

**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 14, 2008

9:00 a.m.

A regular meeting of the Board of Directors and regular meetings of the Standing Committees will be held on Thursday, August 14, 2008, commencing at 9:00 a.m. All meetings will be held in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

Members of the public may address the Board of Directors and Standing Committees regarding any matter on these agendas. 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 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/Committee meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Kenneth A. Duron  
District Secretary

Regular Meeting of the  
**BOARD OF DIRECTORS**

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

1. **CALL TO ORDER**

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

2. **CONSENT CALENDAR**

- A. Approval of Minutes of the Meeting of July 24, 2008.\* Board requested to authorize.

- B. Fixing the Fiscal Year 2008-2009 Property Tax Rate for the General Obligation Bonds.\* Board requested to authorize.
- C. Award of Invitation for Bid No. 8837, Escalator Handrail.\* Board requested to authorize.

## **RECESS TO STANDING COMMITTEES**

Immediately following the Standing Committee Meetings, the Board Meeting will reconvene, at which time the Board may take action on any of the following committee agenda items.

## **ALL COMMITTEES ARE ADVISORY ONLY**

### ADMINISTRATION COMMITTEE

Immediately following the Board Meeting recess

Director Franklin, Chairperson

- A-1. Special Flash Pass for Rail~Volution 2008 Conference.\* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- A-2. Fiscal Year 2008 Year-End Budget Revision.\* Board requested to authorize.
- A-3. Agreement with B&C Transit Consultants, Inc., for On-Call Support Services for Technical Training Development (Agreement No. 6M3083).\* Board requested to authorize.
- A-4. General Discussion and Public Comment.

### ENGINEERING AND OPERATIONS COMMITTEE

Immediately following the Administration Committee Meeting

Director Fang, Chairperson

- B-1. Policy Governing the Use of Electric Personal Assistive Mobility Devices.\* Board requested to authorize.
- B-2. Quarterly Performance Report, Fourth Quarter Fiscal Year 2008 - Service Performance Review.\* For information.
- B-3. General Discussion and Public Comment.

### PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

Director Ward Allen, Chairperson

NO REPORT.

## **RECONVENE BOARD MEETING**

3. CONSENT CALENDAR ADDENDA

Board requested to authorize as recommended from committee meetings above.

4. REPORTS OF STANDING COMMITTEES

A. ADMINISTRATION COMMITTEE

A-1. Special Flash Pass for Rail~Volution 2008 Conference.\* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)

A-2. Fiscal Year 2008 Year-End Budget Revision.\* Board requested to authorize.

A-3. Agreement with B&C Transit Consultants, Inc., for On-Call Support Services for Technical Training Development (Agreement No. 6M3083).\* Board requested to authorize.

B. ENGINEERING AND OPERATIONS COMMITTEE

B-1. Policy Governing the Use of Electric Personal Assistive Mobility Devices.\* Board requested to authorize.

B-2. Quarterly Performance Report, Fourth Quarter Fiscal Year 2008 - Service Performance Review.\* For information.

C. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION COMMITTEE

NO REPORT.

5. GENERAL MANAGER'S REPORT

NO REPORT.

6. BOARD MATTERS

A. Resolution Commending Richard C. Ambrose.\* Board requested to authorize.

B. Roll Call for Introductions.

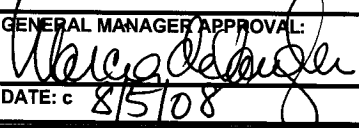
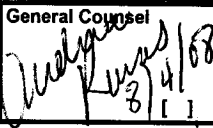


7. GENERAL DISCUSSION AND PUBLIC COMMENT

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

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: one potential case.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c 8/5/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michaela Morales Dept: Controller-Treasurer	General Counsel  8/4/08	Controller/Treasurer  8/5/08	District Secretary  8/5/08	BARC [ ]
Signature/Date:		[ ]		
TITLE:				

### FIXED PROPERTY TAX RATES FY 08-09- GENERAL OBLIGATION BONDS

NARRATIVE:

#### PURPOSE:

Fixing the rate of property taxes for the Fiscal Year 2009 for the General Obligation Bonds.

#### DISCUSSION:

The debt service required on the District's General Obligation Bonds for Fiscal Year 2009 is \$41,003,250.06.

The debt service tax rate required by the District for Fiscal Year 2009 is .0090 which equates to \$9.00 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 2009.

#### ALTERNATIVES:

None.

#### RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2009 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 2008/09

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

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2008, to June 30, 2009, 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


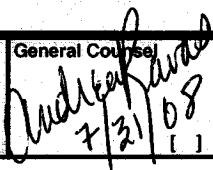

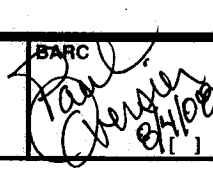
WHEREAS, this Board has determined the tax rate for the District taxes for the counties in the District for the fiscal year 2008/09 from the budget of the District for the fiscal year 2008/09 and from the values of property transmitted to this Board by County Auditors;

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, 2008 to June 30, 2009, is hereby fixed at .0090, which equates to \$9.00 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 \_\_\_\_, 2008.

Adopted \_\_\_\_\_



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 8/6/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Bruce King Dept: Mechanical Engineering	General Counsel  7/31/08	Controller/Treasurer 	District Secretary [ ]	BARC  8/4/08
Signature/Date:				
Status: Approved		Date Created: 07/08/2008		

TITLE:

### INVITATION FOR BID NO. 8837, ESCALATOR HANDRAIL

NARRATIVE:

#### ESCALATOR HANDRAIL

**PURPOSE:** To request Board Authorization to Award Invitation for Bid # 8837 to Porta Flex Manufacturing, 332 Fairall Street, Ajax Ontario Canada, in the amount of \$404,574.47 (includes all taxes) for the purchase of Escalator Handrail.

**DISCUSSION:** Escalator handrail is used on 177 escalators throughout the BART District. Escalators cannot operate without serviceable handrail. New handrail will be used as spare parts to replace worn or damaged handrail.

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 50 percent of the contract amount. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract amount, subject to availability of funding.

A notice requesting bids was published on May 14, 2008 and bid requests were mailed to eleven(11) prospective bidders. Bids were opened on June 3, 2008 and three (3) bids were received, two (2) were responsive to the District's Procedures. See Appendix A for unit price detail.

#### Bidder

#### Grand Total including 8.75% Sales Tax

Porta Flex Manufacturing	\$404,574.47
Kone Spares	\$625,252.69
Escalator Handrail Company ( non-responsive )	\$377,862.75
Independent cost estimate by BART staff:	\$ 400,000.00.

Staff has determined that the lowest responsible bidder, Porta Flex Manufacturing, submitted a

responsive bid. Staff has also determined that the bid pricing is fair and reasonable. The quality of material supplied by this vendor in the past has been satisfactory.

