

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

BOARD MEETING AGENDA

October 12, 2017

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, October 12, 2017, 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 regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

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

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

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

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

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

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email ([https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic\\_id=CATRANBART\\_1904](https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904)) or via regular mail upon request submitted to the District Secretary. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting.

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

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 Meetings of September 14, 2017 (Regular), September 28, 2017 (Regular and Special)\* Board requested to authorize.
- B. Adoption of a Resolution of Local Support for the One Bay Area Grant Cycle 2 Program for the Embarcadero Station New Platform Elevator and Faregates Project.\* Board requested to adopt.
- C. Audit of Directors' Use of District Property for Fiscal Year 2017.\* Board requested to authorize.
- D. Relocation Assistance for the Position of Deputy Managing Director, Capital Corridor.\* Board requested to authorize.
- E. Establishment of Non-Represented Professional/Management Pay Band 15.\* Board requested to authorize.
- F. Resolution Fixing the Employer's Contribution to the California Public Employees Retirement System Medical Premium for employees represented by Amalgamated Transit Union Local 1555, American Federation of State, County and Municipal Employees, Local 3993, Service Employees International Union Local 1021 and Non-Represented Employees under the Public Employees' Medical and Hospital Care Act.\* Board requested to adopt.
- G. Award of Invitation for Bid No. 9014A, Aerial Lift Trucks.\* Board requested to authorize.
- H. Award of Invitation for Bid No. 9036, Armored Trucks.\* Board requested to authorize.
- I. Award of Invitation for Bid No. 9038, Phenolic 6" Conduit.\* Board requested to authorize.
- J. Reject All Bids for Contract No. 01RQ-190, Construction of Hayward Maintenance Complex Project Turntable Relocation.\* Board requested to reject.

K. Reject All Bids for Invitation for Bid No. 9035, Fuel.\* Board requested to reject.

L. Purchase of Carpet for Joseph P. Bort MetroCenter Building, 101 8<sup>th</sup> Street, Oakland.\* Board requested to authorize.

3. PUBLIC COMMENT – 15 Minutes

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

4. FINANCE, BOND OVERSIGHT AND ADMINISTRATION ITEMS

Director Josefowitz, Chairperson

A. Fiscal Year 2017 Year-End Budget Revision.\* Board requested to authorize.

5. OPERATIONS, SAFETY AND WORKFORCE ITEMS

Director Keller, Chairperson

A. Award of Contract No. 15CQ-100, M03 Interlocking Renewal.\* Board requested to authorize.

B. Agreement with Advanced Rail Management Corporation for Wheel Rail Optimization Services (Agreement No. 15CQ-400).\* Board requested to authorize.

C. Change Orders to Contract No. 01RQ-110, Construction of Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction.\*

i. Drain Connection to Axel Washer and Large Turn Table Parts Washers (C.O. No. 131).

ii. Wheel Spinning System Post for Back Shop Lifts (C.O. No. 193).

iii. Lift Design Changes for Back Shop – 66” vs. 60” Maximum Height (C.O. No. 204).

Board requested to authorize.

D. Revised Proposed Ordinance to Require Persons inside the Paid Area of BART to Provide Proof of Payment.\* First reading.

E. Train Control Modernization Program Project.\* For information.

6. PLANNING AND LEGISLATION ITEMS

Director Raburn, Chairperson

A. Station Profile Study: Overview of Station-Level Data.\* For information.\*

7. GENERAL MANAGER'S REPORT

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

8. CONTROLLER/TREASURER'S REPORT

- A. Quarterly Report of the Controller/Treasurer for the Period Ending June 30, 2017.\* For information.

9. BOARD MATTERS

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

10. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)

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

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Name of Case: Geo Grout v. Bay Area Rapid Transit District,  
Alameda Superior Court Action No. RG 15796685  
Government Code Section: 54956.9(a)

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

Board of Directors  
Minutes of the 1,797th Meeting  
September 14, 2017

A regular meeting of the Board of Directors was held September 14, 2017, convening at 9:04 a.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President Saltzman presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman.

Absent: None. Director Allen entered the Meeting later.

President Saltzman called for Introduction of Special Guests. Director Raburn introduced and welcomed Mr. Dan Barki, League of Women Voters observer. Mr. Barki addressed the Board.

President Saltzman announced that the order of agenda items would be changed and called for the General Manager's Report. A video highlighting the work accomplished during the Labor Day weekend was presented.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of August 10, 2017 (Special and Regular).
2. Award of Invitation for Bid No. 9021, Step Assemblies.
3. Award of Invitation for Bid No. 9023, Step Chain.
4. Award of Invitation for Bid No. 9032, 34.5 kV Cable.

Director Dufty made the following motions as a unit. Director McPartland seconded the motions, which carried by unanimous acclamation. Ayes – 8: Directors Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman. Noes - 0. Absent – 1: Director Allen.

1. That the Minutes of the Meetings of August 10, 2017 (Special and Regular), be approved.
2. That the General Manager be authorized to award Invitation for Bid No. 9021, an estimated quantity contract, for the purchase of Westinghouse escalator step assemblies, to Precision Escalator, for the amount of \$1,420,250.00, including taxes, pursuant to notification to be issued by the General Manager.

3. That the General Manager be authorized to award Invitation for Bid No. 9023, an estimated quantity contract, for the purchase of escalator step chain assemblies, to Precision Escalator, for the amount of \$679,098.00, including taxes, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.
4. That the General Manager be authorized to award Invitation for Bid No. 9032, for 34.5kV Cable Replacement between KWS-ANA and MTF-MVS Substation, to The Okonite Company, in the amount of \$1,215,525.15, pursuant to notification to be issued by the General Manager, subject to compliance with the District's protest procedures and the Federal Transit Administration's requirements related to protests; and that the General Manager be further authorized to purchase up to 150% of the Contract Bid price, subject to certification of the Controller/Treasurer that funding is available.

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

President Saltzman called for Public Comment. Aleta Dupree addressed the Board.

Director Josefowitz, Chairperson of the Finance, Bond Oversight, and Administration Committee, brought the matter of Title VI Mitigation Action Plan for Magnetic-Stripe Ticket Surcharge before the Board. Ms. Sharon Moore, Program Manager, Workforce and Policy Compliance, and Ms. Jennella Sambour-Wallace, Manager of Special Projects, presented the item.

Aleta Dupree addressed the Board.

Director Allen entered the Meeting.

The item was discussed. Director McPartland moved that the Board approve the Title VI Fare Mitigation Action Plan for the Magnetic-Stripe Ticket Surcharge. President Saltzman seconded the motion, which carried by unanimous acclamation. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman. Noes - 0.

Director Josefowitz brought the matter of Proposed Small Business Program Modification to Include Lesbian, Gay, Bisexual and Transgender Business Enterprises before the Board. Mr. Wayne Wong, Department Manager, Office of Civil Rights, presented the item.

The following individuals addressed the Board.

Paul Pendergast  
Sandra Escalante  
Aleta Dupree

President Saltzman moved that the Board adopt the modifications to BART's Small Business Program for non-federal contracts to add a Lesbian, Gay, Bisexual, and Transgender Business

Enterprise category and a self-performance requirement for Small Business Primes. Director Simon seconded the motion, which carried by unanimous acclamation. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman. Noes - 0.

