 a.m.

The Board reconvened in open session at 9:55 a.m.

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

Absent: None.

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

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

Director Saltzman, Chairperson of the Administration Committee, brought the matter of Fiscal Year 2015 Preliminary Budget Operating Sources, Uses, and Service Plan before the Board. Mr. Carter Mau, Assistant General Manager, Administration and Budget; Mr. Robert Umbreit, Department Manager, Operating Budget and Analysis; Mr. Gregg Marrama, Department Manager of Capital Development; and Mr. Paul Oversier, Assistant General Manager, Operations, presented the item. The item was discussed.

The following individuals addressed the Board.

Mr. Jerry Grace

Ms. Megan Hope Gurrentz

Director Saltzman brought the matter of Approval of BART to Oakland International Airport Project New Fare and New Service Title VI Equity Analysis before the Board. Mr. Wayne Wong, Department Manager, Office of Civil Rights; Ms. Pamela Herhold, Financial Planning; and Mr. Robert Mitroff, Manager of Fleet and Capacity Planning, presented the item.

Director Blalock exited the meeting.

The following individuals addressed the Board.

Mr. Jeff Hobson

Mr. Jerry Grace

The item was discussed. Director Raburn moved that the Board approve the BART to Oakland International Airport Project Title VI Equity Analysis. Director Mallett seconded the motion, which carried by unanimous electronic vote. Ayes - 8: Directors Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0. Absent - 1: Director Blalock.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Award of Contract No. 04SF-130, Construction of East Contra Costa BART Extension Project Trackwork, Systems, and Facility Finishes, before the Board. Ms. Chris Quinn, Chief Extensions Officer, presented the item.

The following individuals addressed the Board.

Mr. Kurt Kniffer

Mr. Brian Seamount

Mr. Ural Yal

Mr. Dustin Jones
Mr. Martin Gillmore
Mr. Eddie Dillard
Mr. Jerry Grace

The item was discussed. The item was continued to a future meeting.

President Keller announced that the Board would recess for a short break.

The Board Meeting was recessed at 1:08 p.m.

The Board reconvened at 1:34 p.m.

Directors present: Directors Mallett, Murray, Raburn, Radulovich, and Saltzman.

Absent: Directors Blalock, Fang, McPartland, and Keller.

Director Saltzman, in the absence of the President and Vice President, assumed the gavel.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Reconciliation of South Hayward BART Station Access Authority Implementation of Action Plan, including Parking Fees, before the Board. Mr. Ordway presented the item.

Directors Fang and McPartland entered the Meeting.

The item was discussed. Director Saltzman moved adoption of Resolution No. 5259, In the Matter of Adopting Modifications to Parking Fees at and adjacent to the South Hayward BART Station. Director Murray seconded the motion, which carried by the required two-thirds majority by unanimous electronic vote. Ayes - 7: Directors Fang, Mallett, McPartland, Murray, Raburn, Radulovich, and Saltzman. Noes - 0. Absent – 2: Directors Blalock and Keller.

Director McPartland brought the matter of Award of Contract No. 59CT-110A, Wayfinding Improvements Phase II, before the Board. Mr. Tian Feng, District Architect, presented the item. Director Fang moved that the General Manager be authorized to award Contract No. 59CT-110A, Wayfinding Improvements Phase II, to L C General Engineering & Construction, Inc., for the Bid price of \$4,778,259.00, pursuant to notification to be issued by the General Manager, subject to the District's protest procedures and Federal Transit Administration's requirements related to protest procedures; and that the General Manager also be authorized to exercise Options 1 through 7 for \$2,698,179.00, consistent with the requirements of the Contract. Director Mallett seconded the motion. The item was discussed. The motion carried by unanimous electronic vote. Ayes - 7: Directors Fang, Mallett, McPartland, Murray, Raburn, Radulovich, and Saltzman. Noes - 0. Absent – 2: Directors Blalock and Keller.

Director McPartland brought the matter of Train Control Modernization Project Update before the Board. Mr. Oversier; Mr. Robert Powers, Assistant General Manager, Planning and Development; Mr. John Slama, Group Manager, Systems Engineering; and Mr. Keith Fullington, Acting Group Manager, Planning and Development Systems, presented the item.

Director Fang exited the Meeting.

The following individuals addressed the Board.

Mr. Chris Finn
Mr. Jerry Grace

The item was discussed.

Director Saltzman called for Public Comment. The following individuals addressed the Board.

Mr. Michael Ludwig
Mr. Jerry Grace
Mr. Chris Finn

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, announced that the BART Vision Update would be continued to a future meeting, and brought the matter of Downtown Berkeley Bike Station One-Year Lease Extension before the Board. Mr. Ordway presented the item. Director Saltzman moved that the General Manager or her designee be authorized to execute an amendment for a one year extension to the lease with HSR Berkeley Investments, LLC, for approximately 4,000 square feet of commercial space at 2208 Shattuck Avenue, Berkeley, for the Downtown Berkeley Bike Station, commencing July 1, 2014. Director Raburn seconded the motion, which carried by unanimous electronic vote. Ayes - 6: Directors Mallett, McPartland, Murray, Raburn, Radulovich, and Saltzman. Noes - 0. Absent – 3: Directors Blalock, Fang, and Keller.

Director Saltzman called for the General Manager's Report.

Mr. David Kutrosky, Managing Director, Capitol Corridor, gave a brief presentation on the draft agenda for the Capitol Corridor Joint Powers Board Meeting of June 11, 2014.

General Manager Grace Crunican reported on progress in reducing outstanding Roll Call for Introduction items, steps she had taken and activities and meetings she had participated in, and she reminded the Board of upcoming events.

Director Saltzman announced that the Quarterly Report of the Controller/Treasurer would be continued to a future meeting.

Director Saltzman called for Board Member Reports and Roll Call for Introductions.

Director Saltzman reported she had participated in the Earth Day event in El Cerrito, and that she had been a judge for marketing plans created by high school freshman through a Haas School of Business training program.

Director Saltzman announced that the Board would adjourn in memory of her co-worker, Mr. Michael Hawk.

The Board Meeting was adjourned at 2:56 p.m.

Kenneth A. Duron
District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Carcega de Van Sen</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/14/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kate Jordan Dept: Operating Budgets Signature/Date: <i>Kate Jordan</i> 5/9/14	General Counsel <i>[Signature]</i> 5/9/14	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i> 5-9-14
Status: Routed		Date Created: 05/05/2014		

TITLE:

FY15 Proposition 4 Appropriations Limit

NARRATIVE:

Purpose: To approve the District's Fiscal Year 2015 Appropriations Limit, as required by State law pursuant to the Gann Initiative (Proposition 4, passed by the voters in 1979).

Discussion: The Gann Initiative (Proposition 4) provides for limits on appropriations by State and local government entities. California Government Code Section 7910 requires local jurisdictions to annually adopt an appropriations limit by resolution and establishes a 45 day statute of limitations for commencement of any judicial action to challenge the appropriations limit.

Section 7910 requires the Board of Directors to establish by resolution BART's annual appropriations limit "at a regularly scheduled meeting or noticed special meeting." Further, it requires that fifteen days prior to such meeting, documentation used in the determination of the appropriations limit shall be made available to the public. On May 7, 2014 the documentation was made available to the public.