The bid submitted by Escalator Handrail Company, the apparent low bidder at the time of bid opening, contained corrections that were uninitialed, contrary to "Instructions to Bidders", Article 6.A.4.d, "Correction", and was found non-responsive.

**DELIVERY SCHEDULE :**

Delivery schedules are based on an average handrail length of 150 feet per pair, or 300 feet per pair and shall be ordered in quantities as needed.

**FISCAL IMPACT:**

Funding will be provided from the General Fund, Materials & Supplier Inventory build-up account (140-010).

**ALTERNATIVE:** To not award the IFB. In this case, the District will not have sufficient spare escalator handrail available to maintain escalators in serviceable condition, or to replace worn out / broken handrail in a timely manner. This may require shutting down District escalators at great inconvenience to BART patrons. Past experience indicates that rejecting all bids and inviting new bids is not likely to result in significantly lower bids.

**RECOMMENDATION:**

On the basis of analysis by staff, and certification by the Controller-Treasurer that the 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 8837, an estimated quantity contract for Escalator Handrail, to Porta Flex, Incorporated for the bid price of \$404,574.47 including all applicable taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.

## APPENDIX "A"

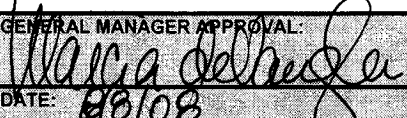
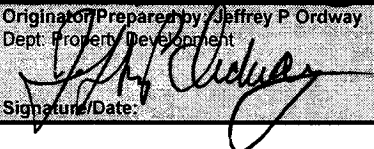
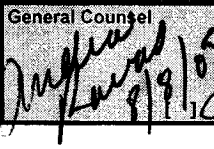
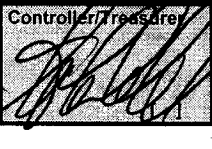
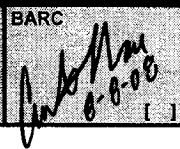
<i>Name</i>	Unit Price Item 1 3750 Ft.	Unit Price Item 2 900 Ft.	Unit Price Item 3 4500 Ft.	Unit Price Item 4 2700 Ft.	Unit Price Item 5 3900 Ft.	Unit Price Item 6 2500 Ft.	Grand total Including 8.75% Sales Tax
Porta Flex MFG. Ajax, Ontario	\$9.65/ ft.	\$8.35/ ft.	\$8.35/ft.	\$31.95/ft.	\$31.95/ ft.	\$31.95/ft.	\$404,574.47
Kone Spares, Moline, Il.	\$21.90/ft.	\$29.05/ft.	\$29.05/ft.	\$42.00/ft.	\$29.50/ft.	\$43.00/ft.	\$625,252.69
Escalator Handrail Company *	\$10.40/ft.	\$9.60/ft.	\$9.60/ft.	\$28.20/ft.	\$28.20/ft.	\$28.20/ft.	\$377,862.75

\* Escalator Handrail Company is non-responsive due to corrections made and not initialed by the person signing the bid  
per Instructions to Bidders, Article 6.A.4.d, "Correction".





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D: Approve and Forward to Administration Committee		
DATE: 08/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jeffrey P Ordway Dept: Property Development  Signature/Date:	General Counsel  8/9/08	Controller/Treasurer 	District Secretary [ ]	BARC  8-8-08 [ ]
Status: Routed		Date Created: 08/01/2008		

TITLE:

### Special Flash Pass for Rail~Volution 2008 Conference

NARRATIVE:

**PURPOSE:** To obtain Board approval to provide a special temporary Flash Pass for approximately 1,500 people attending the national Rail~Volution Conference hosted by BART in San Francisco from October 26-30, 2008.

**DISCUSSION:** In 2007 BART was awarded host status for the national 2008 Rail~Volution Conference. The conference will take place between October 26 and October 30, 2008 at the Hyatt Regency Embarcadero in San Francisco. Over the past 10 years, Rail~Volution has grown into the definitive national conference for building livable communities, particularly at transit stations. The conference brings together a unique cross-section of transit operators, state transportation officials, citizen activists, business leaders, developers, local elected officials, and federal officials. Attendance at the annual conference has grown to over 1,200 participants and has been held in Portland, Denver, Dallas, Washington, DC, Chicago, South Florida, and Salt Lake City. A Bay Area Steering Committee has been formed to co-host this year's event. Attached is a list of the organizations that are working collaboratively to prepare for the conference.

Topics addressed at various sessions during the conference will include transit-oriented development (TOD) case studies, financing TODs, regional versus local decision-making, affordable housing, climate change and the role of the public sector in supporting the livable community effort. In addition, numerous mobile tours have been set up during the conference to showcase various TOD projects throughout the Bay Area with participants accessing these projects using normally scheduled public transit.

The Flash Pass will include the logos of AC Transit, San Francisco Muni, SamTrans/CalTrain, Santa Clara VTA, Capitol Corridor, as well as BART. There are several historical precedents for participating in this effort. In addition to several free ticket promotions over the years, BART has provided flash passes in conjunction with the special Martin Luther King, Jr. birthday promotions and to promote Rail~Volution when BART hosted the conference in 2001. BART's participation offers a marketing opportunity to promote and showcase the Bay Area's transportation network, including BART's, to transit officials and other conference participants from across North

America.

**FISCAL IMPACT:** Assuming all of the passes are used for at least one round trip per day during the five day conference, the cost to BART for the promotion will be \$47,100 in Fiscal Year 09 operating revenue. (Average one-way fare of  $\$3.14 \times 2 \times 1500 \times 5 = \$47,100$ ).

**ALTERNATIVE:** Do not participate.

**RECOMMENDATION:** It is recommended that the Board approve participation in the multi-agency free Flash Pass for the Rail~Volution Conference attendees from October 26 to 30 as a special showcase promotion for the BART system.

**MOTION:** The Board hereby approves BART's participation with other transit operators to provide a free Flash Pass for up to 1,500 attendees at the 2008 National Rail~Volution Conference to be held in San Francisco from October 26 through 30, 2008. (Two-thirds vote required).

