

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

BOARD MEETING AGENDA

July 23, 2015

5:00 p.m.

A regular meeting of the Board of Directors will be held at 5:00 p.m. on Thursday, July 23, 2015. This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20 th Street Mall – Third Floor 344 – 20 th Street Oakland, CA 94612	Washington Court Hotel 525 New Jersey Avenue, NW Washington, DC 20001
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Members of the public may address the Board of Directors regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

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

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

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

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

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

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email (https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904) or via regular mail upon request submitted to the District Secretary. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting.

Please submit your requests to the District Secretary via email to BoardofDirectors@bart.gov; 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.
 - i. Olivia Rocha, Computer Support Coordinator, Office of the Chief Information Officer.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of June 25, 2015.* Board requested to authorize.
- B. Appointment of District 8 Representative to the Citizen Review Board.* Board requested to ratify.

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 Keller, Chairperson

- A. Fares for Warm Springs/South Fremont BART Station.* Board requested to adopt. (TWO-THIRDS VOTE REQUIRED.)
- B. Title VI Equity Analysis for January 1, 2016, Fare Increase.* Board requested to approve.
- C. Agreements with Public and Private Transportation Providers for Temporary Bus Services and to Pay for Related Bus Bridge Expenses.* Board requested to authorize.
- D. Research on a Potential 2016 Funding Measure for District Infrastructure.* For information.
- E. Human Resources Modernization Initiative Update.* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Award of Contract No. 01RQ-110, Construction of Hayward Maintenance Complex Project Maintenance Facilities.* Board requested to authorize.

- B. Award of Professional Services Agreements for General Environmental Services to Support BART's Hazardous Materials Program.*
 - a. Agreement No. 6M5087, with Environmental Resources Management.
 - b. Agreement No. 6M5088, with CDM Smith, Inc.
 Board requested to authorize.

- C. Change Order to Contract No. 02EE-120, Design-Build of Line, Track, Station, and Systems for the Warm Springs Extension, with Warm Springs Constructors, for Additional Warm Springs/South Fremont Station Storm Water Mitigation (C.O. No. 62, Part 2).* Board requested to authorize.

- D. Exercise Options for Two One-Year Extensions of Contract No. 6M7220, Emergency Restoration Work of the Commercial Fiber Optic and Wireless Network, with Phase 3 Communications, Inc.* Board requested to authorize.

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

Director Raburn, Chairperson

- A. Support Position for California Senate Bill 9 (Beall) Greenhouse Gas Reduction Fund: Transit and Intercity Rail Capital Program.* Board requested to authorize.

7. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Update of Roll Call for Introductions Items.

8. INDEPENDENT POLICE AUDITOR'S REPORT

- A. (CONTINUED from June 25, 2015, Board Meeting)
Quarterly Report of the Office of the Independent Police Auditor. For information

9. BOARD MATTERS

- A. Proposed Revisions to Rules of the Board of Directors.* Board requested to adopt.

- B. Development of Plan for Improved Customer Communications.* Board requested to approve. (Director Murray's request.)

- C. (CONTINUED from June 11, 2015, Board Meeting)
Roll Call for Introduction Items Deemed Not Complete by Directors.* Board requested to authorize. (Director Mallett's request.)

- D. 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.)

E. 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.)

F. In Memoriam.
(An opportunity for Board members to introduce individuals to be commemorated.)

10. 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 1,737th Meeting
June 25, 2015

A regular meeting of the Board of Directors was held June 25, 2015, convening at 5:04 p.m. in the Board Room, 344 20th Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

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

Absent: None. Directors Josefowitz, McPartland, and Radulovich entered the Meeting later.

President Blalock 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 Proposed Fares for Warm Springs/South Fremont BART Station, that staff would give a brief presentation on the item, and that the meeting would then be opened for comments from the public.

Directors Josefowitz and Radulovich entered the Meeting.

Ms. Pamela Herhold, Financial Planning, presented the item.

The following individuals addressed the Board:

Clarence Fischer

Jerry Grace

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 Meetings of May 28, 2015, and June 11, 2015.
2. Extension of Labor Negotiations Review Ad Hoc Committee.
3. Appointment of Citizen Review Board Members.
4. Award of Contract No. 15NU-120A, Station Access, Parking, Path and Wayfinding Improvements, Dublin/Pleasanton.
5. Award of Contract No. 20LZ-120, Train Control Room Battery Replacements.
6. Award of Invitation for Bid No. 8949A, Procurement of Anode Array Assemblies.
7. Award of Invitation for Bid No. 8954, Restraining Rail.

8. Award of Invitation for Bid No. 8956, Transit Rail Car Switchers, A, B, and C Cars.
9. Award of Invitation for Bid No. 8966, Procurement of Medium Voltage Cables.
10. Award of Invitation for Bid No. 8968, Hi Rail Swing Crane 360 Degrees.
11. Award of Invitation for Bid No. 8969, Hi Rail Swing Crane 180 Degrees.
12. Reject All Bids for Contract No. 15TF-121, Install Safety Barriers in Right-of-Way Systemwide.
13. Reject All Bids for Contract No. 09EK-130, Oakland Emergency Generator System.
14. Reject All Bids for Contract No. 11OG-130, Balboa Park Station East Side Connection Improvements Phase 2.

Director Raburn requested that Item 3-D, Award of Contract No. 15NU-120A, Station Access, Parking, Path and Wayfinding Improvements, Dublin/Pleasanton, be removed from Consent Calendar.

Director Saltzman requested that Item 3-E, Award of Contract No. 20LZ-120, Train Control Room Battery Replacements, be removed from Consent Calendar.

Director Murray requested that Item 3-H, Award of Invitation for Bid No. 8956, Transit Rail Car Switchers, A, B, and C Cars, be removed from Consent Calendar.

Director Mallett made the following motions as a unit. Director Saltzman seconded the motions, which carried by unanimous electronic vote. Ayes - 8: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent - 1: Director McPartland.

1. That the Minutes of the Meetings of May 28, 2015, and June 11, 2015, be approved.
2. That the Board of Directors ratify the extension of the Labor Negotiations Review Ad Hoc Committee through December 30, 2015.
3. That the Board of Directors ratify the appointment of the following individuals to the BART Citizen Review Board for the term of two years that expires on June 30, 2017: Sukari Beshears, District 2; Darren White, District 4; Les Mensinger, District 6; Richard Knowles, BART Police Managers' Association/BART Police Officers' Association.
4. That the General Manager be authorized to award Invitation for Bid No. 8949A, for the procurement of Anode Array Assemblies, to Corpro Companies, Inc., for an amount of \$444,478.00, pursuant to notification to be issued by the General Manager.

5. That the General Manager be authorized to award Invitation for Bid No. 8954, for the procurement of Restraining Rail, to Atlantic Track and Turnout Co., for the bid price of \$635,294.00, including all taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and the Federal Transit Administration's requirements related to protest procedures.
6. That the General Manager be authorized to award Invitation for Bid No. 8966, for the procurement of Medium Voltage 4160V cable, to DRAKA Cable Teq USA, Inc., for the bid price of \$599,726.60, pursuant to notification to be issued by the General Manager, subject to compliance with the District's and Federal Transit Administration's requirements related to protests.
7. That the General Manager be authorized to award Invitation for Bid No. 8968, for the procurement of a Hi Rail Swing Crane 360 Degrees, to SWNG, Inc., Franklin Park, IL, in the amount of \$514,540.50, including applicable sales tax, pursuant to notification be issued by the General Manager.
8. That the General Manager be authorized to award Invitation for Bid No. 8969, for the procurement of a Hi Rail Swing Crane 180 Degrees, to Swingmaster, Franklin Park, IL, in an amount of \$448,840.50, including applicable sales tax, pursuant to notification to be issued by the General Manager.

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

9. That all Bids for Contract No. 15TF-121, Install Safety Barriers in Right-of-Way Systemwide, be rejected, and that the General Manager be authorized to readvertise the work.
10. That the sole Bid tendered for Contract No. 09EK-130, Oakland Emergency Generator System, be rejected.
11. That all Bids for Contract No. 11OG-130, Balboa Park Station – Phase 2, be rejected, and that the General Manager be authorized to readvertise the Contract.

President Blalock brought the matter of Award of Contract No. 15NU-120A, Station Access, Parking, Path and Wayfinding Improvements, Dublin/Pleasanton, before the Board. Mr. Carl Orman, Principal Civil Engineer, presented the item. The item was discussed. Director Raburn moved that the General Manager be authorized to Award Contract No. 15NU-120A, Station Access, Path and Wayfinding Improvements, Dublin/Pleasanton, to Bay Construction Co., for the Bid price of \$903,000.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and Federal Transit Administration's requirements related to protest procedures. Director Murray seconded the motion, which carried by unanimous electronic vote. Ayes - 8: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent – 1: Director McPartland.

President Blalock brought the matter of Award of Contract No. 20LZ-120, Train Control Room Battery Replacements, before the Board. Mr. Mark Pfeiffer, Group Manager, Electrical and Mechanical Engineering, presented the item. The item was discussed.

The following individuals addressed the Board.

Phil Estrada

John Arantes

Director McPartland entered the Meeting.

Discussion continued. Director Keller moved that the General Manager be authorized to award Contract No. 20LZ-120, Train Control Room Battery Replacements, to EXARO Technologies Corporation, for the Bid price of \$1,384,712.00, pursuant to notification issued by the General Manager, and subject to the District's protest procedures and Federal Transit Administration's requirements related to protest procedures. Director Blalock seconded the motion, which carried by electronic vote. Ayes - 7: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Radulovich, and Blalock. Noes - 2: Directors Raburn and Saltzman.

President Blalock brought the matter of Award of Invitation for Bid No. 8956, Transit Rail Car Switchers, A, B, and C Cars, before the Board. Director Murray moved that the General Manager be authorized to award Invitation for Bid No. 8956, for the procurement of Transit Rail Car Switcher - A, B, and C Cars, three each, to Shuttlewagon Inc., Grandview, MO, in the amount of \$1,593,225.00, including applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protests. Director Keller seconded the motion, which carried by unanimous electronic vote. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. 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 Blalock called for Public Comment. The following individuals addressed the Board.