Attachment 1 summarizes the FY15 appropriations limit calculation in accordance with the uniform *Guidelines for Implementation of the Gann Initiative* prepared by the League of California Cities and the information furnished by the State Department of Finance.

Attachment 2 is the calculation for the margin as it relates to the Proposition 4 limit. The margin is the difference between the appropriations limit and the expenditures subject to the limit. Based on the calculations, the District will be below the limit of \$527,436,883.

Fiscal Impact: No fiscal impact. The FY15 appropriations limit is \$527,436,883. Operating and Capital expenditures subject to the appropriations limit total \$373,112,728. As such, the District is \$154,324,155 below the subject FY15 appropriations limit.

Alternatives: None.

Recommendation: Approval of the following motion.

Motion: That the Board adopt the attached resolution which sets the District's FY15 appropriations limit at \$527,436,883.

Attachment 1

Fiscal Year 2015 Appropriations Limit: Calculation

Based on the provisions in Article XIIB of the California Constitution as approved by the voters in November 1979, the appropriations limit for each succeeding year through 1987 is determined by the District's 1979 appropriations base times a cumulative composite factor. The base year was later revised to 1987. The cumulative composite factor consists of the product of:

- 1) The lesser of the relative year change in the all urban consumer price index (SF/Oakland/SJ CPI-U) or the California per capita personal income, and
- 2) At the District's discretion, the relative year-to-year change in District wide population, or the population for the District's county that has the highest assessed valuation. Election of the higher of the two growth factors results in a higher appropriations limit.

The District's appropriations limit for Fiscal Year 2015 is calculated on the basis of the urban consumer price index (CPI-U SF/Oakland/SJ) and Alameda County population gains. Steps in the calculations are as follows:

Relevant data, percent change:

- CPI-U SF/Oakland/SJ, 2.4469% (applies this year per option 1 above)
- Population Change, Alameda County, 1.4925% (applies this year per option 2 above)

District Population

	<u>As of 1/1/13</u>	<u>As of 1/1/14</u>	<u>% Change</u>
Alameda	1,550,119	1,573,254	1.4925%
Contra Costa	1,076,429	1,087,008	0.9828%
<u>San Francisco</u>	<u>826,003</u>	<u>836,620</u>	<u>1.2853%</u>
Total	3,452,551	3,496,882	1.2840%

FY15 Cumulative Adjustment Factor:

CPI-U SF/Oakland/SJ	x	Population Factor	=	Current Adjustment Factor
(1 + 2.4469%)	x	(1 + 1.4925%)	=	1.0398
Current Adjustment Factor	x	Prior Year Adjustment	=	Cumulative Adjustment Factor
1.0398	x	2.7938	=	2.9049

FY15 Appropriations Limit:

FY87 Appropriations Base	x	FY15 Cumulative Adj Fctr	=	FY15 Appropriations Limit
181,568,000	x	2.9049	=	<u>\$527,436,883</u>

ATTACHMENT 2

FY15 PROPOSITION 4 APPROPRIATIONS LIMIT

Whole Dollars, as of 05/01/14

LIMIT		NOTES & COMMENTS
CPI-U	2.4469%	CPI-U for SF/OAK 2/14 vs 2/13
Per Capita Personal Income delta FY14>FY15	-0.2300%	State DOF Price & Population Information, 5/1/14
District Population Growth	1.4925%	Districtwide growth is based on Alameda County
Annual Adjustment Factor	1.0398	[1+(CPI -U)*[1+(Alameda population growth)]]
Cumulative Adjustment Factor	2.9049	(Current year factor)*(prior year cumulative factor)
Appropriations Limit	\$527,436,883	(FY87 base appropriations) x (cumulative factor)
APPROPRIATIONS		
Operating Budget		
Operating Expenses	\$598,416,696	FY15 Prelim Operating Budget
Operating Subtotal	\$598,416,696	"
Operating Allocations		
Allocation to SOG/Rail Car Phase I	\$45,000,000	"
Rail Car Fund Swap to MTC Reserve	\$77,000,000	"
Misc. Capital Allocations	\$7,004,591	"
Other Capital Allocations	\$70,653,521	"
Operating Allocations Subtotal	\$199,658,113	"
Capital Allocation To Operating		
Capital Budget		
Funded	\$711,530,566	FY15 Proposed Capital Budget
Unfunded	\$0	"
Subtotal	\$711,530,566	"
Less Funded Pass Through	(\$269,395,877)	"
Less Unfunded Pass Through	\$0	"
Subtotal	(\$269,395,877)	"
Net Capital Expense	\$442,134,689	"
Debt Service:		
Debt Service	\$55,987,840	FY15 Prelim Operating Budget
GO Seismic Bonds	\$22,936,278	Per Treasury, GO Debt schedule
Debt Service Subtotal	\$78,924,118	
Total Operating & Capital Appropriations	\$1,319,133,615	
EXCLUSIONS		
Allocation from Reserves	\$0	FY15 Prelim Operating Budget
ADA Mandated Service Expense	\$13,369,490	"
Net Operating Revenue:		
Net Passenger Revenue	\$440,822,613	"
Other Operating Revenue	\$46,324,072	"
Subtotal	\$487,146,685	"
Other Allocations (Access Fund)	\$0	"
Federal Operating Funds	\$77,000,000	"
Federal Capital Funds:		
Funded	185,781,403	FY15 Proposed Capital Budget
Unfunded	\$0	"
Subtotal	\$185,781,403	
Debt Service (GO Seismic Bonds)	\$22,936,278	Per Treasury, GO Debt schedule
GO Bond Capital Funds	\$98,098,430	FY15 Proposed Capital Budget
BART Capital Funds	\$61,688,602	"
Total Exclusions	\$946,020,887	
MARGIN		
Appropriations Limit	\$527,436,883	Per above
Expenditures Subject to Limit	\$373,112,728	Appropriations less exclusions, per above
Margin	\$154,324,155	Appropriations less expenditures subject to limit
RESIDENT POPULATION**		
Alameda		
Population	1,573,254	State DOF Price & Population Information, 5/1/14
Percent Change	1.4925%	
Contra Costa		
Population	1,087,008	State DOF Price & Population Information, 5/1/14
Percent Change	0.9828%	
San Francisco		
Population	836,620	State DOF Price & Population Information, 5/1/14
Percent Change	1.2853%	
District Total		
Population	3,452,551	Sum of population for BART counties
Percent Change	1.2840%	Percent increase

**Population Estimate as of 1/1/14. Population estimate is "total population" and includes military and other temporary residents. Per State Department of Finance, prior year City and County population estimates may be revised.

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

In the Matter of the Establishment
Of the Fiscal Year 2015
Appropriations Limit

Resolution No. _____

WHEREAS, Article XIII B of the California Constitution limits the District's appropriations for Fiscal Year 1981, and subsequent years; and

WHEREAS, Government Code Section 7910 requires the District to establish, by resolution, its appropriations limit pursuant to Article XIII B; and

WHEREAS, documentation used in the determination of the Fiscal Year 2015 appropriations limit has been available to the public for at least fifteen days prior to the date of this resolution;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Francisco Bay Area Rapid Transit District that the District's appropriations limit for Fiscal Year 2015 shall be \$527,436,883.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: May 16, 2014

FROM: General Manager

SUBJECT: FY14 Third Quarter Financial Report

The FY14 Third Quarter Financial Report (January - March 2014) is attached. The net operating results for the quarter were slightly unfavorable to budget by \$0.4 million (M), although the year-to-date result remains \$2.5M favorable.