**Attachment**  
Rail~Volution 2008

Bay Area Steering Committee

Alameda/Contra Costa Transit District	San Francisco Bay Area Rapid Transit District
Alameda County Congestion Management Agency	San Francisco Municipal Transportation Authority
Alameda County Transportation Authority	San Francisco County Transportation Authority
Altamont Commuter Express	San Jose State University
ARUP	San Mateo County Transit District
Association of Bay Area Governments	Santa Clara VTA
Bay Area Council	Silicon Valley Leadership Group
Bay Area Transportation and Land Use Coalition	Sonoma Marin Area Rail Transit District
California Department of Transportation	Stacy and Witbeck, Inc.
Capitol Corridor Joint Powers Authority	Transbay Terminal Joint Powers Authority
Community Design + Architecture	Transportation Agency for Monterey County
Contra Costa Transportation Authority/CMA	Transportation and Land Use Coalition
DMJM Harris	UC Berkeley
Federal Transit Administration – Region IX	Urban Land Institute
Greenbelt Alliance	URS Corporation
Holland & Knight	
Local Government Commission	
Metropolitan Transportation Commission	
MV+E Partners, Inc.	
Nelson-Nygaard	
PB Placemaking	
Reconnecting America	



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Place on the August 14, 2008 Administration Committee Agenda	
<b>DATE:</b> c 8/8/08		<b>BOARD INITIATED ITEM:</b> No	
<b>Originator/Prepared by:</b> Robert Umbreit <b>Dept:</b>	<b>General Counsel</b> 	<b>Controller/Treasurer</b> 	<b>District Secretary</b> 
<b>Signature/Date:</b> 8/8/08	8/8/08	[ ]	[ ]

TITLE:

### Fiscal Year 2008 Year-End Budget Revision

**NARRATIVE:**

**PURPOSE:** To amend the Fiscal Year 2008 (FY08) Budget for year-end adjustments.

**DISCUSSION:**

Summary of FY08 Operating Results

Preliminary FY08 results show the District finished \$7.4M favorable in total operating sources, primarily due to passenger revenue from over-budget ridership. Total uses were very close to budget, but slightly unfavorable by \$1.1M. Excluding the \$0.8M variance from the non-cash Other Post Employment Benefits (OPEB) unfunded liability adjustment, this leaves \$5.5M available for year-end allocation. Staff recommends that \$2.2M be allocated to capital projects and \$3.3M be set aside in reserves to help fund the estimated insurance co-payment for the Hayward Fire repair in FY09. In addition, staff requests Board approval to increase the budget for operating expenses and other allocations by a total of \$1.1M to cover small overruns in those areas. Year-end results are summarized in the table below, including the proposed \$5.5M in allocations:

(\$millions)		FY08 Operating Results			
Operating Sources		Budget	Actual <sup>(1)</sup>	Variance	
Operating Revenue		\$ 328.3	\$ 341.8	\$ 13.4	4%
Sales Tax		203.4	202.6	(0.8)	0%
Fin. Assistance & Allocations		97.5	92.2	(5.3)	-5%
<b>Total Sources</b>		<b>629.2</b>	<b>636.6</b>	<b>7.4</b>	<b>1%</b>
Operating Uses					
Operating Expense		541.8	542.0	(0.2)	0%
Debt Service		65.8	65.9	(0.1)	0%
Other Allocations		1.6	2.4	(0.8)	-50%
Allocations to Capital <sup>(1)</sup>		29.5	31.7	(2.2)	-7%
Allocations to Reserves <sup>(1)</sup>		12.6	15.9	(3.3)	-26%
<b>Total Uses</b>		<b>\$ 651.3</b>	<b>\$ 657.9</b>	<b>\$ (6.6)</b>	<b>-1%</b>
OPEB Unfunded Liability		(22.1)	(21.3)	(0.8)	
<b>Net Operating Result</b>		<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	

<sup>(1)</sup> Board approval of closing budget revisions requested

Operating revenue was favorable by \$13.4M. Passenger revenue was \$11.3M better than budget, with \$4.4M of that amount due to the SFO extension. Average weekday ridership for FY08 was 357,775 and total trips were 107.5M, about 3% favorable to budget. In terms of growth vs. FY07, the core system grew 4.7% to 96.8M trips, and the SFO extension grew 15.5% to 10.7M total

trips, for a total system ridership growth of 5.7% for FY08.

Sales tax came in slightly unfavorable for the year by \$0.8M, but that was consistent with the forecast used to develop the FY09 budget. For the year, sales tax grew 1.9% over last year, with about the same growth needed to hit the FY09 budget. These growth rates are below the historical average because of the slow economy. Other financial assistance and allocations were under budget by \$5.3M, primarily due to the \$4.4M favorable passenger revenue for the SFO Extension, which meant that less had to be brought into the operating budget to cover the expenses of the extension. Property tax (\$0.3M) and the Strategic Maintenance Program grant (\$0.6M) accounted for the remaining \$0.9M variance.

Expenses were just slightly over budget by \$0.2M or less than a tenth of a percent. Labor was \$1.0M unfavorable and non-labor was \$0.8M favorable. Labor was slightly over budget, due mainly to overtime expenses related to the high ridership levels experienced during the year and response to the Hayward fire incident. The year-end budget resolution asks Board approval to increase the labor budget to cover the \$1.0M overrun, which is offset by the favorable results in non-labor and in revenue.

Other allocations are over budget by \$0.8M, due to the following three items. These include an increase for Phase 2 of the Lodi Power Plant of \$0.5M (approved by the Board of Directors June 26th), an allocation of \$0.1M for the Powell St. Station joint development project that was covered by the same amount of revenue, and an allocation of \$0.2M for an electrical sub-station capital repair that was covered by insurance in the operating budget. The year-end budget resolution asks Board approval to increase the budget \$0.8M for these three allocations. Other debt service was unfavorable to budget by \$0.1M, due to recording of a loan payment for the Fruitvale garage that is covered by the same amount of revenue. The resolution requests approval to increase the debt service budget by this amount.

#### Recommended Allocation of Year-End Results

Staff recommends that \$2.2M be allocated to capital for a number of important projects. Additional increments of funding are needed to expedite completion of the Cash Handling Building emergency power backup project that was included in the FY09 budget, the limited use smart card project (completing funding for the demonstration phase), and the modification of rail car interior configurations (by removing eight seats) to produce increased capacity. Operations is developing plans to expand the scope of the capacity reconfiguration project to cover the entire fleet over a period of three years, and this funding will supply the amount needed for the first year of the program. Another project will modify ticket vending machines data security to comply with credit card security standards.

Another staff recommendation is that \$3.3M be allocated to operating reserves, available to help fund the Hayward fire insurance co-payment in the FY09 Budget. As discussed, the amount of the co-payment has not yet been determined, but is currently estimated in the \$3M range.

#### FY09 Operating Budget

As discussed at the Board meeting of June 12, until the State budget is adopted there is uncertainty over the amount of State Transit Assistance funding in the FY09 budget. The Governor's May Revision proposed a reduction to the base revenues of \$8.7M. If \$8.7M or another amount is reduced in the final adopted state budget, staff will review a mix of potential

solutions to balance the FY09 budget including revenue enhancements, expense or allocation reductions, and use of reserves. If necessary, a budget revision will be considered for later this fall.

Summary of Proposed Budget Revisions for Board Approval

Further information regarding FY08 operating results are available in Attachment 1. The budget revision line items are listed on the attached resolution. The sum of these proposed budget adjustments will produce a balanced year-end result for FY08, and will increase capital allocations by \$2.2M and operating allocations by \$3.3M. In addition to the year-end allocations, the budget resolution line items for operating expense, debt service and other allocations increase by a total of \$1.1M as described above.

