

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

AGENDAS FOR BOARD AND COMMITTEE MEETINGS

August 9, 2007

8:30 a.m.

A regular meeting of the Board of Directors will be held on Thursday, August 9, 2007, commencing at **8:30 a.m.** The meeting will be held in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

Members of the public may address the Board of Directors and Standing Committees 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 General Discussion and Public Comment.

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

Items placed under “consent calendar” and “consent calendar addenda” 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 who wish to address BART Board matters. A request must be made within one and five days in advance of Board/Committee meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Patricia K. Williams
Assistant District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

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

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of July 12, 2007.* Board requested to authorize.

- B. Fixed Property Tax Rates for General Obligation (GO) Bonds.* Board requested to authorize.
- C. Approval of Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the Transit Capital Match Project.* Board requested to authorize.
- D. Award of Invitation for Bid No. 8780, Step Assembly, Westinghouse Escalator.* Board requested to authorize.

3. REPORTS OF STANDING COMMITTEES

- A. ADMINISTRATION COMMITTEE
NO REPORT.
- B. ENGINEERING AND OPERATIONS COMMITTEE
NO REPORT.
- C. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE
NO REPORT.

4. GENERAL MANAGER'S REPORT
NO REPORT.

5. BOARD MATTERS

- A. Resolution Commending Cleopatra Vaughns.* (Director Ward Allen's request.) Board requested to authorize.
- B. Resolution Commending Sherwood G. Wakeman.* Board requested to authorize.

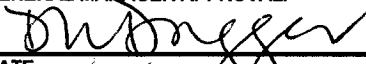
6. GENERAL DISCUSSION AND PUBLIC COMMENT



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

- A. PUBLIC EMPLOYEE APPOINTMENT:
Titles: General Manager
General Counsel
Gov't. Code Section: 54957(b)(1)
- B. CONFERENCE WITH LABOR NEGOTIATORS – PUBLIC
EMPLOYEE PERFORMANCE EVALUATION:
Agency Negotiators: Directors Franklin, Murray, and Sweet
Titles: Controller/Treasurer
District Secretary
Gov't. Code Sections: 54957 and 54957.6



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 	GENERAL MANAGER ACTION REQ'D:
DATE: 8/3/07	BOARD INITIATED ITEM: Yes

Originator/Prepared by: Scott Schroeder Dept: Controller-Treasurer Ext. 6070	General Counsel  7/31/07	Controller/Treasurer  7/31/07	District Secretary []	BARC []
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NARRATIVE:

FIXED PROPERTY TAX RATES - GENERAL OBLIGATION BONDS

PURPOSE:

Fixing the rate of property taxes for the Fiscal Year 2008 for the General Obligation Bonds.

DISCUSSION:

The debt service required on the District's General Obligation Bonds for Fiscal Year 2008 is \$33,479,307.

The debt service tax rate required by the District for Fiscal Year 2008 is .000076 which equates to \$7.60 per one hundred thousand dollars of assessed valuation for the three counties within the District.

FISCAL IMPACT:

Revenues collected on the basis of the above tax rate will be sufficient for the debt service requirements for the General Obligation Bonds for Fiscal Year 2008.

ALTERNATIVES:

None.

RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2008 be approved.

MOTION:

Adopt attached Resolution.

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

In The Matter of Fixing The Rate of Taxes
For San Francisco Bay Area Rapid Transit
District for Fiscal Year 2007/08

Resolution No. _____

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2007, to June 30, 2008, and make valid assessments of property and valid levies of taxes in accordance with Public Utilities Code Section 29126; and

WHEREAS, Section 93(c) of the Revenue and Taxation Code authorizes the District to levy an ad valorem property tax in order to produce revenues in an amount equal to the amount needed to make annual payments of principal and interest on the General Obligation Bonds which were approved by over two-thirds vote of the District's voters on November 2, 2004; and

WHEREAS, This Board has determined the tax rate for the District taxes for the counties in the District for the fiscal year 2007/08 from the budget of the District for the fiscal year 2007/08 and from the values of property transmitted to this Board by County Auditors;

NOW, THEREFORE, BE IT RESOLVED that the rate of taxes of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2007 to June 30, 2008, is hereby fixed at .000076, which equates to \$7.60 per one hundred thousand dollars of assessed value of property, AND BE IT FURTHER RESOLVED that the Secretary shall immediately after the effective date of this resolution transmit to the County Auditor of the Counties in which the District is situated a statement of such tax rate. The effective date of this resolution is August ____, 2007.