Operating Sources

Ridership was 394,169 for the quarter, up 1.7% compared to one year earlier. Trips in January, February and March were 0.6%, 2.8% and 1.3% below budget, despite moderate ridership growth. Offsetting this is higher than budgeted fare revenue due to better than expected growth in passenger trip length and actual average fare.

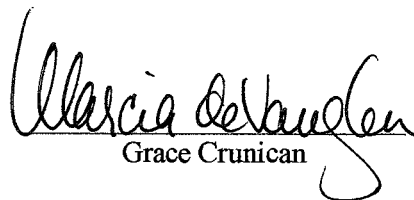
Sales Tax revenue in the third quarter of FY14 grew 8.6% from one year earlier and finished \$2.4M over budget, resulting in year-to-date growth up 5.9%.

State Transit Assistance was \$4.9M over budget for the quarter, which was due to the timing of MTC payments; however we do expect to be favorable to budget (by a lesser amount) at year end.

Operating Uses

Labor and benefits were unfavorable by \$9.4M (9.5%) for the quarter. Labor costs included wage increases retroactive to July 1, 2013 for represented employees, and non-represented employee increases effective January 1, 2014. **Purchased Transportation** was unfavorable year-to-date due to \$1.7M of additional bus service provided during the strikes, and does not yet include \$0.7M that will be reimbursed by MTC. **Other Non-Labor** was unfavorable by \$1.6M, but is still favorable year-to-date by \$5.6M due to timing of actual expenses as compared to the budget. The large favorable variance is not expected to last, as the non-labor budget has been tight for a number of years due to increasing system maintenance costs.

To date, both operating revenue and expenses are unfavorable to budget, but the overall net result is slightly favorable due to sales tax assistance. However, non-labor spending typically accelerates during the last part of the year. With the budget this tight, any over budget expenses may create an unbalanced budget by year end and require use of operating reserves.


Grace Crunican

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

Quarterly Financial Report
Third Quarter
Fiscal Year - 2014

	Current Quarter		Year to Date	
	Budget	Actual	Budget	Actual
Revenue				
Net Passenger Revenue	101.6	103.3	306.8	304.1
Parking Revenue	5.4	5.3	14.5	14.3
Other Operating Revenue	4.9	5.2	14.7	15.9
Total Net Operating Revenue	111.8	113.9	336.0	334.3
Expense				
Net Labor	99.8	109.2	294.5	303.7
OPEB Unfunded Liability	0.3	0.6	1.1	1.7
Electric Power	10.3	10.0	31.2	27.8
Purchased Transportation	4.1	4.2	12.2	14.0
Other Non Labor	24.8	26.4	78.9	73.3
Total Operating Expense	139.3	150.4	417.8	420.5
Operating Surplus (Deficit)	(27.5)	(36.5)	(81.8)	(86.2)
MTC Rail Fund Car Swap	(18.0)	(21.8)	(54.0)	(62.2)
Taxes and Financial Assistance				
Sales Tax	54.9	57.3	163.8	166.9
Property Tax, Other Assistance	2.1	2.9	19.6	21.3
MTC Rail Fund Car Swap	18.0	21.8	54.0	62.2
State Transit Assistance	4.7	9.6	9.4	9.6
Debt Service	(14.6)	(14.6)	(43.7)	(43.7)
Capital and Other Allocations	(11.4)	(11.1)	(73.5)	(72.1)
OPEB Unfunded Liability Offset	0.4	0.6	1.1	1.7
Net Financial Assistance	54.1	66.5	130.7	145.8
Net Operating Result	8.6	8.2	(5.1)	(2.6)
System Operating Ratio	80.3%	75.7%	80.4%	79.5%
Rail Cost / Passenger Mile	0.33 ¢	0.36 ¢	0.32 ¢	0.33 ¢

* Totals may not add due to rounding to the nearest million.

No Problem

Caution: Potential Problem/Problem Being Addressed

Significant Problem

Revenue

- Total ridership for the quarter was 1.6% below budget. Avg weekday trips were 394,169, growing 1.7% over the same quarter last year, lower than budget estimates of 2.8% growth. However, passenger revenue was favorable due to a combination of longer average trip length and other factors.
- Parking revenue was \$0.1M unfavorable due to lower daily non-reserve usage.

Expense

- Labor and benefits were over budget for the quarter, as unbudgeted pay increases were implemented, including retroactive payments for prior months.
- OPEB unfunded liability is shown as an expense and is offset; there is no bottom line impact.
- Purchased Transportation was unfavorable YTD due to strike bus service, at a cost of approximately \$1.7M; \$0.7M to be reimbursed by MTC.
- Electric Power favorable for the quarter and YTD due to market price of power lower than budget and GHG cost timing difference from budget.
- Other non labor spending caught up somewhat during the quarter, but remains below budget YTD, due to timing of budget vs. actual expense.

Operating Deficit

- Operating Deficit (revenue minus expense) was \$9.0M unfavorable for the quarter due to negative expense variances; unfavorable \$4.4M YTD.

MTC Rail Car Swap

- The MTC rail car fund swap is a funding exchange program between MTC and BART that does not affect the net operating result.

Financial Assistance and Allocations

- Sales Tax for the quarter grew 8.6% over 3QFY13. The quarter was \$2.4M favorable to budget.
- Property Tax/Other Assistance \$0.8M over budget due to timing of property tax and unbudgeted federal and local funds.
- STA \$4.9M over budget, expect to be over budget at year end.
- Capital and Other Allocations were \$0.3M under budget due to reverse capital allocations for rail car seats, which were budgeted as capital but are more properly classified as operating expenses.

Net Operating Result

- The Net Operating Result for the quarter was unfavorable by \$0.4M, as favorable Operating Revenue and Financial Assistance offset most of the negative expense results. YTD is favorable by \$2.5M, however the large non-labor positive timing variance is very likely to end up unfavorable by year-end.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Walter DeKoeber</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>5/14/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Catherine Westphall Dept. Marketing & Research <i>Catherine Westphall</i> Signature/Date: <i>5/13/2014</i>	General Counsel <i>Paul Powers</i> <i>5/13/2014</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i>	BARC <i>POWERS</i> <i>13 MAY 2014</i>

TITLE:

Amendment to Advertising Franchise Agreement to Convert Poster Ad Frames to Digital Screens

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute an amendment to an agreement with Titan Outdoor LLC to convert additional ad frames to digital screens. The amendment would become part of Agreement No. 6M7066 – Poster Advertising Franchise Services which ends September 30, 2018. The purpose of this amendment would be to increase the amount of ad revenue paid to BART. The amendment would neither modify payments owed to BART under the base Agreement nor extend the end date of the Agreement.

DISCUSSION:

BART currently generates advertising revenue from sale of static poster ads in stations and on trains. BART's Advertising Franchisee, Titan, has completed a one-screen demonstration of more modern digital advertising at Montgomery Station. The demonstration screen shows advertising mixed with news, weather, sports, BART messages, and other information, without audio.