**FISCAL IMPACT:**

If the Board approves the proposed allocations the District will finish the year balanced, with a small net positive result of \$1,750.

**ALTERNATIVES:**

If the Board does not make the recommended operating and capital allocations, the District would end the year with a favorable result of \$5.5M.

**RECOMMENDATION:**

Approval of the motion below.

**MOTION:**

Adoption of the attached resolution.

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

In the matter of amending Resolution No. 5017 (as amended by Resolution No. 5032) regarding Fiscal Year 2008 Annual Budget

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

RESOLVED, that Resolution No. 5017 (as amended by Resolution No. 5032) is amended by changing the following line items in Exhibit A thereof:

	<u>Current Amount</u>		<u>Increase/ (Decrease) In This Resolution</u>		<u>Amended Amount</u>
<b><u>Fund Source Line Item:</u></b>					
Operating Revenue	\$ 328,343,568	\$	6,631,709	\$	\$ 334,975,277
<b><u>Fund Use Line Item:</u></b>					
Net Labor Expense	\$ 380,937,654	\$	968,362	\$	\$ 381,906,016
Non Labor Expense	\$ 138,156,497	\$	(781,620)	\$	\$ 137,374,877
Allocations - Other Debt Service	\$ -	\$	138,125	\$	\$ 138,125
Allocations - Other Capital Allocations	\$ -	\$	342,654	\$	\$ 342,654
Allocations - Power Generation	\$ 1,000,000	\$	470,588	\$	\$ 1,470,588
Allocations to Capital Rehabilitation	\$ 11,985,401	\$	2,209,000	\$	\$ 14,194,401
Allocations to Operating Reserves	\$ 12,609,363	\$	3,284,600	\$	\$ 15,893,963

## Fourth Quarter FY08

### BUDGET PERFORMANCE REPORT EXECUTIVE SUMMARY

M=million

**REVENUE**

●Systemwide avg weekday ridership for this quarter was 366,834, 3.1% above budget. Compared to same quarter in FY07, the core system was up by 3.9% and SFO Extension up by 18.7%. For the year, avg weekday ridership was 357,775 and total trips grew 5.7% over FY07 (core 4.7% and SFO Extension 15.5%). Total trips were 3.0% better than budget, generating an additional \$11.3M of passenger revenue (\$4.4M on the SFO Extension).

●Other operating revenue was \$2.1M over budget for FY08: \$2.5M advertising bonus, \$0.9M parking fines, \$0.6M parking revenue, \$0.6M unbudgeted Air BART revenue, offset by unfavorable (\$1.8M) interest and (\$0.7M) support cost reimbursement.

**EXPENSE**

●Net Labor for the fourth quarter was favorable, but year end results were slightly unfavorable primarily due to overtime due to high ridership and the Hayward fire incident.

●Electric Power was 5.3% unfavorable this quarter. Increased cost for market power and PG&E public purpose charges in the 3rd and 4th quarters were offset by a rebate for prior year NCPA overpayments leaving power on budget for the year.

●Other Non Labor exceeded budget for the quarter and YTD mainly due to volume and rate cost increases in rail car maintenance parts and supplies plus materials to restore the Hayward yard.

●Total operating expenses for the year were essentially on budget (less than 1/10 of a percent over)

●Rail Car Fund Swap grant was received and transferred to MTC as agreed. With the offsetting grant revenue in the Financial Assistance category, this does not affect the bottom line.

**FINANCIAL ASSISTANCE & ALLOCATIONS**

●Sales and property tax were slightly under budget for FY08. STA at \$21.7M was on budget.

●Allocation from SFO Reserve to fund the Extension operating deficit was budgeted at \$10.4M. Actual deficit was \$6.0M, due to the \$4.4M favorable variance in passenger revenue, and was instead funded by a direct allocation from SamTrans per the Agreement (shown in the SamTrans Funding line).

●Capital Rehabilitation Allocations includes the \$2.2M recommended in the FY08 year-end EDD. It also includes a \$17.5M allocation to the SFO Reserve, which, by agreement, was to be funded by MTC. In FY08, BART instead redirected Capital Allocation funds to the Reserve and will be reimbursed by MTC capital funds.

●Allocation to Operating Reserves includes the recommended year-end allocation of \$3.3M. It also includes \$12.1M in one-time STA funds (part of which helps fund retiree medical 'catch-up' costs to be paid in FY09) and allocations of \$0.2M from West Bay parking and \$0.3M for the power market uncertainty reserve.

●Other allocations includes \$1.5M for the Lodi Power Center, \$0.3M for substation repair & Powell St. joint development project and \$0.6M for the Access Fund contribution.

**NET OPERATING RESULT**

●The net operating result for the quarter was negative \$8.9M, mainly due to the \$5.5M proposed allocations. For the year the net operating result is balanced.

**SYSTEM OPERATING RATIO / RAIL COST PER PASSENGER MILE**

●The operating ratio (revenue divided by expense) was favorable for the quarter and year because the favorable revenue variance exceeded the minor unfavorable amount in expense. Rail cost per passenger mile was nearly on budget for the quarter and is favorable to budget YTD.

**CURRENT QUARTER**

(\$Millions)\*

**FISCAL YEAR-TO-DATE**

Budget	Actual	Var.		Budget	Actual	Var.
REVENUE						
79.8	83.0	3.9%	Net Passenger Revenue	298.2	309.5	3.8%
8.0	8.3	3.7%	Other Operating Revenue	30.2	32.3	7.2%
87.9	91.3	3.9%		328.3	341.8	4.1%
EXPENSE						
91.0	89.5	1.7%	Net Labor	358.9	360.6	-0.5%
5.5	5.3	4.6%	OPEB Unfunded Liability**	22.1	21.3	3.6%
8.7	9.1	-5.3%	Electric Power	34.7	34.6	0.3%
3.5	2.7	21.5%	Purchased Transportation	13.8	13.1	5.0%
26.9	29.8	-10.8%	Other Non Labor	89.6	89.6	0.0%
135.6	136.4	-0.6%	Total Operating Expense	519.1	519.3	0.0%
EXTRAORDINARY EXPENSES						
0.0	0.0	-	Rail Car Fund Swap	22.7	22.7	0.0%
(47.7)	(45.1)	5.8%	OPERATING DEFICIT	(213.4)	(200.2)	6.6%
FINANCIAL ASSISTANCE & ALLOCATIONS						
49.0	48.2	-1.5%	Sales Tax	203.4	202.6	-0.4%
26.7	20.6	-23.0%	Prop Tax, STA and Other Assist.	58.8	57.9	-1.6%
0.0	0.0	-	Rail Car Fund Swap	22.7	22.7	0.0%
0.0	6.0	-	SamTrans Funding	0.0	6.0	-
2.0	(6.3)	-411.4%	Allocation from SFO Reserve	10.4	0.0	-100.0%
1.5	1.5	0.0%	Allocation from Operating Resv.	5.6	5.6	0.0%
(16.7)	(15.6)	6.1%	Debt Service	(65.8)	(65.9)	-0.2%
(9.4)	(11.6)	-23.5%	Capital Rehabilitation Allocations	(29.5)	(31.7)	-7.5%
(6.7)	(10.0)	-48.5%	Allocation to Operating Reserves	(12.6)	(15.9)	-25.9%
(1.0)	(1.8)	-79.3%	Other Allocations	(1.6)	(2.4)	-50.0%
5.5	5.3	-4.6%	OPEB Unfunded Liability Offset**	22.1	21.3	-3.6%
50.9	36.2	-29.0%	Net Financial Assistance	213.4	200.2	-6.2%
3.2	(8.9)		NET OPERATING RESULT	0.0	0.0	
64.8%	66.9%	2.1%	System Operating Ratio	63.3%	65.8%	2.6%
37.6 ¢	37.6 ¢	-0.2%	Rail Cost Per Passenger Mile	35.7 ¢	34.9 ¢	2.0%