Adopted _____



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>DN Dwyer</i>	GENERAL MANAGER ACTION REQ'D: Approve and forward to the Administration Committee
DATE: 8/2/07	BOARD INITIATED ITEM: No

Originator/Prepared by: Stacey Perkins Dept: Capital Development & Control Ext. x6160 Signature/Date: <i>SP</i>	General Counsel <i>MB 8/1/07</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary []	BARC []
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NARRATIVE:

Approval of Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the Transit Capital Match Project

Purpose:

To obtain approval of a Resolution of Project Compliance ("Resolution") and Initial Project Report ("IPR") for Regional Measure 2 ("RM2") funds for the Transit Capital Match Project ("Project"). The IPR, as described in the attached IPR Summary ("Summary"), includes a request for reimbursement for a total of \$15 million in planned project expenditures in FY07-08 through FY10-11.

Discussion:

The Project will provide \$15 million in RM2 funds as part of the required local match to the District's FY07 Section 5307 and 5309 federal grants. Both grants have already been awarded. These grants total approximately \$108 million in federal formula funds for a variety of District renovation projects including the following: train control, traction power, track replacement, general mainline renovation, security, ADA accessibility improvements and the Strategic Maintenance Program (SMP). The approximately \$21.5 million total in required local match will be funded from District operating funds for the SMP, bridge toll revenues, and this \$15 million request for RM2 funds.

This request for RM2 funds is part of a funding swap worked out with the Metropolitan Transportation Commission ("MTC") to implement the terms of the alternative operational and financial arrangement for the BART to SFO Extension. The funding swap is described in the Three Party Financial Agreement ("Agreement") between the MTC, BART and SamTrans, approved by the Board of Directors in February 2007. The Agreement requires MTC to provide \$24 million in regional Proposition 1B funds to BART to fund the operation of the SFO Extension in installments of \$15 million and \$9 million over a period of two years. Because Proposition 1B funds can only be used for capital expenditures, a funding exchange with three BART projects was negotiated.

Specifically, \$24 million in RM2 funds from the Transbay Tube Seismic Retrofit (TBT) Project has been moved to the Transit Capital Match Project and is, in part, the subject of this RM2 request. The District will move \$24 million in operating funds which would have been allocated

EDD: Approval of Resolution of Project Compliance and Initial Project Report for Regiona

to capital for use as Transit Capital Match, to an SFO Reserve Account to be used to fund the SFO Extension service. To backfill the RM2 funds on the TBT Project created by this swap, MTC will provide \$24 million in regional Proposition 1B funds to the TBT Project as soon as these funds become available. The Three Party Financial Agreement between MTC, BART and SamTrans becomes null and void if MTC makes a determination by December 31, 2007, that Proposition 1B funds will not be available to meet the obligations of this Agreement.

MTC held a 30 day public review and comment period on the reassignment of RM2 funds from the TBT Project to the Transit Capital Match Project, which ended in June. A public hearing was held at the MTC Programming and Allocations Committee on June 13, 2007. The final proposal was approved at the June MTC Commission meeting.

Fiscal Impact:

Approval of the IPR and Resolution is a requirement for the District to receive an allocation of RM2 funding from the MTC in the amount of \$15 million. These actions have no fiscal impact on unprogrammed District Reserves.

Alternatives:

Do not approve the Resolution and IPR. This will jeopardize the receipt of \$108 million in federal funds or could require the District to fund the Transit Capital Match Project out of District Reserves. It could also violate the terms of the Three Party Agreement.