Titan proposes to convert additional poster ad frames to digital screens, which would increase BART's advertising revenue. Titan will invest the capital to purchase and install the screens, including reimbursing BART for technical support. Upon termination of the agreement with Titan, the screens will vest to BART, allowing BART to continue generating revenue. Titan's proposal includes the following details:

- Titan would convert up to 34 existing poster ad frames to 17 digital screens.
- The additional screens would be located at Montgomery St., Powell St., and Embarcadero stations, resulting in a total of up to six screens per station.
- The screens would be located opposite each platform, on the cross-track walls where poster ads are currently displayed. Stations and locations are preliminary, pending final review by District engineers.
- Content on the digital screens would consist of 50% advertising, 10% BART messaging (such as bartable events and the BART poster series featuring local artists), and 40%

- other information (news, weather, sports, etc.).
- Content would be formatted as “limited motion” graphics.

During the one-screen demonstration, BART conducted a survey to gauge rider reaction to this new media. The survey was a random sampling of 415 riders viewing the screen on the Montgomery platform. A third party research firm administered the platform intercept surveys and provided the results which included the following:

- When initially asked their overall impression, 65% liked it, 29% were neutral, and 5% did not like it.
- When provided details of the proposal, 31% rated it “excellent”, 50% “good”, 16% “only fair”, and 4% “poor”.
- When asked the effect it would have on their trip, 64% said it would have little or no impact, 32% said it would make it better, and 4% said it would make it worse.
- Top mentioned positive comment: “Nice/interesting/good/like them” (21%)
- Top mentioned negative comment: “More news/information” (13%)

FISCAL IMPACT:

Titan would pay BART the greater of the Digital Minimum Annual Guarantee (Digital MAG); or the revenue share percentage (Revenue Share) net of sales commissions and capital recovery costs. Digital MAG payments have been set for each station as listed in the charts below. The Digital MAG will only be effective if all the displays at a particular station are installed with advertisements running by the following dates:

- Montgomery December 1, 2014
- Powell: March 1, 2015
- Embarcadero: September 1, 2015

If all displays are not installed and available to run ads at a particular station, then Digital MAG amounts would be pro-rated by month and number of displays running ads for any months after those dates. While each station has its own Digital MAG, all revenue generated from the sales of digital screen advertising will count against the annual cumulative Digital MAG for the three stations combined.

Montgomery

Contract Year	Revenue Share	Digital MAG
Partial Year 1 (Dec. 2014 – Sept. 2015)	30%	\$20,000
Year 2 (Oct. 2015 – Sept. 2016)	30%	\$40,000
Year 3 (Oct. 2016 – Sept. 2017)	30%	\$137,000
Year 4 (Oct. 2017 – Sept. 2018)	40%	\$179,000
TOTAL		\$376,000

Powell

Contract Year	Revenue Share	Digital MAG
Partial Year 1 (Mar. 2015 – Sept. 2015)	30%	\$10,000
Year 2 (Oct. 2015 – Sept. 2016)	30%	\$20,000
Year 3 (Oct. 2016 – Sept. 2017)	30%	\$110,000
Year 4 (Oct. 2017 – Sept. 2018)	40%	\$179,000
TOTAL		\$319,000

Embarcadero

Contract Year	Revenue Share	Digital MAG
Partial Year 1 (Sept. 2015)	30%	\$2,000
Year 2 (Oct. 2015 – Sept. 2016)	30%	\$10,000
Year 3 (Oct. 2016 – Sept. 2017)	30%	\$60,000
Year 4 (Oct. 2017 – Sept. 2018)	30%	\$125,000
TOTAL		\$197,000

Titan plans to invest \$1.6 million to purchase and install the digital screens and network. Titan will reimburse themselves for the capital costs out of the initial revenue generated, after payment of the Digital MAGs to BART.

As the screens will vest to BART upon termination of the current Agreement with Titan (no later than September 30, 2018), staff also estimated the revenue that could be achieved for BART by the successful bidder for a future Advertising Franchise Agreement. Continuing with the same rates of occupancy and growth as Titan used in their revenue proposal, and conservatively estimating future bids of 60% revenue share, the program would generate an estimated \$1 million per year by the eighth year of operation of the screens.

Titan is currently required to pay BART approximately \$9-12 million per year in ad revenue through September of 2018. This amendment would be to increase that amount of ad revenue paid to BART. The amendment will not modify payments owed to BART under the base Agreement or extend the end date of the base Agreement. Digital MAGs and revenue shares proposed by Titan take into consideration the loss of revenue from the 34 eliminated poster ad frames.

The amendment will be approved as to form by the Office of the General Counsel.

ALTERNATIVES:

The District could reject the Titan proposal and either wait to include digital screens in the Request for Proposals for the new Franchise Agreement in 2018 or discontinue consideration of the proposed conversion to digital screens.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to execute an amendment to Agreement No. 6M7066 – Poster Advertising Franchise Services with Titan Outdoor LLC, which is set to expire on September 30, 2018, to convert 34 poster ad frames to 17 digital screens.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marisa DeAngelo</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/14/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadelli Dept. <i>Paul Fadelli</i> Signature/Date:	General Counsel <i>Andrew Pappas</i> 5/12/2014	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>P. DeAngelo</i> 14 March 2014 []
Status: Routed		Date Created: 05/06/2014		

TITLE:

2014 State and Federal Legislation

NARRATIVE:

PURPOSE: To review with the Board state and federal legislative activity that supports BART Board goals.

DISCUSSION: In December 2013, the BART Board of Directors approved the following goals for state and federal legislative advocacy. Status of state legislation is included in Section A below, with bills signed into law, followed by the bills that are still being considered. State and federal bills for Board discussion and possible support are in Section B below.

BART STATE GOALS:

- (1) Protect Existing State Transit Funding
- (2) Continue Involvement and Support for Cap & Trade Fund Support for Transit
- (3) Work to Secure Dedicated Transit Funding
- (4) Work to Appropriate Funds from Propositions
- (5) Continue Efforts to Enhance Local Transit Revenue Opportunities
- (6) Monitor and Respond to Legislation Related to Labor Matters
- (7) Investigate/Pursue Issues Raised by BART Police
- (8) Support Efforts to Further Modernize CEQA to Benefit Transit Projects
- (9) Pursue Goal to Place Transit Operator on MTC
- (10) Monitor State Implementation of Pension Reform Laws
- (11) Support Oil Severance Legislation that Assists Transit & Energy Efficiency Programs

BART FEDERAL GOALS:

- (1) Continue Monitoring the Implementation of MAP-21
- (2) Participate in Next Reauthorization Effort
- (3) Seek Assistance, as Necessary, for New BART Railcars
- (4) Seek Funding for Security Needs
- (5) Support Re-Establishment of Transit Commuter Benefits