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

■ No Problem

□ Caution: Potential Problem/Problem Being Addressed


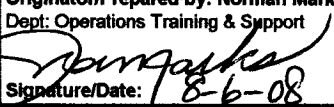
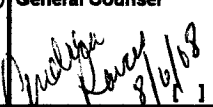

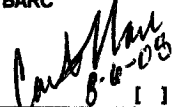
■ Significant Problem

\*\*The Other Post Employment Benefits (primarily retiree medical) is a non-cash expense to recognize the difference between actual retiree medical funding and the full Annual Required Payment, and does not affect the Net Operating Result.





## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and forward to the Board		
<b>DATE:</b> c 8/6/08		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Norman Marks <b>Dept:</b> Operations Training & Support  <b>Signature/Date:</b> 8-6-08	<b>General Counsel</b>  8/6/08	<b>Controller/Treasurer</b>  [ ]	<b>District Secretary</b> [ ]	<b>BARC</b>  8-6-08 [ ]

TITLE:

### On-Call Support Services for Technical Training Development

NARRATIVE:

PURPOSE:

To authorize the General Manager to execute Agreement No. 6M3083 with B&C Transit Consultants, Inc. (Consultant) of San Leandro, CA to provide On-Call Support Services for Technical Training Development by assisting the District in the development and implementation of in-house training programs for staff. The term of the Agreement will be for three years with two options for one-year each.

DISCUSSION:

The District has many electronic and mechanical systems for which the District currently has inadequate maintenance training materials. Without these training materials, it is virtually impossible to train new or reassigned BART employees to perform the appropriate maintenance tasks.

The Consultant will assist the District by developing training materials and supporting delivery activities on an on-call basis. The primary area of training development will be hands-on Communication and Control Maintenance systems. Additional areas in which the Consultant may provide training development includes, but is not limited to, the following: Train Control Systems, Automatic Fare Collection Equipment, Traction Power Systems, Facilities (Stations and Buildings) and Track Infrastructure, and various maintenance equipment. It is anticipated that the Consultant project team will be used to work on selected Capital projects.

A Request for Proposals (RFP) to procure On-Call Support Services for Technical Training Development was mailed to fifteen (15) firms of which four (4) were local. The RFP was advertised on May 5, 2008 and a Pre-Proposal Meeting was held on May 15, 2008 with four (4) firms attending. Two proposals were received by the District on June 10, 2008 from B&C Transit Consultants, Inc. of San Leandro, CA and Scintech Associates, Inc. of Livermore, CA.

The proposals were reviewed by a source selection committee (Committee), which was chaired by Contract Administration and included representatives from Operations Liaisons and three members from Operations Training & Support. The proposals were first reviewed to determine if they were responsive to the requirements of the RFP. Subsequently, the proposals were reviewed

and determined to meet the minimum qualifications including such items as having experience in developing similar training services with BART and other transit agencies. The proposals were then scored based on technical approach, organizational experience, and project team experience. The Committee then reviewed the price proposals and determined that both proposers were in the competitive range. Both proposers were invited to make oral presentations. The Committee combined the qualifications/technical/oral presentation scores and determined that B&C Transit Consultants, Inc. presents the District with the best value for this service for the following reasons:

- B&C Transit Consultants has personnel who are very experienced with BART and its unique systems and culture. This will allow the Consultant project team to have a shorter learning curve and accomplish the desired training development more quickly.
- B&C Transit's depth of staff and experienced personnel will allow the project team to work on several systems at one time, thereby reducing the overall length of time to accomplish the same amount of training development services.
- B&C Transit has more Subject Matter Experts (SME) which are relevant to systems and equipment unique to BART.

Operations Training & Support has made an affirmative determination that B&C Transit Consultants, Inc. is capable of performing the required services and that past performance, business experience and the financial status of B&C Transit Consultants, Inc. are satisfactory.

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

**FISCAL IMPACT:** The maximum compensation for this three year agreement with two one-year options will be an amount not to exceed \$3,000,000. These on-call services will be available for use by any department in the District. The Operations Training department's portion of the services amounts to \$750,000 over the three-year period. Funding will be provided from the approved operating budgets for FY 2009 of the Operations Training department for \$250,000 and from its future operating budgets for FY 2010 and FY 2011 at \$250,000 for each year. The remaining portion of the contract can be used by other departments upon certification by the Controller-Treasurer that funds are available.

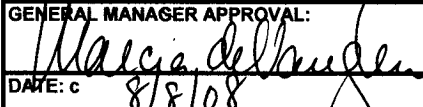
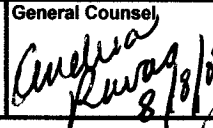

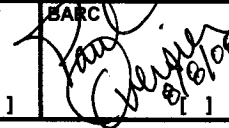
**ALTERNATIVE:** 1) Not to award the Agreement for Training Development Services; or 2) Add additional BART Staff and develop the training materials with BART personnel.

**RECOMMENDATION:** Adoption of the following motion.

The General Manager is authorized to execute Agreement No. 6M3083, Comprehensive Training Development Services for BART Projects to B&C Transit Consultants, Inc. pursuant to notification to be issued by the General Manager and subject to the District's protest procedures. The Agreement will be for a term of three years with two one-year options at the District's discretion in a total amount not to exceed \$3,000,000.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 		GENERAL MANAGER ACTION REQ'D:		
DATE: c 8/8/08		BOARD INITIATED ITEM: No		
Originator/Prepared by: Susan Gallagher Dept: for Safety and Customer Access	General Counsel  8/8/08	Controller/Treasurer  8/8/08	District Secretary [ ]	BART  8/8/08
Signature/Date: 08/07/08				
TITLE:				

### Policies Governing the Use of Electric Personal Assistive Mobility Devices at the San Francisco Bay Area Rapid Transit District

#### NARRATIVE:

##### Purpose

To adopt policies governing the use of Electric Personal Assistive Mobility Devices (EPAMD) at the San Francisco Bay Area Rapid Transit District

##### Background

The EPAMD was introduced to the American public when the Segway Company began to sell the Segway Personal Transporter in 2002. An EPAMD is defined in the California Vehicle Codes as a "self-balancing, non-tandem two wheeled device, that is not greater than 20 inches deep and 25 inches wide and can turn in place, designed to transport only one person, with an electric propulsion system averaging less than 750 watts (1 horsepower), the maximum speed of which, when powered solely by a propulsion system on a paved surface, is no more than 12.5 miles per hour." In the Vehicle Code, the State of California has defined a person on an EPAMD as a pedestrian citing their contribution to reducing congestion and air pollution.