Director Josefowitz brought the matter of Update of Implementation Plan for Disparity Study Recommendations before the Board. Mr. Wong presented the item. The item was discussed.

Director Josefowitz brought the matter of Amendment to Late Night Bus Service Agreement before the Board. Mr. Bob Franklin, Department Manager, Customer Access, presented the item. President Saltzman moved that the General Manager or her designee be authorized to execute an amendment to the Agreement between the Alameda-Contra Costa Transit District and the San Francisco Bay Area Rapid Transit District in Connection with the Late Night Bus Core Service Project to extend funding for enhanced late night bus core service through mid-August 2018; and that the General Manager provide ridership and financial information for this service as a part of BART's Fiscal Year 2019 Preliminary Budget. Director Raburn seconded the motion. The item was discussed. The motion carried by electronic vote. Ayes – 8: Directors Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman. Noes - 1: Director Allen.

Director Josefowitz brought the matter of Safety, Reliability, and Traffic Relief Program (Measure RR): Staffing and Contracting Plan, before the Board. Mr. Robert Mitroff, Acting Assistant General Manager, Planning, Development, and Construction; and Ms. Tamar Allen, Chief Maintenance and Engineering Officer, presented the item. The item was discussed.

Director Keller, Chairperson of the Operations, Safety, and Workforce Committee, brought the matters of Change Order to Contract No. 11OG-130A, Balboa Park Station – Phase 2, with Proven Management, Inc., for Concourse Ceiling and Lighting Upgrades (C.O. No. 4); and Agreements with the City of Oakland and Union Pacific Railroad for Support Services for the 34.5kV Cable Replacement Project and the M03 Interlocking Project before the Board. Director Dufty made the following motions as a unit. Director Blalock seconded the motions, which carried by unanimous acclamation. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, Simon, and Saltzman. Noes - 0.

1. That the General Manager be authorized to execute Change Order No. 004, Ceiling and Lighting Treatment, for \$2,425,000.00, to Contract No. 11OG-130A, Balboa Park Station East Side Connection Improvement Phase 2, with Proven Management, Inc.
2. That the General Manager be authorized to execute Agreements with the City of Oakland and Union Pacific Railroad for a not-to-exceed amount of \$400,000.00, for support services related to the 34.5kV Replacement Project and the M03 Interlocking Renewal Project.

Jerry Grace and Sara D. addressed the Board.

Director Keller brought the matter of Fare Evasion Reduction before the Board. Mr. Paul Oversier, Assistant General Manager, Operations, and Chief of Police Carlos Rojas gave presentations on Fare Evasion Reduction Initiatives, Proposed Ordinance to Require Persons

inside the Paid Area of BART to Provide Proof of Payment (First Reading), and Proposed Ordinance Prohibiting Fare Evasion by Minors (First Reading).

The following individuals addressed the Board.

Randall Glock  
Aleta Dupree  
Jerry Grace  
Jill Buck

The item was discussed.

President Saltzman exited the Meeting, and Vice President Raburn assumed the gavel.

Vice President Raburn announced that the Board would enter into closed session under item 10-A (Conference with Labor Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting recessed at 12:18 p.m.

---

---

The Board Meeting reconvened in closed session at 12:29 p.m.

Directors present: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, and Simon.

Absent: President Saltzman.

The Board Meeting recessed at 12:59 p.m.

---

---

The Board Meeting reconvened in open session at 1:07 p.m.

Directors present: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, and Simon.

Absent: President Saltzman.

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

Director Keller brought the matter of Transportation Resource Associates Maintenance and Service Options Study before the Board. Mr. Oversier; Ms. Allen; Mr. Shane Edwards, Assistant Chief Maintenance and Engineering Officer; and Mr. Christopher Wallgren, Vice President, Transportation Resource Associates, presented the item. The item was discussed.



Director Keller brought the matter of Update on Public Safety Initiatives before the Board. Mr. Tim Chan, Manager of Planning, and Chief Rojas presented the item. The item was discussed.

The following individuals addressed the Board.

Jamie Renton  
Gena Alexander  
Jerry Grace

Director Raburn, Chairperson of the Planning and Legislation Committee, brought the matters of On-Demand Bicycle Locker and Bicycle Station Kiosk Maintenance Agreement and Amendment to Lease at 300 Lakeside Drive, Oakland, before the Board. Director Josefowitz made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous acclamation. Ayes – 8: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Raburn, and Simon. Noes - 0. Absent – 1: Director Saltzman.

1. That the General Manager be authorized to enter into direct negotiations with eLock Technologies to execute an agreement in an amount not to exceed \$582,755.00.
2. That the General Manager or her designee be authorized to execute Amendment No. 8 to the lease for 300 Lakeside Drive in Oakland with SIC-Lakeside LLC, consistent with the terms contained in SIC's proposal dated September 7, 2017.

Vice President Raburn called for the balance of the General Manager's Report.

General Manager Grace Crunican reported on steps she had taken and activities and meetings she had participated in, ridership, upcoming events, and outstanding Roll Call for Introductions items. She noted the District had received a grant for \$8.7 million from the Federal Emergency Management Agency for security projects, and that the District was currently undergoing the California Public Utilities Commission Triennial Audit.

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

Vice President Raburn reported that he had attended the Ron Brown Business and Economic Summit and the Oakland Pride celebration.

Director Allen reported she had given a presentation to the Contra Costa Taxpayers Association.

Vice President Raburn called for Public Comment. Jerry Grace addressed the Board.

The Meeting was adjourned at 3:29 p.m.

Kenneth A. Duron  
District Secretary

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

Board of Directors  
Minutes of the 1,797th Meeting  
September 28, 2017

A regular meeting of the Board of Directors was held September 28, 2017, convening at 9:39 a.m. in the Warm Springs/South Fremont Station, 45193 Warm Springs Boulevard, Fremont, California. The meeting was a tour of the Warm Springs/South Fremont Station. President Saltzman presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Allen, Blalock, Josefowitz, McPartland, Raburn, Simon, and Saltzman.

Absent: Director Keller. Director Dufty entered the Meeting later.

Director Blalock welcomed those present and thanked the project partners of the Warm Springs Extension.

Mayor of the City of Fremont, Lily Mei, provided an overview of the successful coordination between BART and the City of Fremont.

Jessica von Borck, Assistant City Manager, City of Fremont, reviewed the Transit Oriented Development projects surrounding the Warm Springs/South Fremont Station.

President Saltzman called for Public Comment. Clarence Fischer and Aleta Dupree addressed the Board.

Director Dufty entered the meeting.

President Saltzman noted there were no items for Consent Calendar; Finance, Bond Oversight and Administration; Operation, Safety, and Workforce; and Planning and Legislation Committees or for the General Manager's Report.

The Tour of Warm Springs/South Fremont Station was conducted. The following individuals made presentations at the stops within the tour.

Mr. Val Menotti, Acting Assistant General Manager, Planning, Development and Construction, Mr. Paul Medved, Project Manager, Warm Springs Extension, Mr. Armando Sandoval, BART Police Department, Mrs. Asiann Chan-Velasco, Assistant Chief Transportation Officer, Mr. Nathanael Miksis, Manager of Management Analysis.