A. Status of 2013 BART Board Supported State Legislation

- **SIGNED INTO LAW SB 142 (DeSaulnier) Transit Benefit Assessment Districts: (BART Sponsored)** authorized that all transit agencies in the state may establish and implement “benefit assessment districts” as a way of financing local infrastructure projects.
- **SIGNED INTO LAW Assembly Bill (AB) 210 (Wieckowski) Transactions and Use Taxes: County of Alameda and the County of Contra Costa:** extends the authority of Alameda County, and authorizes Contra Costa County, to impose transactions and use tax for countywide transportation programs until December 31, 2020.
- **SIGNED INTO LAW AB 417 (Frazier) Bike CEQA Exemption:** exempts from CEQA, until January 1, 2018, any bicycle transportation plan for an urbanized area, but requires that the local agency file a notice of the determination with the county clerk.
- **Senate Bill (SB) 1 (Steinberg) Sustainable Communities Investment Authority:** seeks to address the post-redevelopment environment in the state by establishing a new process that would raise revenue for infrastructure projects while also assisting the implementation of SB 375 (Sustainable Communities and Climate Protection Act). (Passed Assembly, on inactive file.)
- **SB 33 (Wolk) Infrastructure Finance Districts:** would revise the broad provisions establishing Infrastructure Financing Districts (IFD) in the state, allowing IFDs to be developed for many types of projects without a local vote. This bill could also benefit the creation of IFDs for local transit priority projects. (On Assembly floor, inactive file.)
- **SB 391 (DeSaulnier) California Homes and Jobs Act of 2013:** would enact the “California Homes and Jobs Act of 2013” and impose a \$75 fee to be paid on every real estate document or notice required by law. The revenue raised would go to help finance affordable housing programs in the state. (In Assembly Appropriations Committee, suspense file.)
- **SB 628 (Beall) Infrastructure Financing: transit priority projects: (BART Sponsored)** would eliminate the existing voter approval requirement for the creation of an Infrastructure Finance District (IFD) and the issuance of bonds specifically for a transit priority project. This bill would allow cities and counties to more easily create an IFD that assists transit infrastructure projects. (In the Senate for concurrence with Assembly amendments.)
- **SCA 4 (Liu) and**
- **SCA 8 (Corbett) Transportation Projects: Special Taxes & Voter Approval:** would both provide that any extension or increase of a special tax by a local government for the purpose of providing funding for transportation projects would require the approval of 55% of its voters voting on the proposition -- instead of the existing 2/3 requirement. (In Senate Appropriations Committee)
- **SB 962 (Leno) Smartphone Kill Switch :** Would require that any advanced mobile communications device sold in California on or after January 1, 2015, must include a technological solution that can render inoperable the essential features of the device (software,

hardware, or both software and hardware) when the device is not in the possession of the rightful owner. The bill would require that the technological solution be able to withstand a hard reset, as defined. In March, at the request of the author, BART took a *support* position on this bill.
(Passed the Senate)

B. State Legislation for BART Board Review

For Support:

- **General Approach to Cap & Trade Expenditure Plan:** The Board has expressed support that BART remain active in ongoing legislative efforts to seek a secure funding source for public transit through the Cap & Trade program as it continues to increase state revenue to assist in Greenhouse Gas (GHG) emission reduction. Amidst a variety of budgetary issues being discussed in the capitol (including the Governor's request for a significant "rainy day" fund) there are many Cap & Trade revenue proposals also being debated that may not presently be in legislative form, but could soon be part of a budget trailer bill.

The fluid environment on Cap & Trade funding includes the following major components:

- **Gov. Brown's Budget:** The Governor's 2014 - 2015 budget included an initial proposal for \$850 million that would be spent on efforts to reduce GHG emissions statewide. His budget proposes that \$100 million be distributed by the Strategic Growth Council to implement "Sustainable Communities" projects (implementing SB 375 and affordable housing, etc.); \$300 million for "Rail Modernization" (\$250 Million for High Speed Rail and \$50 million for rail "connectivity" grants); and \$200 million for "Low Carbon Transportation" projects. **Issues:** most transit agencies have expressed the concern that there is not enough funding proposed for transit and that the state-centric control of funding does not assist transit or regional GHG efforts.
- **Sen. Steinberg's Cap & Trade Proposal:** This year, in lieu of Cap & Trade funds for transit, Senator Steinberg introduced an alternative bill (SB 1156) that would have created a carbon tax, where collected revenue would be rebated to low and medium income taxpayers and a specific amount distributed to transit in the state. However, because the bill received strong opposition Steinberg decided, instead, in April to announce his vision for a Cap and Trade revenue strategy at a Capitol press conference where BART participated. He said his goal was to establish a "Long-Term Investment Strategy for Cap & Trade Revenue" that would be favorable toward "sustainability," transit, transportation, and housing programs tied directly to efforts to reduce greenhouse gas emissions. The Steinberg approach would basically provide the following from the total annual Cap and Trade revenues collected:
 - **30% for Transit capital and operations** distributed based on competitive greenhouse gas (GHG) performance criteria. At least 5% would be reserved for transit connectivity projects and at least 5% reserved for "direct transit assistance to consumers" (such as subsidized transit passes).
 - **40% for Affordable Housing & Sustainable Communities Implementation** with at least 50% of that amount reserved for affordable housing in transit oriented developments. Other eligible categories would include "active transportation, transportation efficiency and demand management projects."

- **20% for High Speed Rail** to be continuously appropriated and made available for bond payments.
- **10% for Complete Streets, including State Highway System preservation** where projects would include traffic management, road repair, bikeways, retrofit of roads and highways.

Issues: This proposal has not yet been put into legislation. While transit, housing and environmental advocates agree that the Steinberg proposal is advantageous in setting a framework for future Cap & Trade spending, transit advocates have raised concerns as to (1) when and how this plan might be enacted and implemented, (2) whether approving project funding should be centered at the state level or regionally, and (3) whether transit funding for projects would be determined on a competitive or formula grant basis.

- **Sen. Beall's Proposal:** As Chair of the Senate Budget subcommittee with oversight of transit programs, Senator Beall of San Jose can influence policy involving Cap & Trade funding for public transit. Like Sen. Steinberg, he has stated that he wants to assist unmet transit funding needs through the Cap and Trade program revenues. But Beall is promoting a different type of program from Sen. Steinberg or the Governor. Beall wants to assist transit by helping to annually finance large transit projects from Cap & Trade funds on an ongoing basis. He has requested that rail provide priority projects to his staff that would assist in GHG reduction. BART has complied by proposing that the Hayward Maintenance Complex be considered should his efforts to include such a program in the budget be accepted. **Issues:** This proposal has not been put into legislation yet. Sen. Beall's proposal is contrary to other Cap & Trade proposals described and may make agreement on how to proceed by leadership more difficult.