Recommendation:

Adoption of the following motion:

Motion:

Approve the attached Resolution of Project Compliance and Initial Project Report for the Transit Capital Match Project.

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

In the Matter of the Approval
Of a Resolution of Project Compliance
And Initial Project Report for Regional
Measure 2 Funds for the Transit Capital
Match Project

Resolution No. _____

Whereas, SB 916 (Chapter 715, Statutes 2004), commonly referred as Regional Measure 2, identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

Whereas, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds pursuant to Streets and Highways Code Section 30914(c) and (d); and

Whereas, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding; and

Whereas, allocation requests to MTC must be submitted consistent with the procedures and conditions outlined in Regional Measure 2 Policy and Procedures; and

Whereas, the San Francisco Bay Area Rapid Transit District (BART) is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

Whereas, the Transit Capital Match Project is eligible for funding in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

Whereas, the Regional Measure 2 allocation request, attached hereto in the Initial Project Report and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which BART is requesting that MTC allocate Regional Measure 2 funds; and

Whereas, the project application includes certification by BART of certain assurances required for the allocation of funds by MTC; and

Whereas BART previously authorized its General Manager, or his/her designee, to execute and submit an allocation request for the construction phase to MTC for Regional Measure 2 funds in the amount of \$15 million for the project, purposes and amounts included in the IPR; now, therefore, be it

Resolved, that BART and its agents shall comply with the provisions of the MTC's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636); and be it further

Resolved, that BART certifies that the Transit Capital Match Project is consistent with the Regional Transportation Plan (RTP).

Resolved, that the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project.

Resolved, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment.

Resolved, that BART approves the Initial Project Report as described in the attached Initial Project Report Summary (Summary), and be it further

Resolved, that BART approves the cash flow plan, as set forth in the Initial Project Report; and be it further

Resolved, that BART has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the Initial Project Report as described in the attached Summary, and be it further

Resolved, that BART is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code Section 30914(c); and be it further

Resolved, that BART is authorized to submit an application for Regional Measure 2 funds for the Transit Capital Match Project in accordance with California Streets and Highways Code Section 30914(c); and be it further

Resolved that BART certifies that the projects and purposes for which RM2 funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.) and, if relevant, the National Environmental Policy Act (NEPA)), 42 USC Section 4-1 et seq. and the applicable regulations thereunder; and be it further

Resolved, that there is no legal impediment to BART making allocation requests for Regional Measure 2 funds; and be it further

Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project or the ability of BART to deliver such project; and be it further

Resolved that BART indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of BART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and be it further

Resolved, that BART shall, if any revenues or profits from any non-governmental use of property (or project) are generated, that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the projects(s); and be it further

Resolved, that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes during their useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back or credited to MTC in the same proportion that Regional Measure 2 funds were originally distributed; and be it further

Resolved, that BART shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Transit Capital Match Project is funded with Regional Measure 2 Toll Revenues; and be it further

Resolved, that BART authorizes its General Manager, or his/her designee, to execute and submit an allocation request for the construction phase to MTC for Regional Measure 2 funds in the amount of \$15 million for the project, purposes and amounts included in the Initial Project Report; and be it further

Resolved that the use of Regional Measure 2 funding will result in completion of the construction phase for the Transit Capital Match Project.

Resolved, that a copy of this Resolution shall be transmitted to MTC in conjunction with the filing of the BART application referenced herein.

Transit Capital Match Project

Initial Project Report Summary

The purpose of the Transit Capital Match Project is to provide Regional Measure 2 (RM2) funds as local match to the District's FY07 Sec.5307 and 5309 grants. These grants total approximately \$108 million for a variety of renovation projects including train control, traction power, track replacement, general mainline renovation, security, etc. A more complete listing of these projects is included below. Note the \$15 million RM2 request is part of the Local Match, which totals approximately \$21.5 million.