The Meeting was adjourned at 10:28 a.m.

Kenneth A. Duron  
District Secretary

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

Board of Directors  
Minutes of the 1,798th Meeting  
September 28, 2017

A special meeting of the Board of Directors was held September 28, 2017. The meeting was a joint meeting with the Santa Clara Valley Transportation Authority (VTA) Board of Directors. The meeting convened at 11:00 a.m. in the Redwood Room of the City of Fremont Leon J. Mezzetti Maintenance Center, 42551 Osgood Road, Fremont, California. President Saltzman presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Allen, Blalock, Dufty, Josefowitz, McPartland, Raburn, Simon, and Saltzman.

Absent: Director Keller.

President Saltzman and VTA Chairperson Jeannie Bruins shared remarks on the purpose of the joint meeting.

The members of the Boards introduced themselves.

President Saltzman called for Public Comment. The following individuals addressed the Boards.

Aboubacar Ndiaye

Aleta Dupree

Howard Miller

Sean Mulligan

Scott Knies

Roland Lebrun

President Saltzman brought the matter of Status Report on BART Extension to Silicon Valley: Phase I to Berryessa, before the Board. Mr. Robert Powers, Deputy General Manager, Ms. Carolyn Gonot, Director of Engineering and Program Delivery, VTA; Mr. Robert Mitroff, Chief Planning and Development Officer; and Mr. Dennis Radcliff, Program Director for BART Extensions, VTA; presented reports on the Construction Status and Operational Readiness. The item was discussed.

President Saltzman brought the matter of Status Report on Operation and Maintenance Agreement between Santa Clara Valley Transportation Authority and San Francisco Bay Area Rapid Transit District before the Board. Mr. Powers and Ms. Gonot presented the item. The item was discussed.

The Board Meeting recessed at 12:13 p.m.

---

---

The Board Meeting reconvened at 12:25 p.m.

Directors present: Directors Allen, Blalock, Dufty, Josefowitz, McPartland, Raburn, Simon, and Saltzman.

Absent: Director Keller.

President Saltzman brought the matter of Status Report on BART Extension to Silicon Valley: Phase II to Santa Clara, before the Board. Mr. Radcliff, Mr. Mitroff, Ms. Gonot, Ms. Tamar Allen, Chief Maintenance and Engineering Officer; and Mr. Val Menotti, Chief Planning and Development Officer, presented the item. The item was discussed.

President Saltzman brought the matter of Joint Santa Clara Valley Transportation Authority and San Francisco Bay Area Rapid Transit Boards of Directors Workshops/Meetings before the Board. The item was discussed.

The Meeting was adjourned at 1:32 p.m.

Kenneth A. Duron  
District Secretary



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pann</i> 4 Oct 2017		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board for Action		
DATE: 8/11/2017		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Todd Morgan Dept: Gov't & Community Relations <i>Todd Morgan</i> 9.8.2017 Signature/Date:	General Counsel <i>[Signature]</i> 9/8/17 [ ]	Controller/Treasurer <i>[Signature]</i> 9/8/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10/2/17 [ ]

### Resolution of Support for MTC's One Bay Area Grant Cycle 2 Program

**PURPOSE:** Board adoption of the Resolution approving acceptance of the Metropolitan Transportation Commission's (MTC) One Bay Area Grant Cycle 2 (OBAG 2) Program grant funding, agreeing to meet project deadlines and to provide local matching funds.

**DISCUSSION:** In July 2016, MTC adopted the OBAG 2 framework of which approximately 45% of the funds are directed to county Congestion Management Agencies (CMAs). Provided the CMAs comply with MTC's OBAG 2 requirements they have the flexibility to program funds to a wide variety of project types which cater to local priorities. On March 13th, 2017 the San Francisco CMA / Transportation Authority (SFCTA) announced it's call for project programming over the next five fiscal years (2017/18 - 2021/22)

Eligible projects include transit expansion, reliability and access improvements; smart system management; transportation demand management (including education/outreach); safety and streetscape improvements; street resurfacing; infrastructure and non-infrastructure SRTS; and Priority Development Area (PDA) planning and implementation.

In consultation with a number of BART departments, staff agreed that the Embarcadero Station New Platform Elevator and Faregates Project ("Project"), a Measure RR project, was best suited to meet the intent and requirements of the SFCTA OBAG 2 program. The Project will move the existing stairway, construct the new elevator, construct new decking at the Concourse and Muni levels, modify the existing elevator to primary Muni use, modify the paid area railing and fare gates, move the San Francisco Fire Department storage locker, and construct a new machine room for the existing elevator. The Project is an identified capital

improvement included in the 2013 BART Metro Study which states "several stations, notably Embarcadero and Montgomery and perhaps the downtown Oakland stations may need renovations and capacity improvements to meet peak period 2025 demand. These renovations include additional elevators, escalators and fare collection equipment."

MTC requires that each recipient of OBAG 2 funds adopt a Resolution agreeing to meet project delivery and obligation deadlines, and provide the required 11.47% local match which has already been exceeded by Measure RR funds allocated to the Project. This Resolution is attached.

**FISCAL IMPACT:** By adopting this Resolution, BART will receive \$2,000,000 in federal funds and \$1,000,000 of San Francisco Proposition K funds for the Embarcadero Station New Northside Platform Elevator and Faregates Project. BART agrees to provide the required local match and fully fund the Project, for a total forecast cost of \$15,000,000.

**ALTERNATIVES:** The alternative would be to not adopt the Resolution. Failure to adopt the Resolution would prevent MTC from approving the project in the Transportation Improvement Program (TIP), including not releasing the necessary funds. Unless the Resolution is adopted, BART would lose the benefit of \$3,000,000 in San Francisco County grant funding for the Project.

**RECOMMENDATION:** It is recommended the Board adopt the attached Resolution.

**MOTION:** The BART Board adopts the attached Resolution in the Matter of Authorizing the Filing of an application for funding assigned to MTC and committing any necessary matching funds and stating assurance to complete the project.

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

In the Matter of Authorizing the Filing of

An Application for Funding Assigned to MTC

And Committing Any Necessary Matching Funds

And Stating Assurance to Complete the Project \_\_\_\_\_/

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

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART), (herein referred to as APPLICANT) has submitted an application to the Metropolitan Transportation Commission (MTC) for \$2,000,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Embarcadero Station New Northside Platform Elevator and Faregates Project (herein referred to as PROJECT) for the One Bay Area Grant – Cycle 2 Program (herein referred to as PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations

promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and



WHEREAS, that APPLICANT was authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to APPLICANT making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

WHEREAS, APPLICANT authorizes its General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

RESOLVED, that APPLICANT will provide any required matching funds; and be it further

RESOLVED, that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

RESOLVED, that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

RESOLVED, that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount

approved by MTC and programmed in the federal TIP; and be it further

RESOLVED, that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

RESOLVED, that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

RESOLVED, that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

RESOLVED, that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

RESOLVED, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

RESOLVED, that there is no legal impediment to APPLICANT making applications for the funds; and be it further

RESOLVED, that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

RESOLVED, that APPLICANT authorizes its General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

RESOLVED, that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED, that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

Adopted on \_\_\_\_\_, 2017

---

Kenneth A. Duron, District Secretary

###

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

---

## MEMORANDUM

**To:** Board of Directors

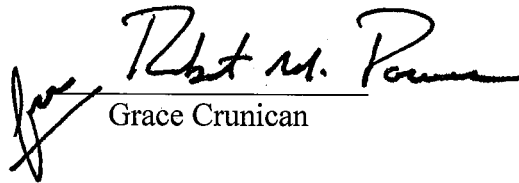
**Date:** October 5, 2017

**From:** General Manager

**Subject:** Consent Calendar Item #2: Audit of Directors' Use of District Property

Attached is the Internal Audit Department's final audit report – *Audit of Directors' Use of District Property for Fiscal Year 2017*. The audit report will appear on the October 12, 2017, Board Consent Calendar.