Clarence Fischer

Bill Simpich

Director Keller, Chairperson of the Administration Committee, brought the matter of Agreement with Macias Gini & O'Connell LLP for Independent Audit Services to Provide Independent Audit Services to the District, the Retiree Health Benefit Trust, the Other Post Employment Benefit Trust and the Capitol Corridor Joint Powers Authority (Agreement No. 6M2049), before the Board. Mr. Scott Schroeder, Controller/Treasurer, presented the item.

Director Murray exited the Meeting.

Director Saltzman moved that the Controller/Treasurer be authorized to award Agreement No. 6M2049 to Macias Gini & O'Connell LLP, to provide independent audit services to the District, the Retiree Health Benefit Trust, the Other Post Employment Benefit Trust, and the Capitol Corridor Joint Powers Authority, for audits covering a five-year period commencing with fiscal year 2015 through fiscal year 2019, for a total maximum compensation not to exceed \$1,098,580.00, subject to compliance with the District's protest procedures. Director Raburn seconded the motion, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Keller, Mallett, McPartland, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent - 1: Director Murray.

Director Murray re-entered the Meeting.

Director Keller brought the matters of Warehouse Space at 2305 Chestnut Street in Oakland, Five Year Lease; Warehouse Space at 801 7th Avenue in Oakland, Five Year Lease; and M-Line Offices at 150 California Street in San Francisco, Seven Year Lease, before the Board.

Ms. Susan Shaffer, Acting Department Manager, Real Estate and Property Development, presented the items. The items were discussed. Director Murray made the following motions as a unit. President Blalock seconded the motions, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

1. That the General Manager or her designee be authorized to execute a lease agreement with West Grand Adeline, LLC, for 6,000 square feet of warehouse space at 2305 Chestnut Street, Oakland, for a five year term, for a first year rent amount of \$39,600.00, with an annual escalation based on the regional Urban Consumer Price Index for each subsequent year's rent amount.
2. That the General Manager or her designee be authorized to execute a lease agreement with Donald and Laura Landreth, for 7,394 square feet of warehouse space at 801 7th Avenue, Oakland, for a five year term, for a total lease amount (including operating expenses but excluding taxes, insurance, and related expenses) not to exceed \$360,000.00.
3. That the General Manager or her designee be authorized to execute a lease agreement with PPF OFF 150 California Street, LP, a Delaware Limited Partnership (Landlord), for 3,024 square feet of office space at 150 California Street, San Francisco, for a seven year and three month term, for a total rental amount, excluding operating expenses, not to exceed \$1,099,949.73, with an option to renew for an additional five years.

Director Keller brought the matter of Proposed Fares for Warm Springs/South Fremont BART Station before the Board. Mr. Carter Mau, Assistant General Manager, Administration and Budgets, and Ms. Herhold presented the item. The item was discussed.

Jerry Grace addressed the Board.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Award of Contract No. 15TD-250, Procurement of Track Geometry Car, before the Board. Mr. Paul Oversier, Assistant General Manager, Operations, and Mr. Gregory Shivy, Principal Track Engineer, presented the item. Director Saltzman moved that the General Manager be authorized to award Contract No. 15TD-250, for the procurement of a Track Geometry Car, to MERMEC Inc., West Columbia, SC, in the amount of \$13,695,195.80, including applicable sales tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and Federal Transit Administration's requirements related to protests. President Blalock seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

Director McPartland brought the matter of Award of Contract No. 6M3277, Procurement of Traction Motor Repair Services, before the Board. Mr. Henry Kolesar, Group Manager for Engineering, Rolling Stock and Shops, presented the item. The item was discussed. Director Murray moved that the General Manager be authorized to award Contract No. 6M3277, an estimated quantities contract, for the Procurement of AC and DC Traction Motor Repair Services, to Swiger Coil Systems LLC, for a five year term, for the bid amount of \$15,699,400.00, plus applicable taxes, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures. President Blalock seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

Director McPartland brought the matter of Escalator Renovation Canopy Program before the Board. Mr. Pfeiffer; Ms. Shirley Ng, Group Manager, Stations Engineering and Construction; and Mr. Tim Chan, Manager of Planning, presented the item. The item was discussed.

Director McPartland brought the matter of Underground Public Restroom Reopening Study before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development; Ms. Ng; and Chief of Police Kenton Rainey, presented the item.

The following individuals addressed the Board.

Jerry Grace
Chris Finn

The item was discussed.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of BART Art in Transit Policy before the Board. Ms. Abigail Thorne-Lyman, Principal Planner; Mr. Powers; and Mr. Val Menotti, Department Manager, Planning, presented the item.

The following individuals addressed the Board.

Rachel Dinno Taylor
Jerry Grace

The item was discussed.

Director Raburn moved adoption of BART Art in Transit Policy as presented by staff, with the removal of the requirement for 2% of expansion projects' funding set aside for art, and clarification that the 2 percent of improvement projects' funding set aside for art would be 2 percent of construction costs only. Director Radulovich seconded the motion, which failed by electronic vote. Ayes – 4: Directors Josefowitz, Raburn, Radulovich, and Saltzman. Noes – 5: Directors Keller, Mallett, McPartland, Murray, and Blalock.

Director Josefowitz moved adoption of the staff recommendation, amended to allow one percent of funding for all projects to be set aside for art. The motion died for lack of a second. The item was continued to a future meeting.

Director Raburn brought the matter of 2015 State and Federal Legislative Recommendations before the Board. Mr. Roddrick Lee, Department Manager, Government and Community Relations; Mr. Paul Fadelli, Legislative Analyst; Ms. Emily Bacque, CJ Lake, LLC; and Mr. Tim Schott, Schott and Lites, presented the item.

Chris Finn addressed the Board.

Director Murray moved that the Board support and watch the state and federal legislation as recommended by staff with the exception of Assembly Bill 69 – Best practices for Police Camera Use, and Assembly Bill 744 – Minimum Parking/Affordable Housing. Director Saltzman seconded the motion. Director Josefowitz requested that State Constitutional Amendment 5 be added to the watch list. Directors Murray and Saltzman accepted the amendment to the motion. Discussion continued. The motion carried by unanimous electronic vote. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0.

Director Saltzman moved that the Board support Assembly Bill 744. Director Josefowitz seconded the motion, which carried by electronic vote. Ayes – 7: Directors Josefowitz, Mallett, McPartland, Raburn, Radulovich, Saltzman, and Blalock. Noes – 2: Directors Keller and Murray.

Director Saltzman moved that the Board support Assembly Bill 69. Director Murray seconded the motion, which carried by electronic vote. Ayes – 8: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Radulovich, Saltzman, and Blalock. Noes – 1: Director Raburn.

Director Raburn brought the matter of California Greenhouse Gas Cap and Trade Program Overview before the Board. Mr. Menotti, Mr. Schott, and Mr. Andrew Tang, Principal Planner, presented the item. The item was discussed.

President Blalock called for the General Manager's Report. General Manager Grace Crunican reported the District's employees had provided excellent assistance to the community during the Warriors' victory parade, and that the train operator and maintenance worker teams had competed in the recent American Public Transportation Association (APTA) Rodeo.

President Blalock announced that the Quarterly Report of the Office of the Independent Police Auditor would be continued to a future meeting.

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

Director Keller announced he had attended the APTA Rail Conference.

President Blalock called for Public Comment.

The following individuals addressed the Board.

Jerry Grace
Chris Finn

The Board Meeting was adjourned at 11:09 p.m.

Kenneth A. Duron
District Secretary

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: July 15, 2015

FROM: Independent Police Auditor

SUBJECT: Appointment of Citizen Review Board Member

In accordance with Chapter 2-06 of the BART Citizen Oversight Model (Model), vacancies on the Citizen Review Board (CRB) shall be filled for the unexpired portion of the term, subject to ratification by the Board of Directors. At present, a vacancy exists in the seat representing BART District 8, which has a term that expires on June 30, 2017. BART District 8 Director Nicholas Josefowitz has selected a candidate to fill the vacancy for the unexpired portion of the term.

Attached to this memorandum is a motion which, if adopted by the Board of Directors, will ratify Director Josefowitz's appointment. Also attached is the resume submitted by the selected candidate during the application process, for your review.

Please contact me at (510) 874-7477 or oipa@bart.gov at your convenience if you have any questions about this matter.

Thank you,



Mark P. Smith

Attachments

cc: Board Appointed Officers

RATIFICATION OF CITIZEN REVIEW BOARD DISTRICT 8 APPOINTEE

MOTION:

That the Board of Directors ratifies the appointment of the following individual to the BART Citizen Review Board to fill the vacancy that exists in the seat representing BART District 8, with a term that expires on June 30, 2017:

David W. Rizk

DAVID W. RIZK

Education

Stanford Law School, Palo Alto, Calif. J.D., M.P.P. 2011
President, American Constitution Society, Stanford Law School Chapter.
Senior Articles Editor, *Stanford Technology Law Review*.
Research Assistant to Profs. Mark Lemley and Barbara van Schewick.
John M. Olin Academic Fellow for IP & Antitrust, Olin Program in Law and Economics.
President, *Pro Bono* Volunteer Attorney Program, Community Legal Services East Palo Alto.

Harvard College, Cambridge, Mass. B.A., *magna cum laude*, 2006
Senior Thesis awarded High Honors, English & American Literature and Language.
John Harvard and Harvard College Scholarships for academic achievement.
The Dean's List.
Editorials Editor, *The Harvard Crimson*.
Poetry Editor, *The Harvard Advocate*.

Professional Experience

Keker & Van Nest LLP, San Francisco, Calif. Nov. 2012-Sept. 2013, Nov. 2014-present
Attorney. Litigate intellectual property, antitrust, general commercial, securities, civil rights and criminal matters.

Chambers of Judge Jacqueline Nguyen, Pasadena, Calif. Oct. 2013-Sept. 2014
Law Clerk, United States Court of Appeals, Ninth Circuit. Drafted opinions, concurrences, and dissents in en banc constitutional litigation, criminal, and environmental matters, and dispositions and bench memoranda in diverse appeals.

Chambers of Judge Richard Seeborg, San Francisco, Calif. Oct. 2011-Sept. 2012
Law Clerk, United States District Court, Northern District of California. Assisted in adjudication of month-long criminal trial, and drafted opinions and orders in diverse criminal and civil cases.