EPAMDs are being used by both non-disabled people and by disabled people for short distance transportation in the Bay Area. A very small number of people have been using their EPAMDs as access to BART. Most of these people have brought their device on board with them since the EPAMD is not generally designed to use the type of parking facilities that exist at BART stations. We estimate the number of regular BART users who have been bringing an EPAMD on BART at fewer than 20 patrons.

BART currently has no formal policy about bringing an EPAMD into a station or on a train. When non-disabled people have come to the station, staff has normally told them to turn their device off and push it in the station and on the train. Some people with disabilities have ridden their devices into the station and onto the trains. Staff has allowed this in many cases, apparently believing that the device should be treated as a wheelchair.

In early June, BART staff began researching EPAMDs and their operating characteristics in preparation for the development of formal policies for EPAMD use. Staff anticipated more EPAMD use because of high fuel costs. Also, in May there were two incidents involving the

preparation for the development of formal policies for EPAMD use. Staff anticipated more EPAMD use because of high fuel costs. Also, in May there were two incidents involving the erratic use of Segways in the concourse. Staff felt that specific regulations regarding EPAMDs were called for.

Then, in mid-June there was an incident where a person with a disability riding an EPAMD at the 24th Street/Mission Station lost control of his device and jumped off of it. It ran off the platform into the trackway and was run over by a train. Although there were no injuries, there were extensive delays and the train needed to be taken out of service. Fortunately the train was ultimately determined to be undamaged.

Following this incident, and based on the staff committee's concerns about how to safely accommodate EPAMDs, it was decided to establish a temporary 45-day moratorium on any EPAMD use at BART to preserve the safety of BART passengers. Staff continued to work on this issue and has developed two proposals: one to regulate the use of EPAMDs by people with disabilities and the second to regulate the use by people without disabilities.

## **Discussion**

The policies were developed by an interdepartmental team of staff from Transportation, Police, Safety, Customer Access, Accessible Services, and Legal. The main criteria used to develop the draft policies were 1) safety and 2) compliance with an FTA Guidance issued in 2004 which requires transit agencies to accommodate EPAMD use as a mobility aid for people with disabilities unless there is a direct threat to the safety of other passengers.

EPAMDs have several characteristics which could pose a safety risk to passengers and staff at BART. First, in the balance or riding mode, most EPAMDs, including the Segway, are designed to continue to move forward under power if the rider were to quickly dismount and let go of the steering bar, or were knocked off the device. The device continues to balance and moves forward for several seconds, traveling a distance of 10 to 15 feet unless it meets an obstacle. It was this characteristic which led to the incident at 24th Street/Mission Station. Second, the EPAMDs we tested lacked a consistent and effective way to mechanically lock the wheels when on a train. Some EPAMDs have kickstands, but some do not. Some have a theft prevention mode which locks the wheels if the device is moved, but it includes a beeping burglar alarm at the same time. We found that the motion of a train was enough to set off the alarm. Light rail and bus systems that carry EPAMDs require that they use the wheelchair securements but there are no securements on BART. BART would need to depend on users to chock the wheels themselves so that it doesn't move. Finally, the size and weight of the EPAMD could make them an obstacle in a train evacuation. They can only be carried in the area next to the doors. The typical EPAMD weighs just over 100 lbs and cannot be moved by most people by themselves. They are large enough to block the aisle or block a single door. BART's current emergency plans call for objects such as bicycles, luggage, and strollers to be lifted out of the aisle and put on the seats during an evacuation. Power wheelchairs are too heavy to lift and so remain in place. EPAMDs in the doorway would add to immovable obstacles. The risk would increase with the numbers of EPAMDs used.

Based on the research, staff developed recommended policies which are summarized below. The recommendations represent the consensus of the staff team. Staff also took the recommendations to the BART Accessibility Task Force (BATF) which discussed this issue at both the June and July meetings.

### **Policy for People with Disabilities**

Staff has taken the FTA Guidance Concerning Segways into consideration to craft a policy for people with disabilities, making sure to include procedures to also mitigate safety concerns. People with disabilities, who use an EPAMD as a mobility aid, would be given a permit to allow them to bring an EPAMD into the BART system after successfully completing an application process. The process would include providing proof of disability, providing a medical professional's verification that they use the EPAMD as a mobility device and not simply as a convenient form of transportation, and passing an in-person examination of their riding ability. This process is patterned after an application process which has been in use at WMATA for several years. The in-person meeting would also allow staff to instruct the EPAMD user in how to use their device safely on BART.

After receiving a permit, the person with a disability would be allowed to use the EPAMD as a mobility aid at BART but would not be allowed to actually ride it on the platform or in the train. They would be allowed to ride in the concourse and other parts of the station, at a walking pace and yielding to all pedestrians. They would be required to dismount and walk their device without power, once they reached the elevator to the platform. They would never be allowed to use the stairs or escalator with their device. Although the EPAMD, ridden by a person with a disability, would also impose a large immobile object in the doorway area, these devices are no larger or heavier than the wheelchairs which would otherwise be used. Therefore, staff believes that these restrictions, combined with the permit application process, would allow for safe use of EPAMDs by people with disabilities.

The requirement that people with disabilities walk their EPAMD on the platform and train will unfortunately make it impossible for some people with disabilities to use BART. Some people who can ride the device lack the strength or coordination to walk it. However, staff has made this recommendation because they believe that allowing the operation of the EPAMD in the riding mode on the platform constitutes an unacceptable safety hazard to our passengers and staff. The BATF voted to endorse the staff recommendation, including the restriction on riding on the platform.

### **Policy for People without Disabilities**

Staff proposes that people without disabilities be prohibited from bringing EPAMDs into the BART system at any time. Safety concerns are the primary reason for this recommendation. As noted above, some people without disabilities currently bring their EPAMDs on BART, pushing them with the power off. Although this mitigates most safety concerns, it does not mitigate the concern of the EPAMD blocking the evacuation of riders in the case of an emergency. In this

case, staff finds the EPAMD to constitute a significantly greater risk than other objects carried on BART, such as bicycles, luggage, and strollers. The risk increases with the number of users and staff believes that if BART adopts a policy allowing EPAMDs on board, the number is bound to increase especially in light of the increased interest in green transportation and rising fuel costs.