If you have any questions regarding the audit, please contact Terry Green at (510) 464-7563.

  
Grace Crunican

Attachment

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



*Audit of Directors' Use of District Property  
for Fiscal Year 2017*

**BACKGROUND**

The Internal Audit Department has audited the District's compliance with the requirements of the San Francisco Bay Area Rapid Transit District's *Rules of the Board of Directors* Board Rule 5-3.5, Use of District Property Other than Automobiles. The Rules require that the Internal Audit Department shall complete an annual audit for the previous fiscal year for compliance with the requirements of Board Rule 5-3.5, and shall submit the audit report, including a list of property issued to each Director, to the next Administration Committee following September 15 for review and forwarding to the full Board.

Board Rule 5-3.5 requires that:

- Directors may have use and possession of specifically identified District property that is comparable in cost and function to equipment available to District employees;
- The property shall be returned when a Director leaves office;
- Directors request the property through the District Secretary's Office;
- The District Secretary shall request quarterly that the Directors review their cellular phone and calling card charges;
- Directors reimburse the District within 30 days of the quarterly request for reimbursement of costs that are not for District business; and
- The District Secretary shall report to the Board President or Vice President if the quarterly requests are not responded to or reimbursements not made within 30 days.

The purpose of our audit was to determine whether the District complied with the requirements of Board Rule 5-3.5 for the fiscal year ended June 30, 2017. To accomplish our purpose, we reviewed the requirements of the Board Rule, reviewed the report for the audit of compliance with the Board Rule done for the previous year, examined records maintained by the District Secretary, notified Directors of the property recorded in the District's records as issued to each Director, and conducted discussions with the staff of the District Secretary's Office.

*Audit of Directors' Use of District Property  
for Fiscal Year 2017*

**BACKGROUND**  
*(Cont'd)*

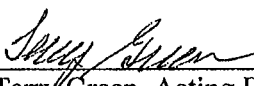
We performed the audit in accordance with generally accepted government auditing standards and included such tests as we considered necessary in the circumstances. We used the *Rules of the Board of Directors* Board Rule 5-3.5 as criteria for the audit.

We provided Kenneth A. Duron, District Secretary, with a draft copy of our audit report on August 29, 2017. We discussed the draft audit report with him on August 31, 2017, and he had one additional comment that was incorporated into this final report.

**SUMMARY OF  
AUDIT RESULTS**

We found that in fiscal year 2017, the District complied in all material respects with the requirements of Board Rule 5-3.5. A list of property issued to each Director as recorded in the District's records is shown in Exhibit A.

We also found that a former Director who left office in December 2014 has not returned or reimbursed the District for District purchased equipment as required by Board Rule 5-3.5(a). The equipment was valued at \$2,888 when the Director left office. The District Secretary sent correspondence to the former Director requesting payment for the unreturned equipment in December 2014, April 2015, August 2015, March 2016, April 2016, and March 2017. In addition, a letter from the District General Counsel to the former director indicated that the former director had committed to retuning the equipment in October 2016; however, the equipment was not returned.

  
\_\_\_\_\_  
Terry Green, Acting Department Manager  
Internal Audit Department

*Audit of Directors' Use of District Property  
for Fiscal Year 2017*

**Exhibit A**

Schedule of District Property in Directors' Custody  
As of June 30, 2017

<b>DIRECTOR</b>	<b>PROPERTY DESCRIPTION</b>
Debora Allen 1st District	(No Equipment Issued)
Joel Keller 2nd District	Apple iPhone 6s
Rebecca Saltzman 3rd District	(No Equipment Issued)
Robert Raburn 4th District	Computer Phone Card
John McPartland 5th District	Apple iPhone 7 External Computer Hard Drive Computer Phone Card
Thomas M. Blalock 6th District	Brother Intellifax Apple iPad Mini
Lateefah Simon 7th District	(No Equipment Issued)
Nick Josefowitz 8th District	(No Equipment Issued)
Bevan Dufty 9th District	(No Equipment Issued)



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Poore</i> 4 Oct 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/28/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gia Ilole Dept: Human Resources Administration <i>G Ilole</i> Signature/Date: Oct 2nd, 2017	General Counsel <i>W. B. [ ]</i> 10/3/17 [ ]	Controller/Treasurer <i>[ ]</i> 10/3/17 [ ]	District Secretary [ ]	BARC <i>[ ]</i> 10/3/17 [ ]

### EMPLOYEE RELOCATION ASSISTANCE FOR THE DEPUTY MANAGING DIRECTOR- CAPITOL CORRIDOR

#### PURPOSE:

To authorize the General Manager to approve employee relocation assistance for the position of Deputy Managing Director, Capitol Corridor.

#### DISCUSSION:

On March 11, 1993, the Board adopted Resolution No. 4487, which requires Board approval prior to offering relocation assistance or moving expenses to a new employee.

The Deputy Managing Director, Capital Corridor position was advertised on May 19, 2017 to both internal and external candidates using various national digital and print advertising sources, including the District's website. Several candidates were interviewed, and the selected candidate currently resides outside of the region.

The Deputy Managing Director, Capitol Corridor is a senior management position that requires specialized skills derived from unique managerial and technical experience. Under the direction of the Managing Director, Capitol Corridor, the Deputy Managing Director, Capitol Corridor will assist in directing and managing the activities and operations of the Executive Office of Capitol Corridor including, the management and delivery of Capitol Corridor passenger rail services, and coordinating with other executive staff, departments and outside agencies.

**EMPLOYEE RELOCATION ASSISTANCE FOR THE DEPUTY MANAGING DIRECTOR- CAPITOL CORRIDOR  
(cont.)**

The Board's action will allow for executing a relocation agreement within the parameters of current District policy as provided in Management Procedure 70. This procedure sets a maximum reimbursement for relocation at \$18,000 and it does not allow for reimbursement for loss on sale of residence.

**FISCAL IMPACT:**

The cost for the relocation agreement will be expensed to the Capital Corridor FY18 Operating Budget.

**ALTERNATIVES:**

Not to offer relocation agreement. This alternative will result in the loss of the identified candidate for this critical management position.

**RECOMMENDATION:**

Adopt the following motion:

**MOTION:**

That the General Manager or her designee is authorized to approve employee relocation assistance for the Deputy Managing Director, Capitol Corridor, in accordance with Management Procedure Number 70, "New Employee Relocation Expense Reimbursement", in an amount not to exceed \$18,000.





# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Perna</i> 5 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 10/4/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Human Resources Administration <i>Diane Iwata</i> Signature/Date: 10/4/2017	General Counsel <i>[Signature]</i> 10/5/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/4/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10/4/17 [ ]

## Authorization to Establish Non-Represented Professional/Management Pay Band 15

### PURPOSE:

To authorize the General Manager to establish Non-Represented Professional/Management Pay Band 15 effective July 1, 2017.

### DISCUSSION:

After a review of the Non-Represented Professional/Management Salary Structure, staff has determined that an additional pay band is required to provide distinction between the Deputy General Manager (DGM) classification and the Assistant General Manager (AGM) classification to reflect additional managerial responsibilities of the DGM classification.

The General Manager is recommending the establishment of Non-Represented Professional/Management Pay Band 15. The salary minimum of the pay band will be \$188,013, and the maximum will be \$291,424, effective July 1, 2017.

### FISCAL IMPACT:

Approval of this EDD would expand the capacity of the Non-Represented Professional/Management salary structure by \$27,094.

### ALTERNATIVE:

To not approve the action. However, failure to do would result in salary compaction concerns between the two classifications.

**RECOMMENDATION:**

Approve the following motion.

**MOTION:**

The Board authorizes the General Manager to establish Non-Represented Professional/Management Pay Band 15, with an annual salary minimum of \$188,013 and a maximum of \$291,424, effective July 1, 2017.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Power</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/29/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Human Resources Administration <i>Diane Iwata</i> Signature/Date: 10/2/2017	General Counsel <i>[Signature]</i> 10/3/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/3/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10/3/17 [ ]

### Resolution Fixing the Employer's Contribution to CalPERS Medical Premium

#### PURPOSE

To obtain Board approval to adopt the resolutions which are required by the Public Employees' Medical and Hospital Care Act (PEMHCA) to implement the District and Employee/Annuitant premium contribution amounts for American Federation of State, County and Municipal Employees Local 3993 ("AFSCME"), Amalgamated Transit Union Local 1555 ("ATU") and Service Employees International Union Local 1021 ("SEIU"), based on collective bargaining agreements that have been previously ratified by the Board.

#### DISCUSSION:

Collective bargaining agreements (CBAs) with AFSCME, ATU and SEIU have been ratified and include provisions for the employee and employer contribution towards medical premiums. The CBAs provide for a 3% increase in the employee contribution from 2006 to 2034 and an additional \$37 per month from 2014 to 2021. In addition, the CBAs provide that the maximum the District will contribute for employee and annuitant medical premiums will be based on the more costly of the CalPERS Bay Area HMO Blue Shield Access+ basic plan or the CalPERS Bay Area HMO Kaiser basic plan for the applicable level of plan participation for the employee, less employee/annuitant new monthly contributions of \$143.93 in calendar year 2018, \$147.14 in calendar year 2019, \$150.44 in calendar year 2020, and \$153.85 in calendar year 2021. Employees and annuitants who choose more costly plans will be responsible for the additional premium cost. All changes will be made effective January 1<sup>st</sup> of the respective year. This schedule is also subject to the retiree medical eligibility schedule.

For 2018, the General Manager intends to make the same change in the amount of the medical premium contribution for non-represented employees and eligible retirees as have been agreed to with these represented groups. Therefore, the Board is also being asked to adopt the attached resolution pertaining to non-represented employees and eligible retirees on the same schedule.

**FISCAL IMPACT:**

For the 3,070 AFSCME, ATU, SEIU and non-represented employees currently enrolled in health care coverage and 2,028 current retirees, the employee contribution increase is estimated to produce \$8,736,772 in savings over the four-year term of the agreement for represented and one year for non-represented employees. For AFSCME, ATU and SEIU, \$37 per month will be deducted from the District's contribution of the 1.627% of eligible compensation to the Money Purchase Pension Plan. For non-represented employees, the entire employee contribution increase will be deducted from wages. For retirees, the contribution increase will be deducted from their annuity by CalPERS.

**ALTERNATIVES:**

This is a negotiated benefit for represented employees which the Board approved when it ratified the extension of 2013-2017 collective bargaining agreements to 2021 with AFSCME ATU and SEIU. As a matter of policy, the General Manager has recommended that medical benefits for non-represented employees be offered on the same terms for 2018.

**RECOMMENDATION:**

That the Board adopts the following motion.

**MOTION:**

To adopt the attached resolutions pertaining to AFSCME, ATU, SEIU, and non-represented employees and eligible retirees regarding "Fixing the Employer's Contributions under the Public Employees' Medical and Hospital Care Act" and authorize the Board President to sign the resolutions on behalf of the Board.

**RESOLUTION NO.  
FIXING THE EMPLOYER VESTING CONTRIBUTION UNDER SECTION 22902  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 001 AFSCME LOCAL 3993**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the American Federation of State, County and Municipal Employees Local 3993 (AFSCME); and
- WHEREAS, (2) San Francisco Bay Area Rapid Transit District is a contracting agency has filed a resolution with the Board of the California Public Employees' Retirement System to provide a postretirement health benefits vesting requirement to employees who retire for service in accordance with Government Code Section 22902; and
- RESOLVED, (a) That the employer contribution for each annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, the California Public Employees' Retirement System may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

**RESOLUTION NO.  
FIXING THE EMPLOYER CONTRIBUTION UNDER SECTION 22892  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 001 AFSCME LOCAL 3993**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the American Federation of State, County and Municipal Employees Local 3993 (AFSCME); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and
- RESOLVED, (a) That the employer contribution for each employee/annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less employee/annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary



**RESOLUTION NO.  
FIXING THE EMPLOYER VESTING CONTRIBUTION UNDER SECTION 22902  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 004 AMALGAMATED TRANSIT UNION**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the Amalgamated Transit Union Local 1555 (ATU); and
- WHEREAS, (2) San Francisco Bay Area Rapid Transit District is a contracting agency has filed a resolution with the Board of the California Public Employees' Retirement System to provide a postretirement health benefits vesting requirement to employees who retire for service in accordance with Government Code Section 22902; and
- RESOLVED, (a) That the employer contribution for each annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, the California Public Employees' Retirement System may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

**RESOLUTION NO.  
FIXING THE EMPLOYER CONTRIBUTION UNDER SECTION 22892  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 004 AMALGAMATED TRANSIT UNION**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the Amalgamated Transit Union Local 1555 (ATU); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and
- RESOLVED, (a) That the employer contribution for each employee/annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less employee/annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_

**RESOLUTION NO.  
FIXING THE EMPLOYER VESTING CONTRIBUTION UNDER SECTION 22902  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 005 SEIU LOCAL 1021**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the Service Employees International Union Local 1021 (SEIU); and
- WHEREAS, (2) San Francisco Bay Area Rapid Transit District is a contracting agency has filed a resolution with the Board of the California Public Employees' Retirement System to provide a postretirement health benefits vesting requirement to employees who retire for service in accordance with Government Code Section 22902; and
- RESOLVED, (a) That the employer contribution for each annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, the California Public Employees' Retirement System may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