Electronic Frontier Foundation, San Francisco, Calif. Jan.-May 2011
Legal intern. Provided legal research and policy analysis on intellectual property, privacy, and surveillance related matters.

Morrison & Foerster LLP, San Francisco, Calif. June-July 2010
Summer Associate, Litigation. Assisted litigation teams in intellectual property and white collar matters.

Fenwick & West LLP, Mountain View, Calif. June-July 2009
Summer Associate, Litigation. Assisted litigation teams in intellectual property, white collar, and civil rights matters.

Federal Trade Commission, San Francisco, Calif. July-Aug. 2009
Law Clerk. Assisted staff in antitrust and consumer protection investigations and enforcement actions. Provided legal research and analysis, and prepared consumer declarations.

Federal Trade Commission, Washington, D.C. June-Aug. 2008
Charles H. March Fellow for Competition and Consumer Protection Studies, Office of Chairman Leibowitz. Assisted Chairman and attorney advisors on policy and enforcement matters.

Personal Interests: poetry, jazz, mountaineering, fishing, and road bicycling.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia de la Parra</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c <i>7/15/15</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Financial Planning	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC <i>[Signature]</i>
Signature/Date: <i>Charlotte Barham 7/13/15</i>	<i>[Signature]</i> 7-14-15 []	<i>[Signature]</i> 7/14/15 []	[]	<i>[Signature]</i> 7-14-15 []

TITLE:

Fares for the New Warm Springs/South Fremont BART Station

NARRATIVE:

PURPOSE

Adopt the fares to be charged for trips to and from the new Warm Springs/South Fremont BART Station.

DISCUSSION

The Warm Springs Extension will add 5.4-miles of new track from the existing Fremont Station south to a new station in the Warm Springs district of the City of Fremont, extending BART's service in southern Alameda County.

BART's existing distance-based fare structure has been applied to calculate the fares for the BART extension from the Fremont Station to the new Warm Springs/South Fremont Station. For example, the current fare between Fremont and MacArthur Station is \$4.35; under the distance-based fare structure, the fare between Warm Springs Station and MacArthur would be \$0.45 more, or \$4.80. As Warm Springs is an East Bay station, the East Bay Suburban Zone fare (currently equal to the minimum fare of \$1.85 and applied to certain other East Bay station fares) would be charged for trips between six and 13 miles from Warm Springs, i.e., Union City Station and South Hayward Station. The trip between Warm Springs/South Fremont Station and Fremont Station is less than six miles and so the minimum fare will be charged. No new surcharges are proposed for fares to, or from, the new Warm Springs/South Fremont Station, and all existing discounts will be applied to these fares as part of the extension of BART's distance-based fare structure.

The table below shows sample regular and 62.5% discount fares effective on the scheduled opening date in December 2015 and fares effective on January 1, 2016, which reflect the planned inflation-based 3.4% fare increase. Attachment 1 provides the complete fare chart effective upon opening in December.

Fares for the New Warm Springs/South Fremont BART Station

	Fremont Station	Fare Increment	Warm Springs/ South Fremont	
			Opening Dec 2015	Proposed eff Jan 2016 (CPI increase)
Regular Fares				
Downtown Berkeley	\$4.60	\$0.40	\$5.00	\$5.15
Embarcadero	\$5.95	\$0.40	\$6.35	\$6.60
MacArthur	\$4.35	\$0.45	\$4.80	\$4.95
Pittsburg/Bay Point	\$6.80	\$0.45	\$7.25	\$7.45
Richmond	\$5.15	\$0.45	\$5.60	\$5.75
Walnut Creek	\$5.60	\$0.40	\$6.00	\$6.20
62.5% Discount Fares				
Downtown Berkeley	\$1.70	\$0.15	\$1.85	\$1.90
Embarcadero	\$2.20	\$0.15	\$2.35	\$2.45
MacArthur	\$1.60	\$0.20	\$1.80	\$1.85
Pittsburg/Bay Point	\$2.55	\$0.15	\$2.70	\$2.75
Richmond	\$1.90	\$0.20	\$2.10	\$2.15
Walnut Creek	\$2.10	\$0.15	\$2.25	\$2.30

At the May 14, 2015 Board meeting, the Board approved the Warm Springs/South Fremont Title VI Equity Analysis, which found that the proposed Warm Springs fares would not result in a disparate impact on minority riders or a disproportionate burden on low-income riders.

A public hearing on the proposed Warm Springs fares was held on June 25, 2015, at which two members of the public spoke. Both speakers supported the proposed fares, and one requested that staff make available the values of the discounted fares.

FISCAL IMPACT

In Fiscal Year 2017, the first full year of service, net revenue from Warm Springs/South Fremont Station trips is estimated at approximately \$6 million; fare revenue is projected to grow in succeeding years as additional new riders begin to use the service.

ALTERNATIVES

The fares for Warm Springs/South Fremont Station could be set at other amounts. Fare options different from the proposed application of BART's existing distance-based fare structure would require a new Title VI analysis.

RECOMMENDATION

Adopt the following motion.

MOTION

Adopt the attached resolution, "In the Matter of Adopting Fare Rates and Charges for the Warm Springs/South Fremont Station." Two-thirds vote required.

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

In the Matter of Adopting
Fare Rates and Charges for
the BART Warm Springs/
South Fremont Station

Resolution No. _____

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

WHEREAS, the Warm Springs Extension Project ("Project") adds 5.4-miles of new track from the existing Fremont Station south to the new Warm Springs/South Fremont BART Station, located in the Warm Springs district of the City of Fremont; and

WHEREAS, recommended fare rates and charges for BART service to and from Warm Springs/South Fremont Station have been calculated by applying BART's existing distance-based fare structure and are consistent with fares charged for trips taken in the rest of the system; and

WHEREAS, the recommended fare rates and charges for BART service to and from Warm Springs/South Fremont Station are set forth in the attached Exhibit A entitled "Fare Rates and Charges for the Warm Springs/South Fremont Station"; and

WHEREAS, at the May 14, 2015 Board meeting, the Board approved the Warm Springs/South Fremont Title VI Equity Analysis, which found that the proposed fares would not result in an adverse effect on riders, and thus the proposed Warm Springs fares would not result in a disparate impact on minority riders or place a disproportionate burden on low-income riders; and

WHEREAS, a public hearing was held on June 25, 2015 at a regularly scheduled meeting of the Board to consider fare rates and charges for the Warm Springs/South Fremont Station; and

WHEREAS, the District will use Project fare revenue to pay for operating expenses on the Project and on the remainder of the BART system; and

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

- (1) After careful study of staff recommendations, public comment, and due deliberations, the Board determines, as required by Public Utilities Code Section 29038, that the rates and charges for service are reasonable; and that insofar as practicable, these rates and charges are calculated to result in revenue which will:

- (a) Pay for the operating expenses of the District;
 - (b) Provide repairs, maintenance and depreciation of works owned and operated by the District;
 - (c) Provide for purchases, lease, or acquisition of rolling stock, including provisions for the interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the District for the acquisition of rolling stock; and
 - (d) After making any current allocation of funds for the foregoing purposes and by the terms of any indebtedness incurred under Public Utilities Code Articles 6 (commencing with Section 29240) and 7, (commencing with Section 29250) of Chapter 8, provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of Part 2 of Division 10 of the Public Utilities Code.
- (2) Fare rates and charges for the Project were discussed in the Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR).
- (3) The Project Fare rates and charges set forth in Exhibit A are for the purposes of:
- (a) Meeting operating expenses such as employee wage rates and fringe benefits;
 - (b) Purchasing or leasing supplies, equipment or materials;
 - (c) Meeting financial reserve needs and requirements; and
 - (d) Obtaining funds for capital projects, necessary to maintain service within existing service areas.
- (4) The fare rates and charges for the Project are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080 (b)(8) and CEQA Guidelines, 14 Cal.CodeRegs. Section 15273 and that Notices of Exemption will be filed in the affected counties.

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

- (1) The rates and charges for BART service set forth in Exhibit A are hereby adopted.
- (2) The General Manager is authorized to implement the fare rates and charges as set forth in Exhibit A for the new Warm Springs/South Fremont Station.

#

EXHIBIT A—FARE RATES AND CHARGES FOR THE WARM SPRINGS/SOUTH FREMONT BART STATION

The fare rates and charges for BART service to or from the Warm Springs/South Fremont BART Station shall be as shown in Attachment 1 and shall be effective upon commencement of operation of the Warm Springs/South Fremont Station, if such commencement occurs before January 1, 2016. If commencement of operation of the Warm Springs/South Fremont Station occurs on or after January 1, 2016, the Attachment 1 fare rates and charges for the Warm Springs/South Fremont Station shall be subject to and revised by any systemwide fare changes effective January 1, 2016.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Wanda S. ...</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: c 7/17/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Charlotte Barham Dept: Financial Planning	General Counsel <i>[Signature]</i> 7-17-15 []	Controller/Treasurer <i>[Signature]</i> 7/17/15 []	District Secretary []	BARC <i>[Signature]</i> 7-16-15 []
Signature/Date: <i>Charlotte Barham</i> 7/16/15				

TITLE:

2016 Inflation-Based Fare Increase: Title VI Assessment

NARRATIVE:

PURPOSE

To request Board approval of the "Title VI Assessment for the Proposed Productivity-Adjusted Inflation-Based Fare Increase effective January 1, 2016."

DISCUSSION

BART Board Resolution No. 5208, approved by the Board in 2013, extends BART's productivity-adjusted inflation-based fare increase program for fare increases in 2014, 2016, 2018, and 2020. The first increase valued at 5.2% took effect on January 1, 2014 and generates approximately \$20 million per year. The second increase valued at 3.4% is scheduled to take effect on January 1, 2016 and is estimated to generate approximately \$15 million in the first full year. By Board motion passed on March 28, 2013, this fare revenue will be placed in a separate fund that can only fund BART's highest priority capital renovation projects including new rail cars, a train control system, and the Hayward Maintenance Complex. Additionally, while the proposed inflation-based fare increase is an across-the-board increase, the current \$6.00 fare for trips to or from the Oakland International Airport Station will remain at \$6.00 through December 31, 2017 in order to encourage ridership growth, pursuant to Board Resolution No. 5261.