Although the BATF's role is primarily to advise on issues concerning people with disabilities, they also took an action on the staff recommendation for EPAMD use for people without disabilities. They did not endorse the staff recommendation but rather recommend a policy of allowing people without disabilities to bring EPAMDs into the system, turned off, under the same guidelines as bicycles. They recommend the additional restriction that EPAMDs be limited to one per doorway.

### **Fiscal Impact**

There is no significant fiscal impact arising from the implementation of these policies. The number of applications is expected to be very small, so staff currently expects that the process can be implemented without the need for additional staff. There may be an insignificant loss of fare revenue if some current EPAMD users no longer ride BART.

### **Alternatives**

Direct staff to develop different policies, either more or less restrictive than those proposed.

### **Recommendation**

It is recommended that the Board adopt the following motion:

### **Motion**

That the Board of Directors adopt the attached resolution approving the Factual Findings and Policies Regulating the Use of Electric Personal Assistive Mobility Devices upon BART Trains, Stations, and Facilities.

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

In The Matter of Adopting Factual Findings  
And Policies Regulating the Use of Electric  
Personal Assistive Mobility Devices upon  
BART Trains, Stations and Facilities for the  
San Francisco Bay Area Rapid Transit District

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

WHEREAS, state law defines persons using Segway Personal Transporters and other two-wheeled gyroscopically stabilized battery-powered scooters (meeting the definition of “electric personal assistive mobility devices,” hereinafter “EPAMDs,” as defined in California Vehicle Code section 21281.5) as “pedestrians” for purposes of their use on public sidewalks and streets; and

WHEREAS, the use of EPAMDs, as defined by state law, poses special challenges within BART trains and transit facilities; and

WHEREAS, the Department of Transportation has issued a Disability Law Guidance addressing EPAMD use on transportation vehicles and recognizing an EPAMD as a mobility aid, as distinct from the “common wheelchairs,” (as defined in 49 CFR Section 37.3) and

WHEREAS, a transportation provider must in general permit a disabled person and his or her mobility aid into its vehicles, but is not required to permit anyone, including a person with a disability, to bring a device onto a public transport vehicle that is too big or that is determined to pose a direct threat to the safety of others; and

WHEREAS, This Board has been made aware of recent events that provide substantial evidence of the potential risks posed by those unable to competently operate EPAMD devices or by accidents which might happen involving EPAMDs; and

WHEREAS, This Board wishes to comply with the requirements of the FTA guidance regarding assistive mobility devices while guaranteeing the safety of all BART patrons who are entitled to safely and comfortably utilize BART as a means of effective public transit; and

WHEREAS, This Board has determined the adoption of Findings and Policies regulating the use of EPAMDs upon BART trains, stations and facilities is highly desirable;

**NOW, THEREFORE, BE IT RESOLVED** that the San Francisco Bay Area Rapid Transit District adopts the following Findings of Fact and Policies regulating the use of

“electric personal assistive mobility devices,” as defined by state law, upon BART trains, in stations, and other identified facilities:

The Board of Directors of the San Francisco Bay Area Rapid Transit District finds that:

California Civil Code Section 2100 et seq. requires that common carriers use the "utmost care" to safeguard their passengers, and this standard is applicable to the use of innovative mobility devices such as EPAMDs by patrons within the BART trains, stations and facilities.

The size and weight of EPAMDs currently in use on BART trains is between 85 to 110 pounds without additional accessories.

EPAMDs can only be accommodated in the doorway areas or other wheelchair-accessible locations on BART trains, and due to their size, shape, and weight, EPAMDs always pose a risk of blocking doorways or aiseways, or of obstructing the area set aside for wheelchair users, and the risk increases with the number of EPAMDs carried on a BART train.

EPAMDs will roll easily with train movement unless carefully chocked.

EPAMDs cannot be readily moved onto passenger seats (the normal practice for removing obstructions to egress in BART trains) in the event of an emergency due to their considerable size and weight.

EPAMDs will continue to travel for about 4.5 seconds under power if a rider falls or jumps off. During that time, an EPAMD will travel between 10 to 15 feet at 3 to 6 mph unless striking an obstacle.

Due to the operational characteristics and design of EPAMDs, there is a high risk factor in allowing them to be used under power on BART boarding platforms or in the close confines of a train and they are a direct threat to the safety of passengers on the BART boarding platforms and trains, if ridden.

Safety concerns with EPAMDs provide a rational basis to limit their use to those who need them as an assistive mobility device for people with disabilities rather than as a mere recreational vehicle or convenience.

Among disabled EPAMD users, only those people with disabilities whose treating physicians endorse their use of a EPAMD as an appropriate assistive mobility device to address their physical disabilities should be allowed to seek a disabled person's EPAMD operator's permit.



Even with the endorsement of a physician, BART must verify a disabled person's skill and ability to operate an EPAMD in the BART environment through an in-person demonstration of the proposed rider's skills.

It is in the best interests of BART's ridership that an orientation about the rules and restrictions regarding EPAMDs use by disabled users take place in-person.

EPAMD use on the BART concourse, outside of the paid areas, and areas immediately outside BART stations pose a lower risk to public safety, being less crowded, with more available space for EPAMDs and pedestrians to maneuver, with a lower hazard-potential if an accident were to occur.

EPAMDs used as assistive mobility devices are permissible by people with disabilities provided that they can demonstrate their competence to operate EPAMDs based upon permitting through designated BART staff, as long as they are not ridden on the platform or on the trains. Toward that end, BART staff will implement and maintain an EPAMD permitting process.

EPAMD permits shall be issued for a period no longer than twelve months so that BART staff may evaluate the need for possible further restrictions based upon changing conditions or a disabled person's changing abilities.

EPAMD use by non-disabled persons is not legally protected as is EPAMD usage by disabled persons utilizing them as assistive mobility devices.

EPAMD use restrictions upon non-disabled persons merely need to promote a legitimate governmental objective and be reasonably related to the accomplishment of those objectives.

EPAMD usage by the non-disabled persons depletes the available areas within BART trains for use by wheelchairs and disabled EPAMD users.

The proliferation of EPAMD usage by non-disabled persons will cause increased congestion in the boarding areas on BART trains which must be shared with bicycles, wheelchairs, luggage, and standing patrons.

EPAMD usage by non-disabled persons must be limited in a manner that addresses the inherent bulk of these devices that can pose an active threat to BART riders due to their lack of a locked parking mode when not under power and their inherent tendency to block the doorways.

Based upon these findings set forth above,

**BE IT FURTHER RESOLVED** that, the policies set forth in Exhibit "A" attached hereto are hereby adopted establishing a permitting program for disabled users of

EPAMDs as an assistive mobility device, and restricting the use of EPAMDs within the BART system by all persons.