**RESOLUTION NO.  
FIXING THE EMPLOYER CONTRIBUTION UNDER SECTION 22892  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 005 SEIU LOCAL 1021**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by members of the Service Employees International Union Local 1021 (SEIU); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and
- RESOLVED, (a) That the employer contribution for each employee/annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less employee/annuitant share of \$143.93 (2018), \$147.14 (2019), \$150.44 (2020) and \$153.85 (2021), per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary



**RESOLUTION NO.  
FIXING THE EMPLOYER CONTRIBUTION UNDER SECTION 22892  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 006 NON-REPRESENTED EMPLOYEES**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by employees who are non-represented; and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and
- RESOLVED, (a) That the employer contribution for each employee/annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less employee/annuitant share of \$143.93, per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary

**RESOLUTION NO.  
FIXING THE EMPLOYER VESTING CONTRIBUTION UNDER SECTION 22902  
OF THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
FOR GROUP 006 NON-REPRESENTED EMPLOYEES**

- WHEREAS, (1) San Francisco Bay Area Rapid Transit District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act") for participation by employees who are non-represented; and
- WHEREAS, (2) San Francisco Bay Area Rapid Transit District is a contracting agency has filed a resolution with the Board of the California Public Employees' Retirement System to provide a postretirement health benefits vesting requirement to employees who retire for service in accordance with Government Code Section 22902; and
- RESOLVED, (a) That the employer contribution for each annuitant subject to vesting shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the higher of Kaiser Bay Area Basic or Blue Shield Access+ Bay Area Basic, less annuitant share of \$143.93, per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) San Francisco Bay Area Rapid Transit District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of San Francisco Bay Area Rapid Transit District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that San Francisco Bay Area Rapid Transit District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, the California Public Employees' Retirement System may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, Kenneth A Duron, District Secretary to file with the Board a verified copy of this resolution, and to perform on behalf of San Francisco Bay Area Rapid Transit District all functions required of it under the Act.
- RESOLVED, (e) That coverage under the Act be effective on January 1, 2018.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this 12<sup>th</sup> day of October, 2017.

Signed: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
District Secretary



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Paine</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/26/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Mark Letman Dept. Maintenance and Engineering <i>Mark Letman</i> Signature/Date: 10/2/17	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

### Award of IFB No. 9014A, Aerial Lift Trucks

#### PURPOSE:

To authorize the General Manager to award Invitation For Bid (IFB) No. 9014A, for the purchase of two (2) aerial lift trucks to Altec Industries, Inc.

#### DISCUSSION:

Aerial Lift Trucks are used throughout the District to maintain elevated power and communications systems, to install and repair high voltage conduit and cable, and to service aerial, closed circuit television equipment. The District currently owns only two (2) aerial lift truck purchased in 2010 and 1994. The truck acquired in 1994, however, is at the end of its operating life cycle, and beyond economic repair.

The new specialized aerial lift trucks have a forty foot telescopic boom with an insulated platform, end-mounted on a hybrid lift. The trucks have a lithium power module that helps eliminate unnecessary engine idle time, and extend the vehicle's life cycle.

This is a two (2) year estimated quantity contract. During the term of the contract the District is required to purchase a minimum of 50% of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150% of the contract bid price, subject to available funding.

A notice requesting bids was published and uploaded to the BART Vendor Portal on August 14, 2017. Correspondence was sent to four (4) prospective bidders inviting them to view the solicitation on the Vendor Portal. Bids were opened on September 5, 2017 and the following one (1) bid was received.

<u>Bidder</u>	<u>Unit Price Including 9.25% Sales Tax</u>	<u>Quantity</u>	<u>Total Including 9.25% Sales Tax</u>
Altec Industries, Inc. Dixon, CA	\$213,904.95	2	\$427,809.90

The independent cost estimate by BART staff is: \$ 415,150.00, including 9.25% sales tax.

Staff has determined that the bid submitted by Altec Industries, Inc. is responsive. Staff has also determined that the price is fair and reasonable based upon a market survey of qualified suppliers and the independent cost estimate by BART Staff.

The District's Non-Discrimination Program for Subcontracting is not applicable to Invitations for Bid. Accordingly, the Office of Civil Rights did not set Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Availability Percentages for this IFB.

**FISCAL IMPACT:**

Funding of \$427,810 for the award of IFB#9014A is included in the total project budget for Projects 79BJ001 – Non-Revenue Vehicles and 79HY000 – CCTV @ SFIA. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following tables depict funding assigned to the referenced projects and are included in totality to track funding history against spending authority.

79BJ001 \$213,905

As of September 28, 2017, \$6,511,580 is available in project from the following sources:

<b>Fund Group</b>	<b>Amount</b>
BART	6,511,580
<b>Total</b>	<b>6,511,580</b>

BART has expended \$4,416,186 committed \$1,499,063 this action will commit \$213,905 leaving an available fund balance of \$382,426 in this project.

79HY000 \$213,905

As of September 28, \$8,341,864 is available for this project from the following sources:

<b>Fund Group</b>	<b>Amount</b>
Federal	3,186,327
State	5,155,537
<b>Total</b>	<b>8,341,864</b>

BART has expended \$7,817,822 committed \$5,998, this action will commit \$213,905 leaving an available fund balance of \$304,138 in this project. There is no fiscal impact on available un-programmed District Reserves.

**ALTERNATIVES:**

Reject the Bid and re-advertise the Contract. This is not likely to lead to increased competition and would result in the District having to continue to rely on current equipment which is insufficient to meet ongoing maintenance objectives.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The General Manager is authorized to award Invitation For Bid No. 9014A, an estimated quantity contract, for the purchase of two (2) Aerial Lift Trucks to Altec Industries, Inc., Dixon, CA, in the amount of \$427,809.90, including taxes, pursuant to notification to be issued by the General Manager.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Penner</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/26/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Mark Letman Dept: Maintenance and Engineering <i>ML</i> Signature/Date: 10/2/17	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

### Award of IFB No. 9036, Armored Trucks

#### PURPOSE:

To request Board authorization to award Invitation For Bid (IFB) No. 9036 to Golden Gate Truck Center, Oakland, CA, in the amount of \$1,280,715.90, including all applicable sales tax, for the purchase of six (6) Armored Trucks.

#### DISCUSSION:

Armored Trucks, or Revenue Protection Guard Trucks are used by Treasury and Cash Handling to transport fare collection machines and equipment between Bart stations and the Oakland cash handling site. This IFB is for the purchase of for six (6) diesel powered armored truck tractors that haul twenty-eight (28) foot trailers which will be loaded with fare machines and revenue collection accessories. The trucks feature a heavily armored ballistic safety cell for three hundred sixty (360) degree protection against multiple projectiles.

Five (5) of the new vehicles will replace trucks purchased by the District between the years 1997 and 2003, that have reached the end of their operating life cycle and are beyond economic repair. The sixth truck is to provide additional capacity, specifically for the cash handling needs of the Santa Clara Valley Bart Extension (SVBX) pursuant to Implementation Letter No. 2017-36 between the Santa Clara Valley Transportation Authority and the BART District.