Pursuant to Resolution No. 5208 and to ensure compliance with federal and state civil rights regulations, Title VI Assessments for the 2016, 2018, and 2020 fare increases will be updated and finalized once the inflation percentage increase is known for those years and after public participation is solicited. Implementation of each of the fare increases for 2016, 2018, and 2020 will be subject to Board approval of the corresponding and finalized Title VI Assessment for each year. The Title VI Assessment for the 2016 fare increase is final and attached.

With consideration of comments collected from public participation efforts, the Assessment found that the 2016 inflation-based fare increase would not result in a disparate impact on minority riders or a disproportionate burden on low-income riders. Average fare increases that would be experienced by minority or low-income riders would be the same as average fare increases experienced by non-minority or non-low-income riders. Public participation efforts undertaken for the Assessment are summarized below.

Staff solicited public input from all riders, including minority, low-income, and Limited English Proficient (LEP) riders. Surveys were translated into Spanish and Chinese, as well as other languages upon request. BART received 485 surveys (281 print and 204 online surveys) that included 286 comments, and 49 comments were submitted through e-mail and phone.

Approximately two-thirds of the respondents (66% or 354 respondents) did not comment at all or commented on other aspects of BART (e.g., service enhancements). The remaining one-third of survey respondents can be grouped into two categories, comments “In Support” (61 comments or 11%) and “Not in Support” (119 comments or 22%). Comments from print survey respondents, who are significantly more minority and low-income than BART’s overall ridership, showed more support for the proposed fare increase than overall respondents. Some respondents supported the increase because they believed the amount was reasonable and necessary to keep pace with increasing expenses. Other respondents did not support the increase out of concern for lower-income riders or the pace of salary adjustments.

Members of BART’s Title VI/Environmental Justice Advisory Committee and the Limited English Proficiency (LEP) Advisory Committee also provided input. Opinions varied, with both support and concern. Committee members were, however, generally supportive of the increase with the understanding that this fare revenue is dedicated solely to funding critical capital needs including new rail cars, a train control system, and the Hayward Maintenance Complex. While acknowledging the Assessment’s conclusions of no disproportionate impacts, some members commented that any fare increase, however small, may be of concern to some low-income riders. BART has implemented measures to address this concern. BART’s low-income definition of 200% of the federal poverty level takes into account the high cost of living in the Bay Area and provides a more rigorous standard in assessing impacts on low-income riders. BART is also participating in the Metropolitan Transportation Commission’s current Regional Means-Based Transit Fare Pricing Study, which is examining ways to make transit more affordable for low-income residents.

Staff requests that the Board approve the updated Title VI Assessment in order to implement the January 1, 2016 inflation-based fare increase. Per Resolution No. 5208, increases in 2018 and 2020 will be subject to approval by the Board of an updated Title VI Assessment once the inflation percentage increase is known for those years and after public participation is solicited.

FISCAL IMPACT

The 3.4% fare increase is projected to generate \$15 million in the first full year. The four biennial fare increases are projected to generate \$325 million in the eight years of the program. According to Resolution No. 5208, this revenue is to help fund BART’s highest priority capital renovation projects, including new rail cars, a train control system, and the Hayward Maintenance Complex.

ALTERNATIVES

Do not approve the Title VI Assessment, which would result in a delay in implementing the scheduled January 1, 2016 fare increase and result in a significant loss of anticipated revenue to fund BART’s highest priority capital renovation projects. Defer approval of the Title VI

Assessment to a later date, which may delay implementation of the fare increase.

RECOMMENDATION

Approval of the following Motion.

MOTION

The BART Board of Directors approves the attached "Title VI Assessment for the Proposed Productivity-Adjusted Inflation-Based Fare Increase effective January 1, 2016," as contemplated in Resolution No. 5208 which authorizes implementation on January 1, 2016 of the second in the extended series of biennial Productivity-Adjusted Inflation Based Fare Increase



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 7/17/15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Robert Franklin Dept: <i>Bob Franklin</i>	General Counsel <i>[Signature]</i> 7-17-15	Controller/Treasurer <i>[Signature]</i> 7/16/15	District Secretary	BARC <i>[Signature]</i> 7-16-15
Signature/Date: 7/16/15	[]	[]	[]	[]
Status: Routed		Date Created: 07/13/2015		

TITLE:

AUTHORITY TO ENTER INTO AGREEMENTS FOR TEMPORARY BUS BRIDGE SERVICES, REIMBURSE MTC, AND PAY FOR RELATED BUS BRIDGE EXPENSES

NARRATIVE:

PURPOSE: To obtain Board authorization for the General Manager to: (1) enter into multiple agreements with bus operators for temporary bus bridge services, (2) reimburse the Metropolitan Transportation Commission (MTC) for agreed upon expenses related to the bus bridges, and (3) pay for other additional expenses related to the bus bridges including, but not limited to, city and/or municipality fees for permits, traffic controls, and police services.

DISCUSSION: In March 2015, the Board authorized the General Manager to enter into multiple agreements with various public agency and/or private bus operators to provide temporary bus transportation services in a total amount not to exceed \$150,000 per day for each day that the District is unable to provide complete train service due to a maintenance project. Because at least one major upcoming project, the M15 interlocking replacement project, will require multiple buses from several operators to operate simultaneously during a holiday, staff now seeks authority to increase this amount from a total of \$150,000 per day to an amount not to exceed \$500,000 per day per bus operator.

Each time the schedule and requirements for a bus bridge during a maintenance project are established, BART will enter into agreement(s) with local public agency and/or private bus operator(s) for bus bridge service for that project. Staff intends to attempt to procure such services from local public transit agency partners first, but might also need to procure services from private charter operators as needed to meet the bus service demand. The funding for each bus bridge agreement will be identified prior to entering into an agreement and will come from the responsible Department's budget.

For the M15 interlocking replacement project, if authority is provided by the Board as requested, BART will enter into agreements for this project with at least AC Transit, San Francisco Municipal Transportation Agency, San Mateo County Transit District, and Golden Gate Bridge, Highway and Transportation District to operate a bus bridge between the Embarcadero and 19th Street BART stations on August 1-2, 2015 and September 5-7, 2015.

In addition, staff now seeks authority to reimburse MTC in a total amount not to exceed

\$1,000,000 for each project for which BART will implement a bus bridge for agreed upon expenses related to the bus bridge. In the M15 project, for example, MTC is incurring expenses for and leading the initiative to enter into agreements with Caltrans and the California Highway Patrol to create a bus only on ramp onto the Bay Bridge and with the San Francisco Bay Area Water Emergency Transportation Authority (WETA) for supplemental ferry service.

Lastly, staff also seeks authority to pay for other additional bus bridge related expenses necessary to facilitate the bus bridges in an amount not to exceed \$200,000 for each project for which BART will implement a bus bridge. This category of bus bridge related expenses includes, but is not limited to, city and municipality expenses, such as costs of providing traffic controls and police officers and obtaining obstruction permits.

The Board's authorization for the General Manager to enter into bus operator agreements, reimburse MTC for agreed upon expenses related to bus bridges, and pay for other additional related bus bridge expenses will expire on June 30, 2016. The Office of the General Counsel will approve all negotiated agreements as to form prior to execution.

FISCAL IMPACT: For expenses that are chargeable to the operating fund (General Fund), funding for these agreements and payment of related expenses will come from the budget of the sponsoring department. For expenses that are chargeable to capital funds, funding for each bus bridge agreement will be identified prior to entering into an agreement and Capital Development and Control will certify the eligibility of identified funding sources. The Controller/Treasurer will certify availability of such funding prior to incurring project costs against the Agreement.

ALTERNATIVES: Do not approve the request and do not provide temporary bus bridge services for the public in lieu of train service.

RECOMMENDATION: Staff recommends that the Board adopt the following motion:

MOTION: The General Manager is authorized to enter into multiple agreements with various public agency and/or private bus operators in order to provide temporary bus transportation services in a total amount not to exceed \$500,000 per day per agreement for each day that the District is unable to provide complete train service due to a maintenance project. The General Manager is also authorized to reimburse the Metropolitan Transportation Commission (MTC) a total amount not to exceed \$1,000,000 for each project for which BART implements a bus bridge for agreed upon expenses that MTC incurs related to the bus bridge. The General Manager is also authorized to pay for other additional bus bridge related expenses in a total amount not to exceed \$200,000 for each project for which BART implements a bus bridge. These other additional expenses may include, but are not limited to, permit fees and/or costs for traffic controls and police services. These authorizations will expire on June 30, 2016.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

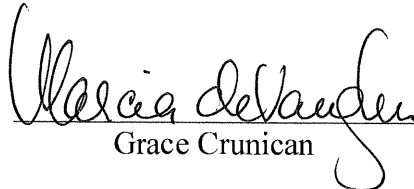
MEMORANDUM

TO: Board of Directors **DATE:** July 17, 2015
FROM: General Manager
SUBJECT: Research on a Potential 2016 Funding Measure for District Infrastructure –
For Information

At the Board of Directors meeting on July 23, 2015, Kerry Hamill, AGM, Office of External Affairs and FM3 Research will present the results of a poll that was conducted in June 2015. The attached presentation on poll results was presented to the Asset Management Ad Hoc Committee on July 9.

This most recent poll examines voter support for a potential BART bond measure to fund improvements to the system, and is based on a telephone survey of likely voters in the three BART counties. This supplements prior polls conducted in September 2014, April/May 2013, and March/April 2011.

Please contact Kerry Hamill, AGM, Office of External Affairs at (510) 464-6153.


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: July 17, 2015

FROM: General Manager

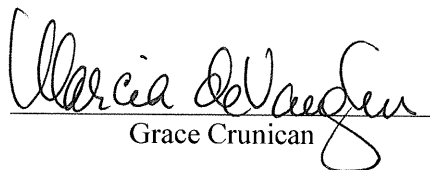
SUBJECT: Administration Agenda Item #4.E: Human Resources Modernization Initiative – For Information

At the July 23, 2015 Board meeting, staff will provide the Board with an update on progress to date on the Office of Employee Relations, Human Resources goals for FY17 and key initiatives.