As Cap & Trade negotiations continue in the capitol, many believe that Governor Brown, as a popular governor headed for re-election (who continues to prioritize High Speed Rail), may have the advantage in determining what will be in the 2014 - 2015 budget with respect to Cap & Trade expenditures – even as proposals to lock in funding priorities for outlying years continue to evolve. Working with a variety of transit agencies and stakeholders BART is continuing to focus on efforts to:

- Assure the highest percentage possible for Cap & Trade transit funding;
 - Encourage distribution of Cap & Trade funding to regional (MPO) distributors;
 - Seek acceptance of a funding formula that allows for a direct allocation of Cap and Trade revenues to transit in lieu of additional competitive thresholds. (i.e., project acceptance in Regional Transit Plan (RTP) should suffice).
 - Support affordable housing programs that assist sustainability projects and TOD development.
- **SB 1017 (Evans) Oil Severance -- (if amended)** This bill would impose an oil and gas severance tax upon any operator for the privilege of severing oil or gas from the earth or water in this state for sale, transport,, consumption, storage, profit, or other use. The tax would be 9.5% of the average price of a barrel of oil and 3.5% of the unit price of natural gas. The tax would be

administered by the State Board of Equalization with 50% of the proceeds allocated to higher education and 25% each to parks and healthcare programs. The BART Board stated it wanted to seek an oil severance bill to assist in funding energy efficiency and transit projects. BART reached out to Senator Evans, who welcomed the discussion but sought a dialogue with the broader transit community versus a single agency. The bill faces strong legislative and stakeholders opposition and Governor Brown has made statements believed to be unfavorable to the imposition of any new taxes in 2014. These factors may be elements as to why other transit agencies have not coalesced behind an effort to seek inclusion in the bill and instead have concentrated resources and efforts on the Cap and Trade funding process for potential future revenues. Senator Evans' similar legislation was held under submission by the Senate Appropriations Committee in 2013.

- **SB 1077 (De Saulnier) VMT Study:** SB 1077 would require the Department of Motor Vehicles to develop and implement, by July 1, 2015, a *pilot program* designed to assess specified issues related to implementing a vehicle-miles-traveled fee in California. The bill would require the department to prepare and submit a specified report of its findings to the policy and fiscal committees of the legislature no later than June 30, 2016. The author considers this program to be a first step – similar to one Oregon took more than a decade ago – to possibly move toward a “road usage charge program” to deal with declining transportation revenues from gas taxes. The bill would require these provisions to be repealed on January 1, 2018. While all gas tax alternatives have their detractors, the Board has supported exploring alternatives to assist in eventually establishing a secure revenue stream for transit development.
- **SB 1122 (Pavley) Strategic Growth Council; Distribution of Cap & Trade Funds:** Existing law authorizes funds from the Greenhouse Gas Reduction Fund (GGRF) to be allocated through specified investments to reduce greenhouse gas emissions. SB 1122 would authorize the Strategic Growth Council (SGC) to expend funding from the GGRF to support a variety of programs including a *regional grant program* and to develop methods to evaluate project effectiveness for reducing GHG emissions. In addition, the SGC would be required to work with local MPOs and the ARB to establish standards for integrated modeling and measurement methods to assist in such evaluations. This bill specifies that eligible uses of the funding distributed by SGC include public transportation, facilities for bicyclists, pedestrians, clean transportation fueling infrastructure and transportation network and demand management, among other priorities, to reduce GHG. While there are still many unknowns in the context of the ongoing major negotiations on how Cap & Trade funding will be distributed this year in Sacramento, and there are several questions left unanswered about how this bill would require SGC to select specific projects, SB 1122 supports many key BART priorities and this Board’s goal of establishing a regional grant program to assist in reducing GHG emissions.
- **SB 1154 (Hancock) AB 716/Domestic Violence: (BART Sponsored)** SB 1154 seeks to clarify that BART police officers have the authority to issue Emergency Protective Orders (EPO) for individuals in a domestic violence situation within the transit system, and that they can confiscate weapons while investigating such circumstances. In the first six months that the BART police implemented the provisions of the AB 716 prohibition order program, it found that the greatest number of crimes they had to deal with involved domestic violence incidents. SB 1154 makes clear that BART Police are included in the definition of officers under the general provisions of law enforcement response to domestic violence, and clarifies that they have the authority to issue EPOs, and take temporary custody of firearms or deadly weapons while

conducting domestic violence investigations. SB 1154 would also extend the existing sunset on the AB 716 act (that would have expired on January 1 2015) to January 1, 2018. This bill has passed the state Senate.

- **AB 1970 (Gordon) Community Investment & Innovation Program:** Similar to SB 1122 (above) this bill seeks to provide greater access at the regional level to Cap & Trade funding for projects that will reduce GHG. The “Community Investment and Innovation Program” (CIIP) focuses on local government entities (including “special districts” like BART) and would require the SGC to work with the Air Resource Board to provide grants and other financial assistance so they can develop and implement GHG emissions reduction projects. While there are still many unknowns in the context of the ongoing major negotiations on how Cap & Trade funding will be distributed this year in Sacramento, and there are several questions left unanswered about how this bill would require SGC to select specific projects, AB 1970 supports many key BART priorities and this Board’s goal of establishing a regional grant program to assist in reducing GHG emissions.
- **AB 2582 (Bonta) BART Health Pension Changes (BART Sponsored):** This bill would authorize BART to make employer contributions for postretirement health benefits in ways agreed to in the recently ratified collective bargaining agreements. For those employees who are first hired on or after January 1, 2014 (including non-represented employees, represented employees whose agreements reflect these terms, and members of the District Board first elected on or after January 1, 2014 to the extent they are eligible for contributions under existing law) this bill would limit the percentage of the employer contribution to 50% of the employer contribution for 10 years of credited service with the District, increasing incrementally by 10% each credited year of service, and reaching 100% of the employer contribution if the annuitant attained 15 years of credited service. This bill has passed the Assembly.

C. Federal Legislation for Board Review

For Support:

- **HR 3518 (Swalwell) CA Redevelopment Districts.** This bill responds to the dismantling of the redevelopment agencies in California and is called the “Restarting Local Economies Act of 2013.” HR 3518 would provide greater economic opportunities for those government entities, like counties, who experience a specific economic challenge (like dissolving redevelopment districts and their projects). HR 3518 would allow greater access to federal grants (up to 100%) for projects where the Secretary of Transportation has determined a community has been hurt economically by the closure of an entity that had a local economic mission. The author has stated this bill could assist in areas where Transit Oriented Development (TOD) and affordable housing developments could have been impacted.
- **S. 2031 (Klobuchar) Smartphone Theft Prevention Act** – This bill amends the Communications Act of 1934 to require commercial mobile service providers to make available on mobile devices a function that an account holder may use remotely to: (1) delete or render inaccessible all information relating to the account holder that has been placed on the device; (2) render the device inoperable on the global networks of such service providers, even if the device is turned off or has the data storage medium removed; (3) prevent the device from being reactivated or reprogrammed without a passcode or similar authorization after the device has

been rendered inoperable or has been subject to an unauthorized factory reset; and (4) reverse any such actions if the device is recovered by the account holder. At the state level, BART supports Sen. Leno's bill (SB 962, above) to require smart phone *manufacturers* to provide a mechanism on the phone that would make it stop working if the phone is taken from its original owner. Through federal legislation, S. 2031 would require similar protections from service *providers* ways that could likewise assist BART police in their efforts to abate rising theft of smartphones on BART.

- **S.2275 (Schatz) the Transit-Oriented Development Infrastructure Financing Act** – This bill seeks to help make TOD more accessible to the Transportation Infrastructure Finance and Innovation Act (TIFIA). It would reduce the existing minimum loan numbers of \$50 million for areas with populations over 250,000 and \$25 million for areas under 250,000 to a minimum cost threshold of \$10 million for TOD infrastructure projects. This bill would allow local governments greater opportunity to invest in TOD projects and enter into public/private partnerships in ways that will support federal loans under TIFIA.