This is a two (2) year estimated quantity contract. During the term of the contract the District is required to purchase a minimum of 50% of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150% of the contract bid price, subject to available funding.



A notice requesting bids was published and uploaded to the BART Vendor Portal on August 11, 2017. Correspondence was sent to three (3) prospective bidders inviting them to view the solicitation on the Vendor Portal. Bids were opened on August 29, 2017 and one (1) bid was received. Other potential bidders who declined to bid responded they were unable to meet Technical Specifications for armoring the trucks.

<b><u>Bidder</u></b>	<b><u>Unit Price Including 9.25% Sales Tax</u></b>	<b><u>Quantity</u></b>	<b><u>Total Including 9.25% Sales Tax</u></b>
Golden Gate Truck Center Oakland, CA	\$213,452.65	6	\$1,280,715.90

Independent cost estimate by BART staff: \$ 1,207,200.00, including all applicable tax.

Staff has determined that the apparent low bidder, Golden Gate Truck Center, Oakland, CA, submitted a responsive bid. Staff has also determined the price to be fair and reasonable based upon a market survey of qualified suppliers and the independent cost estimate by BART Staff.

The District's Non-Discrimination Program for Subcontracting is not applicable to Invitations for Bid. Accordingly, the Office of Civil Rights did not set Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Availability Percentages for this IFB.

**FISCAL IMPACT:**

Funding for this contract is included in the total project budget for Projects of 79BJ001 – Non-Revenue Vehicles and 02GQ000 -SVBX Operations & Maintenance. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following tables depict funding assigned to the referenced projects and are included to track funding history against spending authority.

Funding details from Project 79BJ001 are as follows:

As of September 28, 2017, \$6,511,580 is available in this project fund from the following sources:

<b><u>Fund Group</u></b>	<b><u>Amount</u></b>
--------------------------	----------------------

BART	6,511,580
<b>Total</b>	<b>6,511,580</b>

BART has expended \$4,416,186, and committed \$645,705 to other projects. Funding this project, IFB 9036, will commit another \$1,067,263, which will leave an available fund balance of \$382,426.

Funding details from Project 02GQ000 are as follows:

As of September 28, 2017, \$4,000,000 is available in this project fund from the following sources:

<b>Fund Group</b>	<b>Amount</b>
Local	4,000,000
<b>Total</b>	<b>4,000,000</b>

BART has not expended nor committed any of the funds for this project. This action will commit \$213,453 of the fund, leaving an available fund balance of \$3,786,547. The above-mentioned funds will cover the cost of this project; therefore, there is no fiscal impact on available un-programmed District Reserves.

**ALTERNATIVES:**

Reject the Bid and re-advertise the Contract. This, however is not likely to result in increased competition or lower prices and would subject the District to relying on current equipment which is insufficient to meet ongoing cash handling requirements.

**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 Invitation For Bid No. 9036, an estimated quantity contract, for the purchase of six (6) Armored Trucks to Golden Gate Trucks, Oakland, CA, in the amount of \$1,280,715.90, including taxes.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Perrin</i> 4 Oct 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/11/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gordon Wong Dept: Maintenance and Engineering <i>Gordon Wong</i> Sept 29, 2017 Signature/Date	General Counsel <i>[Signature]</i> 9/29/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

### IFB No. 9038 PHENOLIC 6" CONDUIT

#### PURPOSE:

To request Board Authorization to Award Invitation For Bid No. 9038 for purchase of Phenolic 6" Conduit to All Industrial Electric.

#### DISCUSSION:

The BART traction power electrical transmission system between substation KWS (Washington Street, Oakland) to ANA (19th Avenue, Oakland) was originally installed over 40 years ago and urgently needs to be replaced because of aging and heavy usage. The Traction Power Engineering Department has developed a replacement design with District employees performing the installation. This IFB is for the purchase of 30,000 linear feet of Phenolic 6" Conduit to facilitate the 34.5kV Cable replacement. This procurement supports the District's goal of achieving a "State of Good Repair" and will ensure continued reliable service.

This is a 2 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 of 50% of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150% of the contract bid price, subject to availability of funding.

A notice requesting bids was published on July 25, 2017. On July 21, 2017, concurrently this solicitation was uploaded onto the BART Vendor Portal. Correspondence was sent to 12 prospective bidders inviting them to view the

solicitation on the Vendor Portal. Bids were opened on August 8<sup>th</sup>, 2017 and 2 bids were received as follows:

<b>Bidder</b>	<b>Bid Total (Excluding Tax)</b>	<b>Bid Total including a 9.75% Sales Tax</b>
All Industrial Electric Supply - Burlingame, CA	\$1,451,002.52	\$1,592,475.27
J.P Simon & Co. -Glendale Heights, IL	\$1,487,701.56	\$1,632,752.46

An independent cost estimate was \$1,408,237.72 (excluding tax).

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services. The lowest responsive Bidder, All Industrial Electric Supply, is a Small Business, thus making it eligible for the Prime Preference. Since All Industrial Electric Supply is the lowest responsive Bidder, and is eligible for the 5% Small Business Prime Preference, the application of the Prime Preference will not alter the award to All Industrial Electric Supply.

The District's Non-Discrimination Program for Subcontracting is not applicable to Invitations for Bid (IFB). Accordingly, the Office of Civil Rights did not set Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Availability Percentages for this IFB.

**FISCAL IMPACT:**

Funding of \$1,592,475 for Bid No. 9038 is included in total project budget for FMS Measure RR Project No. 15EJRR1 – 34.5 KV AC Cable Replacement. The Office of

Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from 2017 Measure RR GOB.

802A	2017 Measure RR GOB	BART	288,364,368.00
------	---------------------	------	----------------

BART has expended \$952,628, committed \$1,388,173, and reserved \$3,115,200 to date for other actions. This action will commit \$1,592,475 leaving an available fund balance of \$281,315,892 in this project. There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

The alternative to awarding this Contract would be to reject the Bids and re-advertise the Contract. Staff does not believe that re-advertising the Contract will result in lower prices or increased competition. In addition, if this medium voltage section is not replaced, there is a higher likelihood of power failures resulting in delays or loss of revenue service. In this event, a bus bridge would need to be implemented to provide alternative transportation to the public.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The General Manager is authorized to award IFB No. 9038 for Phenolic 6" Conduit to All Industrial Electric Supply for an amount of \$1,592,475.27 pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedure.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Fournier</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 9/22/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Sonny Au Dept: Planning, Development & Construction  Signature/Date: <i>[Signature]</i> 10/2/17	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

### Reject All Bids for Contract No. 01RQ-190 for Construction of Hayward Maintenance Complex Project, Turntable Relocation

#### PURPOSE:

To reject all Bids for Contract No. 01RQ-190, Construction of Hayward Maintenance Complex Project, Turntable Relocation.

#### DISCUSSION:

The scope of this Contract consists of the relocation of the existing Hayward Yard turntable by constructing a new turntable at the Hayward Maintenance Complex (HMC) Project location followed by complete demolition of the existing turntable. Associated work includes grading, paving, trackwork, approach slabs, and miscellaneous demolition work.