In January 2015, the Office of Employee Relations presented an overview of the approach the office is taking to modernize the human resources functions of the District. This presentation provided a profile of the current workforce and described the need to improve the recruitment process as well as expand training and development opportunities for employees.

With almost fifty percent of the District's current employees being eligible for retirement, the Office of Employee Relations has developed a talent management strategy to better anticipate our current and future employment needs. The goal of this strategy is to develop, empower and retain existing employees to fill critical roles, and to broaden our pool of external applicants to ensure we meet both our diversity and operational objectives.

If you have any questions, please contact Allison Picard, AGM, Office of Employee Relations at (510) 464-6231.


Grace Crunican

Attachment

cc: Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Kevin Sanderson</i>		GENERAL MANAGER ACTION REQ'D:	
DATE: 7/15/15		BOARD INITIATED ITEM: No	
Originator/Prepared by: Kevin Sanderson Dept: PDTC <i>Kevin Sanderson</i> Signature/Date: 7/19/15	General Counsel <i>Audrey Rawley</i> Signature/Date: 7/19/15 []	Controller/Treasurer <i>Myranda</i> Signature/Date: 7/19/15 []	District Secretary BART <i>Paul</i> Signature/Date: 7/13/15 []
Status: Approved		Date Created: 03/27/2015	

TITLE:
Award of Contract No. 01RQ-110 for Construction of Hayward Maintenance Complex Project Maintenance Facilities

NARRATIVE:
PURPOSE: To obtain Board authorization for the General Manager to award Contract No. 01RQ-110 for Construction of Hayward Maintenance Complex Project Maintenance Facilities to Clark Construction Group-California, LP.

DISCUSSION: The Hayward Maintenance Complex Project (HMC) was adopted by the BART Board of Directors on May 26, 2011. The Project will provide for expanded and enhanced maintenance complex facilities necessary to support BART's future system demands, including the new BART revenue vehicles and the Silicon Valley Extension Project. The HMC Project consists of the acquisition of and improvements to three parcels currently containing four warehouse buildings on the west side of the existing Hayward Yard. Improvement elements include a new Vehicle-Level Overhaul Shop, a new Component Repair Shop, an enhanced Central Warehouse, an enhanced Maintenance and Engineering Shop and new Storage Area, as well as new trackwork that provides access to these facilities.

The scope of this Contract includes the construction of a new Component Repair Shop, modifications to the existing Hayward Main Shop, and a new structural steel service canopy. Contract provisions include incorporating the Project Stabilization Agreement (PSA) for the Component Repair Building and Shop Modification Project.

On February 10, 2015, an Advance Notice to Bidders was mailed to 94 prospective Bidders. Contract Documents were sent to 23 plan rooms. The Contract was advertised on February 12, 2015 in local publications. A total of 30 firms purchased copies of the Contract Documents. A pre-Bid meeting and site visit were conducted on March 5, 2015 with 60 prospective Bidders attending. Bids were publicly opened on March 31, 2015.

Review of the Bids by District staff revealed that two Bids, those submitted by Pape MH, and Clark Construction Group-California, LP, had arithmetical errors in the total Bid Price. Article 14.B, Evaluation, of the Instructions to Bidders in the Contract Book provides that item totals are provided by the Bidder for the convenience of the District, and that the District will calculate the total Bid Price based on the unit prices or lump sum prices bid, as applicable. In the event of a

discrepancy, the District's calculations shall govern. The District's correction of the arithmetical errors did not impact the position of the apparent low Bid. Tabulation of the corrected Bids, including the Engineer's Estimate, is as follows:

<u>Bidder</u>	<u>Location</u>	<u>Total Bid Price</u>
S. J. Amoroso Construction Co., Inc.	Redwood Shores, California	\$94,377,000
Clark Construction Group-California, LP	Irvine, California	\$98,390,000
Shimmick/Overaa JV	Oakland, California	\$100,550,000
Pape MH	Fremont, California	\$281,035
Engineer's Estimate		\$91,214,328

Staff review of Pape MH's Bid determined the required Bid documentation was not submitted and therefore the Bid submitted by Pape MH is considered non-responsive. As discussed further below, the apparent low Bid submitted by S. J. Amoroso Construction Co., Inc. was found to be non-responsive.

After review by District staff, the Bid of Clark Construction Group-California, LP was deemed the lowest responsive Bid. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. Staff has also determined that the Bidder's Bid of \$98,390,000 is fair and reasonable.

Pursuant to the revised Disadvantaged Business Enterprise ("DBE") Program, the Office of Civil Rights reviewed the scope of work for this Contract and determined that there were subcontracting opportunities and a DBE participation goal of 21% was set. The apparent low Bidder, S. J. Amoroso Construction Co., Inc. (Amoroso) committed to 18.6% DBE participation. Amoroso did not meet the DBE goal, therefore, it was required to submit Good Faith Efforts documentation to the District. The subsequent Good Faith Efforts analysis conducted by the Office of Civil Rights concluded that Amoroso did not make sufficient good faith efforts to meet the DBE goal, rendering the Bid non-responsive. At Amoroso's request, a good faith efforts hearing was held on May 28, 2015, before an independent hearing officer. The hearing officer upheld the findings of the Office of Civil Rights that Amoroso neither met the DBE goal nor demonstrated sufficient good faith efforts to do so, therefore, rendering Amoroso's Bid non-responsive.

The next low bidder, Clark Construction Group-California, LP, committed to subcontracting 29.3% to DBEs.

FISCAL IMPACT:

Funding of \$98,390,000 for award of Contract No. 01RQ-110 is included in the total project budget for 01RQ003, HMC- Shops Mod & Component Repair. 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 December 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:

F/G 5602 – High Speed Passenger Rail Bond	\$73,389,000
F/G 656K – VTA	\$49,710,000
F/G 8526 – FY14 Operating Capital Alloc	\$ 1,000,000
Total	\$ 124,099,000

As of June 24, 2015, \$124,099,000 is the total budget for this project. BART has expended \$1,994,476 and committed \$0.00 to date. This action will commit \$98,390,000 leaving an available fund balance of \$23,714,524 in these fund sources for this project.

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

ALTERNATIVES: The alternative is not to award the Contract. Failure to complete the construction of the new component repair shop, and remaining Contract scope will keep BART from meeting its future system demands. Staff could choose to rebid this Contract, however, there is no assurance that a rebid will result in lower prices. Furthermore, rebidding is not recommended due to the risk of losing eligibility for the High Speed Rail funding which requires that BART award a contract not later than August 31, 2015.

RECOMMENDATION: Adoption of the following motion.

MOTION: The General Manager is authorized to award Contract No. 01RQ-110 for Construction of Hayward Maintenance Complex Project Maintenance Facilities to Clark Construction Group-California, LP, for the total Bid price of \$98,390,000, pursuant to notification to be issued by the General Manager, subject to the District's protest procedures and FTA requirements related to protest procedures.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL <i>Marcia DeLange</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c <i>6/15/18</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gary Jensen Dept. System Safety	General Counsel	Controller/Treasurer	District Secretary	BOARD
Signature/Date: <i>[Signature]</i> 6/15/18	<i>MB</i> 6/15/18	<i>[Signature]</i> 6/15/18	[]	<i>[Signature]</i> 6/17/18
TITLE				

AUTHORITY TO AWARD PROFESSIONAL SERVICES AGREEMENTS NO. 6M5087 AND NO. 6M5088 FOR GENERAL ENVIRONMENTAL SERVICES

NARRATIVE:

PURPOSE

To obtain Board authorization for the General Manager to award Agreements No. 6M5087 and No. 6M5088 in an amount not to exceed \$2,000,000 each with Environmental Resources Management (ERM) and CDM Smith Inc. (CDM) respectively for General Environmental Services (GES) to support the District's Hazardous Materials Programs.

DISCUSSION

In 2007, the District entered into Agreements No. 6M5007 and 6M5008 with Environmental Resources Management and Camp, Dresser, and McKee to provide General Environmental Services. These Agreements expired in October 2014 and the District has ongoing needs for GES support, including support for (1) the Earthquake Safety Program, (2) Warm Springs Extension, (3) Joint Development Projects, and (4) District Maintenance Operations.

Accordingly, RFP No. 6M5087 was issued on November 24, 2014. The Request for Proposals (RFP) was advertised on November 19, 2014 in local publications. RFPs were mailed to 22 prospective bidders. A preproposal meeting was conducted on December 11, 2014 that was attended by 11 prospective bidders.

Five (5) proposals were received on January 13, 2015 from the following firms:

Firm	Location
EA Engineering Science and Technology, Inc.	Alameda, CA
CDM Smith Inc.	San Francisco, CA
Fugro Consultants, Inc.	Oakland, CA
Tetra Tech Inc.	Oakland, CA
Environmental Resources Management	Walnut Creek, CA

The proposals were evaluated by a Source Selection Committee chaired by Contract Administration and composed of representatives from System Safety and the Office of District Architect. A thorough evaluation of these proposals was conducted. As a result of technical evaluation, a short list of four (4) proposers was developed for oral presentations. Oral presentations were conducted on May 7, 2015 with CDM, Fugro, Tetra Tech, and ERM.

The Source Selection Committee recommends the award of the two General Environmental Services Agreements to ERM and CDM based on their highest cumulative technical evaluation and oral presentation scores. Staff has audited the selected firms and made a determination that their proposed rates and fees are fair and reasonable.

Pursuant to the revised DBE Program, the Office of Civil Rights is utilizing race and gender neutral efforts for professional services contracts. Therefore, no DBE participation goal was set for this contract. Although no DBE goal was set for this contract, CDM Smith committed to a DBE goal of 18%. Environmental Resources Management listed one DBE subconsultant to perform from 0-30% of the project work.

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

FISCAL IMPACT

Each Agreement has a not-to-exceed limit of \$2,000,000 over a three (3) year period with two (2) one year options to extend. District obligations will be subject to a series of work directives. Each work directive will have a defined scope of services, and a separate schedule and budget. Any work directive assigned for funding under a State or Federal grant will include state or federal requirements. Work Directives will be approved only if the funds are certified as available by the Controller-Treasurer, and Capital Development Control certifies the eligibility of funds.

Authority to issue work directives and administration of Agreement No. 6M5087 and 6M5088 will reside with BART's Chief Safety Officer.