FISCAL IMPACT:

N/A

ALTERNATIVE:

The Board could decline to support the specific state and federal goals and/or the legislation listed for review.

RECOMMENDATION:

That the Board approve the following motions.

MOTION:

The Board support the state legislation, as recommended by staff.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Debra Schneider</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>5/14/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Roger White Dept: Treasury, extension 6681	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>R White 5/9/14</i>	<i>[Signature] 5/14/14</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature] 5-14-14</i>
TITLE:				

Extension of Agreement No. 6M2021 with Giesecke & Devrient America, Inc.

NARRATIVE:

Purpose:

To obtain authorization for the General Manager or her designee to execute a Change Order to extend Agreement No. 6M2021 with Giesecke & Devrient America, Inc. (G&D) for maintenance and repair services, including software, for the two currency processing systems located at the Cash Handling Building (CHB) (Agreement No. 6M2021), for one year, at a cost of \$154,434, and to exercise an option to continue such services for up to six additional months on a month to month basis at a cost of \$13,513 per month.

Discussion:

In 1999, the District purchased a single currency processing system consisting of a high-speed currency processing machine, an integrated reconciliation program, a work station, and a commercial-grade air compressor. The high-speed currency processing system verifies, counts, sorts, bands, and reconciles paper money (bills) collected from the automatic fare collection equipment and other sources. The system also sorts 'fit' bills for recycling in the District's bill changer machines. A second currency processing system was purchased in 2002. These two systems are vital to the CHB operations and are operated six days a week. Both systems have been maintained by G&D, the original equipment manufacturer, under Agreement No. 6M2021, which expires on June 30, 2014. The Agreement provides for on-site support for operating problems, repairs as necessary, extended preventative maintenance, software and integrated systems support, telephone support, and replacement parts.

BART will be starting the process of procuring new high speed currency processing systems, as the existing machines are outdated and parts are no longer readily available. The process is estimated to take up to 18 months which includes the development of the specifications, procurement and bid process and for the chosen vendor to build and install machines at CHB. An extension of Agreement No. 6M2021 is required to provide services until new, state-of-the-art high speed currency processing equipment can be procured and placed into service.

The negotiated price for extension of Agreement No. 6M2021 for up to a 18 month period will not exceed \$235,512. Staff has determined that the price is fair and reasonable based upon prior purchase history and further price analysis.

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

Fiscal Impact

Year 1	\$77,217 x 2 machines = \$154,434
6 months	6,756.5 x 2 machines = \$13,513 x 6 months = \$81,078

Total Not-to-exceed amount for up to one extension year and up to six additional months: \$235,512

Funds to extend Agreement No. 6M2021 for FY15 and FY16 will be made available from the Treasury Department's operating budget.

Alternatives:

There are no known alternatives. Maintenance and repair by BART staff is not possible due to proprietary software, parts, and technical services required for these systems.

Recommendation:

Adoption of the following motion.

Motion:

The General Manager or her designee is authorized to execute a Change Order to extend Agreement No. 6M2021 with Giesecke & Devrient America, Inc., for a period of one year at a cost not to exceed \$154,434, and to exercise an option to extend the Agreement on a month to month basis for up to six additional months at a cost not to exceed \$81,078, for a total not to exceed cost of \$235,512 for the extension year and up to six additional months.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors for Action		
DATE: c 5/2/14		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept: P&D <i>[Signature]</i> Signature/Date: 4/30/14	General Counsel <i>[Signature]</i> 4/30/14	Controller/Treasurer <i>[Signature]</i>	District Secretary	BART <i>[Signature]</i>

Award of Contract No. 04SF-130 for Construction of East Contra Costa BART Extension Project Trackwork, Systems, and Facility Finishes

NARRATIVE

PURPOSE

To obtain Board authorization for the General Manager to Award Contract No. 04SF-130, Construction of East Contra Costa BART Extension Project Trackwork, Systems, and Facility Finishes to Stacy and Witbeck/Amoroso/Modern Railway Systems, a Joint Venture, and authorization for the General Manager to exercise Options 1, 2, and 3 for the Pittsburg Civic Center Station, Y1 and Y2 track extensions, and Maintenance of Way track, respectively.

DISCUSSION

Contract No. 04SF-130 provides for the construction of trackwork, systems, and facility finishes for the East Contra Costa BART (eBART) Project and three Options. Option 1 for the construction of the Pittsburg Civic Center Station, Option 2 for the construction of Y1 and Y2 track extensions, and Option 3 for the construction of the Maintenance of Way track.

The eBART Project consists of an approximately ten-mile extension of the BART System, using Diesel Multiple Unit (DMU) technology, from the existing Pittsburg/Bay Point BART Station to a station in the median of State Route 4 (SR4) in the vicinity of Hillcrest Avenue in the City of Antioch. The Project adopted by the BART Board on April 23, 2009 included a transfer platform immediately east of the existing BART Pittsburg/Bay Point Station, ten miles of track in the SR4 median, a new station at Railroad Avenue (Pittsburg Civic Center Station) in Pittsburg, a new station (Antioch Station) at Hillcrest Avenue in Antioch, tail tracks in the median east of Hillcrest Avenue and a maintenance facility and parking lot on the northeast side of the SR4 interchange with Hillcrest Avenue.

On April 28, 2011, the BART Board of Directors approved an Addendum to the Final Environmental Impact Report (FEIR), authorizing the revision of several aspects of the Project (the Revised Project). The Revised Project takes a phased approach, with all elements of the Project, excluding the Pittsburg Civic Center Station, to be constructed as the first phase. The Pittsburg Civic Center Station would be constructed at a later time if funding becomes available.

The procurement for Contract No. 04SF-130 was undertaken as a two-step sealed Bid process by which minimum technical requirements necessary for the performance of the work were evaluated by a Selection Committee prior to the opening and disclosure of Price Bids. Price Bids for those determined to be technically qualified to perform the work were publicly opened and publicly announced.

The Bid was advertised in various publications on January 22, 2014 with a Pre-Bid Meeting held on February 12, 2014. An outreach meeting was held on February 25, 2014. The Bid Documents were purchased by 63 prospective Bidders and distributed to 23 plan rooms. A total of four (4) Bids were received on April 15, 2014 from: Balfour Beatty Infrastructure, Inc., San Francisco, CA; Shimmick Construction Company, Inc., Oakland, CA; Skanska USA Civil West California District, Inc., Riverside, CA; and Stacy and Witbeck/Amoroso/Modern Railway Systems, a joint venture, Alameda, CA. As part of the first step in the two-step award process, the Selection Committee, composed of District Staff, and consultants, evaluated the Technical Qualification Bids received to determine if they met the Minimum Technical Requirements set forth in the Contract Documents, on a pass/fail basis.

The Selection Committee determined that the Bid submitted by Shimmick Construction Co. did not meet the Minimum Technical Requirements provided in the Bid Documents regarding the signaling system and track installation and therefore was found to be unacceptable, and will no longer be considered for Award. Its Price Bid will be returned unopened after the Contract has been Awarded.