**BE IT FURTHER RESOLVED** that the General Manager shall have the authority to modify the policies set forth in Exhibit "A" based upon the broad public interest in maintaining system safety balanced against the District's need to accommodate all persons with disabilities (EPAMD users, wheelchair users, and those not requiring assistive mobility devices) without adversely impacting the riding public, and shall notify the Board of Directors accordingly, and

**BE IT FINALLY RESOLVED** that this policy shall be referenced in all appropriate BART publications. The effective date of this resolution is August \_\_\_\_, 2007.

Adopted \_\_\_\_\_

## **ATTACHMENT A**

### **POLICY ON ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES AT BART STATIONS**

**Purpose:** The purpose of this policy is to establish guidelines and regulations relating to the use of electric personal assistive mobility devices within the BART system for people without disabilities and people with disabilities.

**Definitions:** The following definitions apply to this policy:

Electric personal assistive mobility devices (EPAMD) are self-balancing, non-tandem two wheeled devices, that are not greater than 20 inches deep and 25 inches wide and can turn in place, designed to transport only one person, with an electric propulsion system averaging less than 750 watts (1 horsepower), the maximum speed of which, when powered solely by a propulsion system on a paved surface, is no more than 12.5 miles per hour. One brand of EPAMD is the Segway Personal Transporter.

People with disabilities are, for the purposes of this policy, people who have a disability as evidenced by their possession of a California Department of Motor Vehicle Disabled Parking Placard, a Regional Transit Connection Discount I.D. Card, or eligibility for ADA paratransit services.

People without disabilities are, for the purposes of this policy, people who do not possess a California Department of Motor Vehicle Disabled Parking Placard, a Regional Transit Connection Discount I.D. Card, or eligibility for ADA paratransit services.

#### **Policy:**

##### **A. People with Disabilities**

People with disabilities who use an EPAMD as a mobility aid are allowed to bring it into the BART system, with some restrictions. They must apply for a permit, provide verification of disability and the use of the device as a mobility aid, and provide an in-person demonstration of their competence to handle the device within the BART environment. They must agree to abide by the BART rules on EPAMD use for people with disabilities.

People with disabilities who successfully complete the application process are allowed to ride their EPAMD on the BART property in the areas surrounding the station entrance, through the faregates, and to the elevators. The EPAMD must be moved between levels at the station via the elevator only. It is never allowed on the stairs or escalator, even in the case of an elevator outage. Once at the elevator to the platform, the EPAMD user must dismount and take the EPAMD out of balance-mode. In the elevator, on the platform, and in the trains, EPAMD must be pushed with power off or in the safe power-assist mode only. The EPAMD cannot be walked or ridden in the balance mode in these places.

On the train, EPAMD users with disabilities must secure their device in the area near the doors or in the wheelchair space. EPAMD users with disabilities may occupy the priority seating for seniors and people with disabilities next to the doors. The device must not block

the aisle. The user must secure the device so that it does not roll with the motion of the train. It should be turned perpendicular to the front of the train to minimize its propensity to roll. EPAMD users with disabilities may ride in the front car of the train.

In addition to the restrictions above, while in the BART system, EPAMD users must:

- pay the appropriate fare
- yield to pedestrian traffic and not operate at a speed greater than the walking speed of a pedestrian
- enter and exit the system through the swing gate or extra wide “accessible” gates
- remain in control of the EPAMD at all times
- leave the device on the train in an emergency that requires an evacuation.

EPAMD users who have a disability permit will be given an easily identifiable placard which must be attached to their device while in the BART system. In addition they must carry an ID card issued by BART.

Permits to use an EPAMD within the BART system must be renewed annually.

## **B. People without Disabilities**

People without disabilities are prohibited from bringing an EPAMD into the BART system at all, except to park it at a station, at a bicycle rack, locker, or other permitted parking location.

## **Violation of Guidelines and Regulations**

EPAMD users who violate the guidelines and regulations for EPAMD use in the BART system will lose their permit and will no longer be allowed to bring their EPAMD into the BART system.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**MEMORANDUM**

**To:** Board of Directors

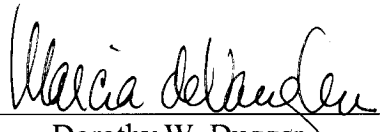
**Date:** August 8, 2008

**From:** General Manager

**Subject:** Resolution Honoring Dublin City Manager Richard Ambrose

Attached is a resolution honoring Dublin City Manager, Richard Ambrose upon his retirement as Dublin's only City Manger since its incorporation on May 1, 1982. Mr. Ambrose's leadership and support was critical in structuring the public-private-partnership financing for the new Dublin/Pleasanton West BART Station. Additionally, his advocacy for smart growth and transit oriented-development was critical for the design and development of the award-winning Dublin Transit Center at the existing Dublin/Pleasanton BART Station.

The resolution has been placed under Board Matters on the August 14, 2008 agenda. Should you have any questions, please contact John Rennels, Principal Property Development Officer at 464-6893.

  
Dorothy W. Dugger

Attachment

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

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

RESOLUTION COMMENDING  
**RICHARD C. AMBROSE**

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

WHEREAS, Richard Ambrose has served the City of Dublin with integrity and insight as its first employee and only City Manager since its incorporation as a city on May 1, 1982, and

WHEREAS, Richard Ambrose, through his support for regional transportation planning, was a strong advocate and partner in assisting BART to structure a creative public-private financing plan to construct the Dublin/Pleasanton West BART Station, and

WHEREAS, Richard Ambrose kept Dublin at the forefront of Smart Growth through his strong advocacy and support for the transit-oriented development at both the future Dublin/Pleasanton West BART Station as well as the existing Dublin/Pleasanton BART Station, and

WHEREAS, Richard Ambrose, through his guidance, leadership and support, helped bring about the collaboration between BART, the Alameda County Surplus Property Authority and the City of Dublin to create and develop the award-winning Dublin Transit Center at the existing Dublin/Pleasanton BART Station, and

WHEREAS, Richard Ambrose will be remembered for his contributions to the community of Dublin, including the construction of the award-winning Civic Center, Library and a new Senior Center, as well as the addition of new parks, renovation of existing parks, and the addition of hundreds of acres of dedicated open space for the community, and

WHEREAS, Richard Ambrose will always be remembered for his leadership, advocacy, wise counsel, hard work, service, and vision for what can be accomplished through public-private partnerships and cooperation among agencies,

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 Mr. Richard C. Ambrose has made to the Bay Area, and

BE IT FURTHER RESOLVED that a suitably engrossed copy of this resolution be tendered to Richard C. Ambrose as a token of the high esteem in which Mr. Ambrose 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 14, 2008

ATTEST:

\_\_\_\_\_  
Kenneth A. Duron  
District Secretary

\_\_\_\_\_  
Gail Murray  
President