Funding for individual work directives will be provided from the Capital Budget and/or Operating Budget accounts.

ALTERNATIVE

Continue to execute a series of small contracts under the General Manager's authority for an interim period to provide necessary services while staff conducts a new procurement.

RECOMMENDATION

On the basis of analysis and evaluations by staff, it is recommended that the Board adopt the following motion.

MOTION

The General Manager or her designee is authorized to award Agreement No. 6M5087 to Environmental Resources Management and Agreement No. 6M5088 to CDM Smith Inc. both for general environmental services and each in an amount not to exceed \$2,000,000 pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Carca, DeLuca</i>		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: c <i>7/15/15</i>		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Planning & Development <i>Paul Medved</i> 7/10/15	General Counsel <i>Audrey R. Hayes</i> 7/10/15	Controller/Treasurer <i>[Signature]</i> 7/10/15	District Secretary []	BARC <i>Paul Medved</i> 7/13/15
TITLE:				

**CHANGE ORDER NO. 62, PART 2 TO CONTRACT NO. 02EE-120, WSX
DESIGN-BUILD LINE, TRACK, STATION, AND SYSTEMS FOR ADDITIONAL
WARM SPRINGS/SOUTH FREMONT STATION STORM WATER MITIGATION**

NARRATIVE:

PURPOSE:

To obtain Board authorization for the execution of Change Order No. 62, Part 2 - Additional Warm Springs/South Fremont Station Storm Water Mitigation in the amount of \$462,500 to Contract No. 02EE-120, Warm Springs Extension Design-Build Line, Track, Station and Systems.

DISCUSSION:

Award of Contract No. 02EE-120 (the "WSX LTSS Contract") to Warm Springs Constructors ("Contractor"), in the amount of \$299,050,000.00 was authorized by the Board on June 23, 2011. Notice to Proceed was issued on October 5, 2011. To date, the WSX LTSS Contract is approximately 92% complete.

Change Order No. 62, Part 2 provides compensation to the Contractor due to costs incurred to comply with additional San Francisco Bay Regional Water Quality Control Board (Water Board) requirements. BART's WSX Project is subject to certification by the Water Board under Section 401 of the California Clean Water Act. As such, the Contract for the design-build of the Warm Springs/South Fremont Station is required to employ post-construction storm water management features such as vegetated swales, etc., to treat storm water runoff to the "maximum extent practicable". The Contractor completed the final site drainage design working to what it considered to be a reasonable, industry standard interpretation of the maximum extent practicable requirement. However, the Water Board staff disagreed with the Contractor on this point and would not certify the design as compliant without additional provisions for on site storm water treatment. BART project staff independently reviewed the circumstances around this dispute and committed to the Water Board that the additional treatment provisions would be provided. BART project staff furthermore determined that the Contractor was entitled to additional compensation for extra costs incurred for both redesign and construction of the added features sufficient to obtain Section 401 certification.

Accordingly, in March of 2014 the District issued Change Notice No. 61 directing the Contractor to add additional storm water treatment features to the Contract scope of work. Change Order No. 62, Part 1 was subsequently executed in the amount of \$147,000 to cover the re-design

portion of the work. Change Order No. 62, Part 2 for an additional \$462,500 is intended to cover the construction portion of the additional storm water mitigation features. The sum of Change Order No. 62 Parts 1 and 2 totals \$609,500.

Pursuant to Board Rule 5-2.4, Change Orders involving expenditures greater than \$500,000 on the WSX LTSS Contract require Board approval.

The Office of the General Counsel will approve this Change Order as to form prior to execution. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

FISCAL IMPACT:

Funding of \$462,500 for Change Order No. 62 Additional Storm Water Mitigation - WSX Wetland Mitigation Site is available in project 02EE000. The Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project since January 2010, 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:

As of June 4, 2015, \$418,981,013.50 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
535A	State	FY2010-11 Prop 1B – PTMISEA	\$ 6,987,098.00
535B	State	FY2014-15 Prop 1B – PTMISEA	\$ 160,319.00
535V	State	FY2009-10 Prop 1B – PTMISEA	\$ 28,338,275.00
535X	State	FY2008-09 Prop 1B – PTMISEA	\$ 1,092,440.00
535Y	State	Prop 1B SLPP 04A0076-03 R898GJ	\$ 31,274,999.99
536A	State	Prop 1B SLPP 04A0076-R898GK	\$ 23,158,000.00
536B	State	Prop 1B SLPP 04A0076-R898GL	\$ 23,341,000.00
536C	State	Prop 1B SLPP 04A0076-R898GM	\$ 11,894,000.00
536D	State	Prop 1B SLPP 04A0076-R898GN	\$ 9,512,000.00
5553	State	CTC Warm Springs 04A0076-03 A10	\$ 727,000.00
555N	State	CTC Warm Springs Ext	\$ 12,000,000.00
6102	Regional	MTC RM1 WSX2-11383304	\$113,000,000.00
6216	Regional	MTC RM2 Alloc 10366704	\$ 10,315,956.49
6218	Regional	MTC RM2 Alloc 11366705	\$ 21,254,925.00
6403	Regional	MTC AB1171 WSX2 - 11391409	\$ 5,000,000.00
656F	Regional	VTA/Santa Clara Measure C WSX2	\$ 8,000,000.01
663R	Regional	ACTIA Measure B WSX Stage 2	\$112,925,000.01
		Grand Total	\$418,981,013.50

CHANGE ORDER NO. 62 (PART 2) TO CONTRACT NO. 02EE-120, WSX DESIGN-BUILD LINE, TRACK, STATION,

BART has expended \$342,169,783.97, encumbered \$56,113,076.25, and reserved \$475,994.19 for other actions to date. This action will encumber an additional \$462,500 leaving an available fund balance of \$19,759,659.16.

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

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. In that event, the District will likely receive a claim from the Contractor for costs related to construction of the additional storm water mitigation features.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 62, Part 2 Additional Warm Springs/South Fremont Station Storm Water Mitigation, to Contract No. 02EE-120, Warm Springs Extension Design-Build Line, Track, Station and Systems, for a total not to exceed amount of \$462,500.

CONTRACT No. 02EE-120

CHANGE ORDER NO. 62, Part 2

CHANGE ORDER SUMMARY**BACKGROUND**

Program: Warm Springs Extension Project (WSX)
 Contractor: Warm Springs Constructors
 NTP Date: October 5, 2011
 Monetary Completion as of 7/15/15: 92%
 Physical Completion as of 7/15/15: 92%

<u>COST</u>	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Amount			\$299,050,000
Other than Board Authorized CO's*	4.05%	\$12,122,523	
(*Does not include CO 2 [\$4,709,000] for exercised AFC bid options since these options are paid for by others.)			
Board Authorized CO's**	2.01%	\$6,000,000	
This CO (#62, Part 2)	0.15%	\$462,500	
Subtotal of all CO's	6.21%	\$18,585,023	
<u>Revised Contract Amount</u>			\$317,635,023

SCHEDULE

Original Contract 1,530 days
 Time Extension to Date 0 days
 Time Extension due to approved CO's (rain) 0 days
 Revised Contract Duration 1,530 days



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Marcia DeVander</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board	
DATE: 7-15-15		BOARD INITIATED ITEM: No	
Originator/Prepared by: Travis W Engstrom Dept: Office of the Chief Information Officer	General Counsel	Controller/Treasurer	District Secretary
<i>Travis Engstrom</i> Signature/Date: 7/10/15	<i>[Signature]</i> 7-15-15 []	<i>[Signature]</i> 7/15/15 []	<i>[Signature]</i> 7/15/15 []
Status: Routed		Date Created: 07/06/2015	

Exercise Options for Two One-Year Extensions of Contract No. 6M7220 for the Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of the Commercial Fiber Optic and Wireless Networks

NARRATIVE:

Purpose

To authorize the General Manager to exercise Options for two one- year extensions of Contract No. 6M7220 for the Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of the Commercial Fiber Optic and Wireless Networks with Phase 3 Communications, Inc., for a total amount not to exceed \$1,708,420.00.

Discussion

On August 28, 2014, the Board authorized the General Manager to award Contract No. 6M7220 to Phase 3 Communications, Inc. (Phase 3) for the Base Bid amount of \$854,210.00 for a one-year period, and indicated that the authority to exercise Option 1 for an additional year for the Bid amount of \$854,210.00 and Option 2 for a second additional year for the Bid amount of \$854,210.00 would be contingent upon staff returning to the Board with a report on the feasibility of performing the work with District employees and obtaining Board authorization to exercise of Options 1 and 2.

For the three years in the contract preceding the current Contract (also with Phase 3), work consisted primarily of emergency restoration and non-emergency repair, and preventive maintenance work accounted for no more than fifteen percent of all work. In the current Contract, no preventive maintenance work was performed at all in FY15 because of the extensive restoration and repair work required as a result of vandalism, and the fact that the new and restored equipment did not need preventive maintenance.

Staff has completed the requested feasibility analysis, comparing labor and equipment requirements outlined in the Contract to equivalent costs for BART staff, using the last four years of historic work trends around the fiber optic and wireless networks. BART staff estimations included cost savings measures such as the lease rather than purchase of specialized equipment and the fact that no safety monitors would be required for work performed by staff. Despite these costs savings, staff concludes that performing the Contract work in-house would be \$810,892.29 more expensive than performing the work under the Contract for FY2016 and FY2017. The approximately \$405,000 yearly increase would be based on the need for BART to hire a crew of 11 (Phase 3 has a team of 11 for this Contract) and to

lease required equipment to perform the work. The Phase 3 team members cannot be logically separated and still maintain the District's two-hour mobilization requirement in the Contract for response to a commercial fiber optic outage. This would also be true of a BART staff team performing the work; while there would be no Contract requirement for mobilization, there would be a practical need for prompt mobilization of staff in order to not jeopardize the provision of commercial fiber and wireless services. In addition to the increased cost of having the Contract work performed in-house, it would take at least six months to train BART employees to perform the emergency restoration and non-emergency repair elements of the Contract, and BART would have to arrange for and fund such training. In the meanwhile, it would be necessary to have the Contractor perform the work.