The remaining three Bidders were determined to have submitted acceptable Technical Qualification Bids and were notified on April 18, 2014 of the time and place of the Price Bid opening. On April 22, 2014, the sealed Price Bids were publically opened and are shown below. The apparent low Bidder is Stacy and Witbeck/Amoroso/Modern Railway Systems, a joint venture (Stacy). The tabulation of the Price Bids, including Options 1, 2, and 3 and the Engineer's Estimate are shown below.

BIDDER	BASE BID AND OPTION BID PRICES	TOTAL BID PRICE (including Options 1, 2 and 3)
Balfour Beatty Infrastructure Inc.	Base Bid: \$76,882,940 Option 1: \$6,850,000 Option 2: \$ 185,000 Option 3: \$ 240,000	\$84,157,940
Skanska USA Civil West California District, Inc.	Base Bid: \$99,164,000 Option 1: \$6,905,000 Option 2: \$ 500,000 Option 3: \$ 430,000	\$106,999,000
Stacy and Witbeck/Amoroso/MRS, JV	Base Bid: \$78,318,000 Option 1: \$4,760,000 Option 2: \$ 290,000 Option 3: \$ 309,000	\$83,677,000

Engineer's Estimate

\$86,602,797

The apparent low Price Bid submitted by Stacy is 3% below the Engineer's Estimate. Price Bids were evaluated on the basis of the total Bid Price which included the Price Bid for Options 1, 2, and 3, as provided in the Contract Documents. Staff determined that the total Bid Price of \$83,677,000 submitted by Stacy, is fair and reasonable based upon adequate price competition and is responsive to the solicitation. A review of the business experience and financial capabilities resulted in a determination that Stacy is responsible.

Pursuant to the District's Non-Discrimination in Subcontracting Program, the availability percentages for this Contract are 23% for Minority Business Enterprises (MBEs) and 12% for Women Business Enterprises (WBEs). The Bidder committed to 18.85% for MBEs and 32.23% for WBEs. The Bidder did not meet the MBE percentage, therefore the Bidder was requested to provide the District with

information to determine if it had discriminated. Based on the review of the information submitted by the Bidder, the Office of Civil Rights found no evidence of discrimination.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 22% Small Business (SB) Participation Goal for this Contract. Bidders who meet the SB Participation Goal are eligible for a Small Business preference of 5% of the lowest responsible Bid, up to a maximum of \$1 million. None of the three responsible Bidders met the SB Participation Goal and they are not eligible for the 5% SB preference. Therefore, the SB Program will not alter the award to Stacy.

FISCAL IMPACT

Funding of \$78,318,000 for the award of Base Contract No. 04SF-130 is included in the total project budget for FMS #04SF130 – eBART Trackwork, Systems, and Finishes. The Office of the Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project since April 2014, 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 Number	Fund Description	Fund Source	Funded Amount
6512	City of Pittsburg MOU	Local	\$2,000,000
6644	CCTA Reso 13-49P (Mea J)	Local	\$30,856,000
6407	MTC AB1171 Alloc #14391432	Regional	\$7,944,000
6104	MTC RM1 Alloc #14383306	Regional	\$4,000,000
535A	Prop 1B (FY10/11)	State	\$13,000,000
6645	ECCRFFA	Local	\$20,518,000
Total			\$78,318,000

As of April 25, 2014, \$78,318,000 is the total budget for this project. BART has expended \$0, committed \$0 to date for other actions. This action will commit \$78,318,000 leaving an available fund balance of \$0 balance in this project.

There is no fiscal impact on available unprogrammed District Reserves.

ALTERNATIVE

The Board may decline to authorize award of the Contract. If the Contract is not awarded, BART will be unable to construct the eBART Project Extension at this time. In addition, failure to award this Contract will prevent the District from complying with the coordination required between this Contractor and the recently awarded eBART Vehicle Supplier.

RECOMMENDATION

It is recommended that the Board adopt the following motion:

MOTIONS

The General Manager is authorized to award Contract No. 04SF-130, for the Construction of East Contra Costa BART Extension Project Trackwork, Systems, and Facility Finishes to Stacy and

Witbeck/Amoroso/Modern Railway Systems, a Joint Venture, for the Total Base Bid Price of \$78,318,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures. The General Manager is also authorized to exercise Option 1 for Pittsburg Civic Center Station for the Total Option 1 Bid Price of \$4,760,000, and Option 2 for Y1 and Y2 Track Extensions for the Total Option 2 Bid Price of \$290,000, and Option 3 for Maintenance of Way Track for the Total Option 3 Bid Price of \$309,000, subject to certification from the Controller-Treasurer of the availability of funding.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia de Vaugden</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: <i>5/14/14</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: <i>Kirtland Smith</i>	General Counsel <i>Michelle Laera</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[]</i>	BARC <i>[]</i>
Dept: <i>KS</i>	Signature/Date: <i>5-7-14</i>	<i>5/7/14</i>	<i>[]</i>	<i>[]</i>
Status: Draft		Date Created: 05/07/2014		

Invitation for Bid No. 8931: Procurement of Axle Bearings

NARRATIVE:

Purpose:

To authorize the General Manager to award Invitation for Bid No. 8931, for the purchase of axle bearings, to Jamaica Bearings.

Discussion:

Each District revenue vehicle is equipped with four (4) axles and each axle is equipped with two (2) axle bearings. The axle bearings have a serviceable life limit of five (5) years and are scheduled for replacement as part of the 5-year truck overhaul program. This procurement provides sufficient stock within the District's inventory to support this overhaul.

This is a three (3) year estimated quantity contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract the District is required to purchase from the Supplier a minimum amount of fifty percent (50%) of the contract bid price. Upon Board approval of this Contract, the General Manager will also have the authority to purchase up to 150 percent of the contract bid price, subject to availability of funding

A notice requesting bids was published on February 12, 2014 and bid requests were mailed to eighteen (18) prospective bidders. Bids were opened on March 11, 2014 and three (3) bids were received.

<u>Bidder</u>	<u>Unit Price</u>	<u>Total (including 9.00% Sales Tax)</u>
Jamaica Bearings New Hyde Park, NY	<u>5000ea</u> \$399.00	\$2,174,550.00
SKF USA Inc Lansdale, PA	\$498.00	\$2,714,100.00
Motion Industries Hayward, CA	\$484.69	\$2,641,560.00

Independent cost estimate by BART staff: \$ 2,180,000.00 including all applicable taxes.

Staff has determined that the apparent low bidder, Jamaica Bearings, submitted a responsive bid and based on comparison with Staff's independent cost estimate, concluded that the bid pricing is fair and reasonable.

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

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% prime preference for this contract. The responsive bidders are not certified small businesses and therefore are not eligible for the 5% small business preference.

Fiscal Impact:

Funding will be provided from the General Fund, Materials & Supplier Inventory build-up account (140-010). The Axle Bearings are scheduled to be procured over the contract's thirty six (36) month period at the following estimated annual costs:

FY15 \$ 724,850.00

FY16 \$ 724,850.00

FY17 \$ 724,850.00

Alternative:

Reject all Bids and re-advertise the Contract which is not likely to lead to increased competition or lower prices.

Recommendations:

It is recommended that the Board adopt the following motion.

Motion:

The General Manager is authorized to award Invitation for Bid No. 8931, an estimated quantity contract for Axle Bearings, to Jamaica Bearings, NY for the bid price of \$ 2,174,550.00, including all taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.