This request is part of a funding swap that is included in the alternative operational and financial arrangement for the BART to SFO Extension, memorialized in the Three Party Financial Agreement between MTC, BART and SamTrans. This Agreement requires MTC to provide \$24 million in Proposition 1B funds to BART to fund the operation of the SFO Extension in installments of \$15 million and \$9 million. Because Proposition 1B funds can only be used for capital expenditures, a funding exchange was negotiated. This RM2 request implements this funding exchange.



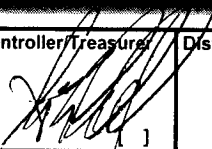
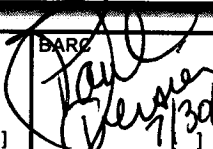
Project Description	Federal Total	Local Match	Grand Total
Train Control Renovation	\$ 13,000,000	\$ 3,250,000	\$ 16,250,000
General Mainline Renovation	\$ 16,205,806	\$ 4,051,452	\$ 20,257,258
Systemwide Safety/Security Projects	\$ 22,881,899	\$ 5,720,475	\$ 28,602,374
Construct Enhanced ADA Access	\$ 2,966,158	\$ 741,539	\$ 3,707,697
Strategic Maintenance Program	\$ 5,143,942	\$ 1,285,985	\$ 6,429,927
Rail, Way, and Structures Rehab	\$ 13,000,000	\$ 3,250,000	\$ 16,250,000
Traction Power Renovation	\$ 13,000,000	\$ 3,250,000	\$ 16,250,000
Total Capital	\$ 86,197,805	\$ 21,549,451	\$ 107,747,256

Phase-Milestone	Planned - Initial		Planned/Revised		Actual	
	Start Date	Completion Date	Start Date	Completion Date	Start Date	Completion Date
Construction (CON)	8/07	12/11				

Phase	Total Project Budget
Construction (CON)	\$15,000,000



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors	
DATE: 8/3/07		BOARD INITIATED ITEM: No	
Originator/Prepared by: Bruce King Dept: Mechanical Engineering Ext. 6378 Signature/Date:	General Counsel  []	Controller/Treasurer  []	District Secretary  []

NARRATIVE:

Purchase of 48" Step Assemblies for Westinghouse Escalators

PURPOSE :

To request Board authorization to award IFB No. 8780 to Precision Escalator Products, Kenilworth, NJ, in the amount of \$430,650.00 (including applicable sales tax) for the purchase of 800 new 48" step assemblies for Westinghouse Escalators.

DISCUSSION :

Escalator step assemblies are used for Westinghouse escalators throughout the District. The assemblies will be used as spare parts to replace worn or damaged steps, and to maintain availability of the escalators. This is a three (3) year estimated quantity contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the contract the District is required to purchase from the supplier a minimum amount of 50 percent of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract bid price, subject to availability of funding.

A notice requesting bids was published on June 1, 2007, and bid requests were mailed to 16 prospective bidders. Bid opening was June 19, 2007, and one (1) bid was received.

<u>Bidder</u>	<u>Unit Price</u>	<u>Total including 8.75% Sales Tax</u>
Precision Escalator Products	\$495.00	\$430,650.00

An independent cost estimate by BART staff was \$420,175.00 (including sales tax)

Staff has determined that the apparent low bidder, Precision Escalator Products, submitted a responsive bid. Staff has also determined that the bid pricing is fair and reasonable based on six previous purchases totaling 648 units at an average unit price of \$482.96.

Delivery of steps shall be 200 units every six(6) months, with the first shipment of 200 units due no later than 18 weeks after Notice of Award.

FISCAL IMPACT :

For inventory, funding will be provided from the General Fund, Materials and Supplier Inventory Buildup Account (140-010).

EDD:

ALTERNATIVE :

Reject the bid and re-advertise.

RECOMMENDATION :

On the basis of analysis by staff, and on certification by the Controller - Treasurer that funds are available for this purpose, it is recommended that the Board adopt the following motion.