In recognition of the Board's desire to bring some Contract work in-house if possible, staff has entered into discussions with SEIU to build a Preventive Maintenance Procedure and transition preventive maintenance to BART staff. The Procedure will be drafted in FY16. It is anticipated that the cost of having existing BART employees perform preventive maintenance work will not exceed the estimated annual Contract cost of approximately \$60,750 for Preventive Maintenance.

The Bid totals for each optional year are based on estimated quantities. Staff is seeking Board authority to exceed the annual totals, subject to the availability of funding, so long as the Total Bid Price of \$1,708,420.00 for Options 1 and 2 is not exceeded.

Pursuant to the District's Non-Discrimination for Subcontracting Program, the availability percentages for this contract are 23% for MBEs and 12% for WBEs. The bidder will not be subcontracting any work and will do all work with its own forces. Therefore, the District's Non-Discrimination in Subcontracting Program does not apply.

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 bidder (s) is not a certified small business and therefore is not eligible for the 5% small business preference.

Fiscal Impact

Funding for FY2016 (Option 1) in the amount of \$854,210.00 is included in the Office of the Chief Information Officer's (OCIO) approved operating budget. Funding for FY2017 (Option 2) in the amount of \$854,210.00 will be included in the proposed budget of the OCIO for FY2017.

Alternative

To not authorize the exercise of Options 1 and 2. This would 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 liability.

To perform all work under the Contract using BART staff. This would incur an additional \$810,892.29 over FY2016 and FY2017, and would also require the District to fund staff training, which would take at least six months. During the training period, the Contract would have to be in place as work cannot be suspended.

Recommendation

Adoption of the following motion.

Motion

The General Manager is authorized to exercise Options 1 and 2 for two one-year extensions of Contract No. 6M7220 for the Emergency Restoration, Preventive Maintenance, Non-Emergency Repair and Seismic Relocation Work of the Commercial Fiber Optic and Wireless Networks, for a total amount not to exceed \$1,708,420.00.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Barbara DeBenedictis</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 7-16-15		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Fadelli Dept:	General Counsel <i>Audrey Powers</i> 7/16/15	Controller/Treasurer <i>Apollita</i> 7/16/15	District Secretary []	BARC <i>Powers</i> 16 July 2015 []
Signature/Date: <i>Paul Fadelli</i>				
Status: Routed		Date Created: 07/15/2015		

TITLE:

BART Board Support for SB 9 (Beall) Cap & Trade Funding

NARRATIVE:

PURPOSE: To request that Board of Directors change its position from "WATCH" to "SUPPORT" for SB 9 (Beall).

DISCUSSION: At the June 25, 2015 BART Board meeting at which state and federal legislation was reviewed for Board action, staff recommended -- and the Board authorized -- a "WATCH" position on SB 9 (Beall) which deals with Cap & Trade program funding. Because the author has recently amended the bill to deal with a variety of transit concerns, staff now recommends the Board change its position from "WATCH" to "SUPPORT".

Current Cap & Trade laws provide various sources of funding for transportation programs, including capital and operating funds for rail services, including intercity, commuter, and urban rail systems. One of these programs, the Transit and Intercity Rail Capital Program (TIRCP), receives 10% of the annual total proceeds of the Greenhouse Gas Reduction Fund as a continuous appropriation.

As the Board was advised in June, SB 9 (as introduced) would have changed the TIRCP to be more like the federal "New Starts" program and require that the State Transportation Agency (CalSTA) adopt a multiyear program to fund public transit projects that are over \$100 million that reduce greenhouse gas emissions. Opponents of SB 9 raised concerns that creative smaller projects (like bus proposals) might be at a funding disadvantage in the bill. The author made several amendments that changed the percentages for large and small project submissions – but finally agreed to amendments that opened up the entire program to all transit *capital* projects that reduce GHG.

There are several positive provisions in SB 9 that could assist BART. SB 9 would :

- maintain that capital improvements must be for "transformative" projects -- which the author has said can focus on large passenger rail (i.e. rolling stock, train control combination, etc.);
- establish a 5-year project funding plan by CalSTA;
- restrict funding to capital projects – no operations funding like in existing TIRCP;
- provide multi-year full funding commitments to approved projects;
- allow Letters of No Prejudice (LONP) to grantees to allow the most flexibility in using project funding; and
- not only require transit applicants to reduce GHG levels, but require that program applicants determine *how much* GHG would be reduced.

The bill has bi-partisan support with only one negative vote in all committee and floor votes. The California Transit Association (CTA) now supports this bill. Bus agencies like AC Transit have switched from oppose to support positions. Transform, an original opponent of SB 9, will support the bill if an amendment on cost sharing is accepted. MTC remains neutral at this point and its staff advises SB 9 will not disrupt BART's agreement with MTC on cap and trade funding.

FISCAL IMPACT:

N/A

ALTERNATIVE:

The Board may decline to change its WATCH position or may choose to OPPOSE SB 9 (Beall).

RECOMMENDATION:

That the Board SUPPORT SB 9 (Beall).

MOTION:

The Board change its position on SB 9 from WATCH to SUPPORT.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

To: Board of Directors

Date: July 17, 2015

From: District Secretary

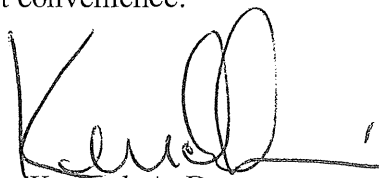
Re: Proposed Revisions to Rules of the Board of Directors

Attached are the Board Rules revisions proposed by the Rules of the Board of Directors Ad Hoc Committee and staff. The proposed revisions are scheduled for consideration by the Board of Directors at the July 23 Regular Meeting.

The attachments to this memorandum summarize the proposed changes in categories. The first section (A) includes revisions the Ad Hoc Committee has initiated and recommends for adoption. Section B includes revisions initiated by staff and recommended for adoption by the Ad Hoc Committee. Section C includes revisions proposed by Ad Hoc Committee members that do not have a consensus recommendation. Please note in Section C the twenty (20) items with an asterisk (*) are related to the proposed elimination of the Standing Committees.

The revisions in the Board Rules are designated by strikethroughs for deleted language; underlines for new language; red color for revisions proposed by Ad Hoc Committee; blue color for language proposed by staff. Table of Contents sections affected by the proposed revisions are shaded.

Should you require any additional information, please contact the members of the Ad Hoc Committee, General Counsel or me at your earliest convenience.



Kenneth A. Duron

Attachments

cc: Board Appointed Officers
Deputy General Manager

A. AD HOC COMMITTEE PROPOSED REVISIONS: RECOMMENDED

Chapter I General Provisions. Section 1 Policy

1. Board Rule 1-1.2 Rules. Page I-1. *Adds Board of Directors' Code of Conduct (Appendix C) and amends the Code of Conduct to expressly prohibit Directors from seeking District employment while in office.*

Chapter III Board Meetings and Committees. Section 1 Requirements for Board and Committee Meetings

2. Board Rule 3-1.1 Definition of Meeting. Page III-1. *Adds reference to special committee.*
3. Board Rule 3-1.2 Notice of Regular Meeting. Page III-2. *Adds reference to special committee.*

Chapter III Board Meetings and Committees. Section 2 Board Meetings

4. Board Rule 3-2.2 Evening Meetings. Page III-6. *Changes language to allow for flexibility in adjusting meeting start times.*

Chapter IV Personnel Provisions. Section 1. Compensation Policy

5. Board Rule 4-1.3 Holidays. Page IV-1&2. *Deletes section.*

Chapter V Financial Provisions. Section 3 Reimbursable Expenses

6. Board Rule 5-3.3(e) Expense Reports. Page V-9. *Adds reference to availability of expense reports through the District Secretary's Office.*

Chapter V Financial Provisions. Section 5 Financial Contributions Limitation

7. Board Rule 5-5.2 Contractor/Subcontractor Certification of Compliance. Page V-12. *Inserts clarifying language (prospective contractors).*
8. Board Rule 5-5.3 Contractor/Subcontractor Information Submitted to Board. Page V-13. *Inserts clarifying language (prospective contractors).*
9. Board Rule 5-5.4 Definitions. Page V-13. *Creates new definition (e) Prospective Contractors.*

Appendix

10. Board Rule Appendix C Board of Directors Code of Conduct. Appendix C. *Adds Board of Directors Code of Conduct with a proposed amendment to section V, (Directors shall not seek District employment while in office).*

B. STAFF PROPOSED REVISIONS: RECOMMENDED

Chapter III Board Meetings and Committees. Section 2 Board Meetings

11. Board Rule 3-2.3 Closed Sessions. Page III-8. *Adds item (d) for consistency with Government Code section.*
12. Board Rule 3-2.7 Acts of the Board. Page III-11. *Deletes unnecessary requirement for roll call vote.*

Chapter III Board Meetings and Committees. Section 3 Committees

13. Board Rule 3-3.1 Number. Page III-12&13. *Inserts website address; deletes video recording of Special Committees; adds item (c) permitting creation of Ad Hoc Committees.*

Chapter V Financial Provisions. Section 1 Annual Budget

14. Board Rule 5-1.6 Faithful Performance Bonds. Page V-2. *Deletes item. Obsolete/Not applicable.*

Chapter V Financial Provisions. Section 2 Agreements and Contracts

15. Board Rule 5-2.2 Authorization. Page V-3. *Deletes item. Obsolete/Not applicable.*

Chapter V Financial Provisions. Section 3 Reimbursable Expenses

16. Board Rule 5-3.5(a) and (c) Use of District Property Other than Automobiles. Page V-10. *Updates language describing property.*

Chapter V Financial Provisions. Section 5 Financial Contributions Limitation

17. Board Rule 5-5.1 Contractor/Subcontractor Contributions. Page V-12. *Deletes obsolete language.*

C. AD HOC COMMITTEE PROPOSED REVISIONS: NO RECOMMENDATION

Chapter II Officers and Duties. Section 1 Officers

18. Board Rule 2-1.2 Election of Officers. Page II-1. *Permits the appointment of a nominating committee to nominate candidates for President and/or Vice President.*
19. Board Rule 2-1.5 Rotation of Offices. Page II-1&2. *Deletes Rule 2-1.5 provisions: Rotation of the offices of President and Vice President among the three District counties; the President and Vice President shall not be from the same county; Succession of President by Vice President; and designation of election Districts by county.*

Chapter III Board Meetings and Committees. Section 1 Requirement for Board and Committee Meetings

- *20. Board Rule 3-1.1 Definition of Meeting. Page III-1. *Deletes reference to Standing Committees.*
- *21. Board Rule 3-1.2 Notice of Regular Meeting. Page III-2. *Deletes reference to Standing Committees.*
- *22. Board Rule 3-1.3 Place of Meeting. Page III-2. *Deletes reference to Standing Committees.*
- *23. Board Rule 3-1.4 Meeting Start Times. Page III-3. *Deletes obsolete language; deletes references to Standing Committees.*
- *24. Board Rule 3-1.5 Special Meeting. Page III-4. *Deletes reference to Standing Committees.*
- *25. Board Rule 3-1.6 Citizens' Comments. Page III-4. *Deletes reference to Standing Committees.*
- *26. Board Rule 3-1.8 Consideration of Non-agenda Items at a Meeting. Page III-5&6. *Deletes reference to Standing Committees.*

Chapter III Board Meetings and Committees. Section 2 Board Meetings

27. Board Rule 3-2.1 Regular Meetings. Page III-6. *Changes start time of fourth Thursday meeting (January through October) to 5:00 p.m. and clarifies start time of November and December meetings at 9:00 a.m.; with a sunset at the end of calendar 2016.*
28. Board Rule 3-2.1 Regular Meetings. Page III-6. *Creates requirement for two Regular Board Meetings each year to be held at locations within the District other than the BART Board Room. The remote meeting locations will be accessible by BART and rotated amongst southern/eastern Alameda, Contra Costa and San Francisco counties; with a sunset of the end of calendar 2017.*

Chapter III Board Meetings and Committees. Section 3 Committees

- *29. Board Rule 3-3.1 Number. Page III-12. *New permissive language for creating Standing Committees. Deletes reference to Standing Committees.*
- *30. Board Rule 3-3.2 Membership. Page III-13. *Deletes reference to Standing Committees.*
- *31. Board Rule 3-3.4 Term of Office. Page III-14. *Deletes reference to Standing Committees.*
- *32. Board Rule 3-3.5 Nature and Responsibilities of Committees. Page III-14. *Clarifies which committee meetings (special) shall be recorded given deletion of Standing Committees.*
- *33. Board Rule 3-3.6 Functions of the Standing Committees. Page III-15 to 17. *Deletes reference to Standing Committees.*

* Identifies items related to the elimination of the Standing Committees.

Chapter III Board Meetings and Committees. Section 4 Meeting Material

- *34. Board Rule 3-4.1 Agendas. Page III-17&18. *Deletes reference to Standing Committees.*
- 35. Board Rule 3-4.1 Agendas. Page III-17. *Inserts proposed new language for Roll Call for Introductions items, for resolution of concerns with an item.*

Chapter III Board Meetings and Committees. Section 6 Board Correspondence and Communications

- 36. Board Rule 3-6.1 Board Correspondence. Page III-22. *New rule requiring issuance of "bart.gov" email addresses to Directors and requires use for email communication involving District business.*

Chapter V Financial Provisions. Section 1 Annual Budget

- *37. Board Rule 5-1.1 General Provisions. Page V-1. *Deletes reference to Standing Committees.*
- *38. Board Rule 5-1.2 Budget Submitted to Board. Page V-1. *Deletes reference to Standing Committees.*

Chapter V Financial Provisions. Section 2 Agreements and Contracts

- *39. Board Rule 5-2.3 Review. Page V-3. *Deletes reference to Standing Committees.*

Chapter V Financial Provisions. Section 3 Reimbursable Expenses

- *40. Board Rule 5-3.1 Reimbursement for Travel and Personal Expenses. Page V-5. *Deletes reference to Standing Committees.*
- *41. Board Rule 5-3.2 Rules for Travel and Personal Expenses. Page V-6&7. *Deletes reference to Standing Committees.*
- *42. Board Rule 5-3.3(d) Expense Reports. Page V-9. *Deletes reference to Standing Committees.*
- *43. Board Rule 5-3.5(d) Use of District Property Other than Automobiles. Page V-10. *Deletes reference to Standing Committees.*

Chapter V Financial Provisions. Section 4 Campaign Contribution Statements and Statements of Economic Interest

- 44. Board Rule 5-4.1 Filing and Publication of Required Statements. Page V-11. *Presents alternate proposals:*

- a. *Adds filing of copies of Campaign Contribution Statements concurrent with filing with Registrar of Voters.*

- b. *Deletes requirement to provide copies of Campaign Contribution Statements for posting on website and provides a link to respective county Registrars of Voters for access to Campaign Contribution Statements information.*

Chapter V Financial Provisions. Section 5 Financial Contributions Limitation

- 45. Board Rule 5-5.1 Contractor/Subcontractor Contributions. Page V-12. *Changes limits on amounts of and terms for contributions.*

* Identifies items related to the elimination of the Standing Committees.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** July 17, 2015
FROM: Director, District 1
SUBJECT: Customer Communications about Delays, Emergencies, and Other Incidents

The frequency and severity of planned and unplanned train delays, emergencies or other incidents is increasing given BART's aging infrastructure, growing ridership, and heightened needs for infrastructure repairs and maintenance. At the same time, the clarity of much of the District's communications, especially station and train public address systems, has decreased as the systems used to deliver those messages age. For example, recent incidents, such as the medical emergency at West Dublin/Pleasanton Station, the fire between the Coliseum and Fruitvale Stations, and the downed PG&E line obstructing BART tracks in the City of Lafayette, have caused consternation and confusion among our passengers as they struggled to hear clear and timely information and instructions about how to respond to these incidents.

Some problems that have been identified by our riders include:

- Inability to hear information on outdoor platforms because of the surrounding traffic noise and/or lack of speakers beyond the awnings;
- Inability to understand information because of faulty speakers in existing train cars;
- Inability to understand announcements in train cars because of operators' varying articulation or vocal intensity; and
- Inconsistent messages about what to do or where to go once they have off boarded.

Public confidence in the clarity, quantity, reliability, consistency, and timeliness of all of BART's communication channels is essential. More importantly, such communication is critical for the safety of riders and workers, especially during emergencies or other incidents.

Therefore, I recommend the Board acknowledge the need to improve customer communications for system delays, emergencies and other incidents through the following:

MOTION:

The General Manager shall prepare a work plan to improve the clarity, quantity, reliability, consistency and timeliness of BART's rider communications for delays, emergencies and other incidents. This work plan shall include the timeframes and budgets to implement a range of technologies and costs. The General Manager will report to the Board in a timely manner such that the Board may consider whether to fund this work plan in the supplementary operating budget allocations for FY15, the FY16 operating budget, or the potential revenue measure under consideration for the November 2016 ballot.



Gail Murray

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: General Manager

DATE: June 4, 2015

FROM: Director, District 7

SUBJECT: Outstanding Roll Call for Introduction Items

In a memo dated April 9, I provided a table that summarized outstanding Roll Call for Introduction (RCI) items that I am the sponsoring Director for and what is/was expected for those RCI items to be closed. In response to the Board of Directors' expressed interest on May 28 to "clean up" the RCI list, I will be withdrawing most of the RCI items that staff has provided a response to, but done so in a manner that I find to be inadequate. For these withdrawn RCI items, I will seek to have their purposes addressed in a different manner, as described in the table on the attached page.

My records indicate that there are five (5) RCI items that staff has indicated being fulfilled, but that I have articulated still being outstanding. The four (4) RCI items in this category that are hereby withdrawn have the following Control Numbers:

- 12-683
- 12-684
- 13-711
- 15-762

The remaining one (1) waits to be fulfilled or, if you bring it back for the full Board's perspective, will be addressed at the discretion of the Board of Directors. This remaining RCI item is also summarized in a table on the second attached page with a note.

If you have any questions, please contact me to discuss.



Zakhary Mallett

cc: Board of Directors
Board Appointed Officers
Deputy General Manager

Withdrawn RCI Items

<u>RCI Control Number/Summary</u>	<u>Disposition</u>
<p>12-683: Requests a future Board agenda topic for a comprehensive review of the District's fare structure</p>	<p>Administration and Budget staff is prepared to present this item and two other Board members support this being presented to the Board if certain conditions are met. Its standing as an RCI item is no longer necessary.</p> <p>Accordingly, this item will be presented to the Board at a future meeting. The District Secretary has been informed of this.</p>
<p>12-684: Requests estimated costs per mile for the construction of sound walls (like the areas between the Concord and North Concord/Martinez Station)</p>	<p>The intent of this RCI will be further explored with relevant executive staff and potentially be revised or reduced in scope for reconsideration at a later time.</p>
<p>13-711: Requests the development of a clear definition of "crowded" trains as it applies to Bicycle Access program</p>	<p>The current bicycle policy that prohibits bicycles on crowded trains is confusing and unenforceable due to the subjectivity of the term "crowded." This RCI was created based on an assumption that staff has/had a visual understanding of what they meant by "crowded" when this policy was recommended to the Board and that staff would be able to provide a visual description of the term for the riding public and BART Police to refer to for consistency, understanding, and enforcement.</p> <p>Based on the initial memo response to this RCI and subsequent communications with staff, it is clear that staff does not have a visual sense for this term. In light of this, I will work to seek two additional Directors to sponsor bringing definition options, as well as the options of voiding this policy, for the Board's consideration.</p>
<p>15-762: Requests development and presentation to Board for consideration of a public participation plan for the selection of the voice and sentence options for on-board announcements of the Fleet of the Future.</p>	<p>I will consult colleagues to narrow and better-specify the scope of this RCI for reconsideration at a later date.</p>

Upheld RCI Items

<u>RCI Control Number/Summary</u>	<u>Notes</u>
<p>14-760: Requests a study/evaluate methods for increasing public participation in decision-making processes and bring back for Board discussion</p>	<p>Based on there being interest by at least some members of the Board of Directors to be able to discuss this further, a discussion with the Board should be completed. As mentioned via email to the Assistant General Manager of External Affairs, “a verbal summary of your memo followed by opening it up for any Board questions or feedback is all that a ‘discussion’ entails” (i.e., a full-fledged presentation is not necessary).</p>