MOTION :

The General Manager is authorized to award IFB No. 8780 for the purchase of 48" Step Assemblies for Westinghouse Escalators to Precision Escalator Products, Kenilworth, NJ for the amount of \$430,650.00 (including applicable sales tax) pursuant to notification to be issued by the General Manager.

Before the Board of Directors of the
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

RESOLUTION COMMENDING
CLEOPATRA VAUGHNS

Resolution No. _____

WHEREAS, Cleopatra Vaughns served as a member of the San Francisco Municipal Transportation Agency Board of Directors from 2000 through 2006, and as Chairman from 2004 to 2006, and

WHEREAS, Ms. Vaughns was a leader in many community, business, and professional organizations, including Manager of Community and Marketing Relations for Blue Shield, Chairman of The City Club of San Francisco, and National President of the National Association of Negro Business and Professional Women's Club; and

WHEREAS, Ms. Vaughns' commitment to professionalism and integrity earned her recognition by the League of Women Voters as a "Woman Who Could Be President"; and

WHEREAS, Ms. Vaughns' distinguished career of public service included membership on the American Public Transportation Association (APTA) Board of Directors and in the Northern California Chapter of the Conference of Minority Transportation Officials (COMTO);

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District does hereby take public cognizance of the immeasurable contributions Ms. Vaughns made to the cause of public transportation, on both regional and local stages, and

BE IT FURTHER RESOLVED that a suitably engrossed copy of this Resolution be tendered to the family of Cleopatra Vaughns as a token of the high esteem in which Ms. Vaughns is held by the members of the San Francisco Bay Area Rapid Transit District Board of Directors.

Adopted by the Board of Directors
of the San Francisco Bay Area Rapid Transit District
August 9, 2007

ATTEST:

Kenneth A. Duron
District Secretary

Lynette Sweet
President

Before the Board of Directors of the
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Resolution Commending
SHERWOOD WAKEMAN

Resolution No. _____

WHEREAS, Sherwood Wakeman has served the San Francisco Bay Area Rapid Transit District as General Counsel since May 1987, is the longest serving Board Appointed Officer in the District's history, and functioned ably as Associate General Counsel from 1986 to 1987, and

WHEREAS, Mr. Wakeman joined the District as a staff Attorney in 1973, a mere six months after the first day of revenue service, and throughout his career has contributed greatly to the District's successful operation and expansion, guiding the District through a constantly changing, complex and highly regulated legal environment, facilitating the District's use of cutting edge developments in the law, and

WHEREAS, Mr. Wakeman, as General Counsel, has served at the pleasure of and held the confidence of 31 present and past members of the Board of Directors, providing wise counsel and advice to the Board, 11 present and past Board Appointed Officers, and countless District executives, managers and members of staff, and

WHEREAS, Mr. Wakeman has committed himself to protecting the legal interests of the District with exceptional skill and insight for over thirty-four years, establishing an office with the highest standards of responsible jurisprudence, and

WHEREAS, Mr. Wakeman has helped advance the District's goals throughout his career, including admirably leading the District as Interim General Manager in 1989 and again in 1996, and serving continuously since 1996 as the first General Counsel of the Capitol Corridor Joint Powers Authority, and

WHEREAS, Mr. Wakeman is highly regarded by his clients and colleagues, including his devoted staff, for his legal expertise, professionalism, dedication, warmth and compassion, and

WHEREAS, Mr. Wakeman has announced his well-deserved retirement from the District, with his last date of service as General Counsel on July 27, 2007,

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Francisco Bay Area Rapid Transit District does hereby take public cognizance of the immeasurable contribution that Mr. Wakeman has made to the District and wishes him a long and satisfying retirement, and

BE IT FURTHER RESOLVED that a suitably engrossed copy of this Resolution be tendered to Sherwood Wakeman as a token of the high esteem in which he is held by the members of the San Francisco Bay Area Rapid Transit District Board of Directors.

Adopted by the Board of Directors of the
San Francisco Bay Area Rapid Transit District
August ____, 2007

ATTEST:

Kenneth A. Duron
District Secretary

Lynette Sweet
President