The Contract was advertised on April 7, 2017 in the District's online vendor portal. On June 20, 2017, three Bids were received for the Contract. On July 27, 2017, the Board authorized the award of the Contract to the apparent lowest responsive and responsible Bidder, Shimmick Construction Company, Inc. (Shimmick) for the Bid amount of \$4,138,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protests. Notification of the Board's action was transmitted to all Bidders.

On July 31, 2017, the District received a timely protest from Proven alleging that, among other things, Shimmick was prohibited from bidding on the Contract because Shimmick had been acquired by AECOM Technology Corp., the design consultant for this Contract's specifications, and, as a result, there was an organizational conflict of interest under the District's Contractor Code of Conduct. Shimmick provided a timely response to the protest on August 7, 2017.

District staff performed an evaluation of the Protest based on Proven's assertions and Shimmick's response. See Attachment, Section V, Evaluation. The District was unable to determine that no organizational conflict of interest exists on Shimmick's part that would allow the Board to Award the Contract to Shimmick. The District's Final Decision is to reject all Bids and readvertise the Contract.

District staff transmitted a notice of the District's Final Decision to Proven and Shimmick on September 12, 2017 via facsimile.

**FISCAL IMPACT:**

There is no fiscal impact as a result of this action.

**ALTERNATIVES:**

Do not reject all Bids and Award the Contract to Shimmick, which can potentially create a conflict with the District's Contractor Code of Conduct.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

All Bids for Contract No. 01RQ-190, Construction of Hayward Maintenance Complex Project, Turntable Relocation, are rejected and the General Manager is authorized to readvertise the Contract.

FINAL DECISION  
Protest of ProVen Management, Inc. of  
Board Authorization to Award Contract No. 01RQ-190  
Construction of Hayward Maintenance Complex Project, Turntable Relocation

I. Background

On June 20, 2017, three Bids were received for the above-referenced Contract. On July 27, 2017, the Board authorized the award of the Contract to the apparent lowest responsive and responsible Bidder, Shimmick Construction Company, Inc. (Shimmick) for the Bid amount of \$4,138,000, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA's requirements related to protests. Notification of the Board's action was transmitted to all Bidders on July 27, 2017. ProVen Management, Inc. (ProVen), the apparent second low Bidder with a total Bid amount of \$4,588,150, protests the decision.

II. Timeliness of Protest

The District's protest procedures require that a protest be received within seven days after notice of the Board action to award. On July 31, 2017, the District received a timely protest from ProVen.

III. Summary of Protest

ProVen asserts that the District should have found Shimmick's Bid non-responsive, and that the District could not award the Contract to other firms. The allegations include:

- that AECOM, the designer of record, proposes to purchase Shimmick, and that such a purchase would create a conflict of interest in violation of State law since AECOM would then be both the designer of record and the constructor of the project.
- that the District cannot award the Contract to AECOM, since AECOM was not a Bidder.
- that the District's Bid Documents, specifically General Conditions Article GC5.8, prohibit Shimmick from assigning its rights to any other entity, including AECOM.
- that the District's Prohibition Regarding Participation in Procurement Development prohibits award to Shimmick.

IV. Shimmick's Response to the Protest

The District forwarded a copy of the Protest and the Supplemental Protest to Shimmick on July 31, 2017. Shimmick provided a timely response on August 7, 2017.

Shimmick responded as follows:



1. That Shimmick is the Bidder to whom the District intends to award the Contract, that Shimmick remains the same legal entity capable of receiving and forming contracts, and that Shimmick has no intention of assigning its rights to AECOM.
2. That, at the time that the Bid Specifications were sealed by AECOM (February 28, 2017), none of AECOM's employees was aware of AECOM's intention to purchase Shimmick (the notice of intent to purchase was issued February 14, 2017, but was kept confidential), and neither AECOM nor Shimmick had entered into a purchase contract. Shimmick's response includes a sworn statement from the AECOM Project Manager responsible for the preparation of the 01RQ-190 Bid Documents, stating that neither she nor any member of the design team was involved with the due diligence leading to AECOM's acquisition of Shimmick, and that the team members were not aware of the pending acquisition until the public announcement on July 6, 2017.
3. That the purchase contract of Shimmick closed on July 28, 2017.

#### V. Evaluation

##### a. Award to AECOM

ProVen's contention that the District may not award the Contract to AECOM because AECOM did not submit a Bid is irrelevant because the District is not awarding the Contract to AECOM. Notwithstanding AECOM's acquisition of Shimmick, at the time of Bid opening Shimmick was and remains a distinct legal entity capable of directly entering into a contractual agreement with the District and performing the Contract Work. Thus, this contention does not provide a basis to alter the Board's decision to award the Contract to Shimmick

##### b. Assignment of Contract Rights

ProVen's contention that Shimmick is assigning its rights under the Contract to AECOM is similarly unfounded. Shimmick has not requested, nor has the District granted, any assignment of rights. While the District in Paragraph 14.A of the Contract Instructions to Bidders reserves the right to waive minor irregularities, the District has not done so in this case because no waiver is required. Nor has the District altered or modified its General Conditions. Consequently, ProVen's contentions regarding these matters do not provide a basis to alter the Board's decision to award the Contract to Shimmick.

##### c. Organizational Conflict of Interest

The District's Contractor Code of Conduct, Section XV, which closely follows the Federal Transit Administration's policy on conflict of interest, provides that "no Contractor who participates in the development of a scope of work, solicitation documents, contract documents or technical specifications may participate as a bidder, proposer or sub-proposer on that particular procurement or perform any work on that particular procurement... that would constitute an organizational conflict of interest or would give that Contractor an unfair advantage over other bidders or proposers on that procurement." AECOM as the designer of the Bid

Documents has not participated as a Bidder, sub-Bidder or proposer. Shimmick did not contribute to the development of the Bid Documents. However, if the District awards the Contract to Shimmick, Shimmick's performance of the Contract could be construed as "work that would constitute an organizational conflict of interest or would give an unfair advantage", even though AECOM did not finalize the purchase of Shimmick until after Bid opening and after the Board's action.

At the time of the Bid opening for Contract No. 01RQ-190 on June 20, 2017, the District was not presented with evidence that AECOM and Shimmick had any financial or ownership relationship. In press releases issued on July 6, 2017 (after Bids on the subject Contract were received), the two parties announced AECOM's intention to purchase Shimmick. Shimmick alleges that the intent of the two parties to carry out the purchase was kept secret from the parties preparing the Bid Documents, and presents a declaration from the AECOM Technical Services, Inc. design engineer responsible for design of Contract No. 01RQ-190 that neither she nor any AECOM personnel working on the design participated in any aspect of the due diligence leading to AECOM's acquisition of Shimmick. The District cannot verify the claims made by Shimmick.

## VI. Conclusion

Based on the evaluation above, it cannot be fully determined that no organizational conflict of interest exists on Shimmick's part such that the Board may Award the Contract to Shimmick. The District will, therefore, reject all Bids and readvertise the Contract.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Rbt M. Pourn</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/27/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Mark Letman Dept: Maintenance and Engineering <i>Mark Letman</i> Signature/Date: 10/2/17	General Counsel <i>[Signature]</i> 10/3/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/3/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

## Reject All Bids for IFB No. 9035, Gasoline, Renewable Diesel Fuel, Red Dyed #2 Diesel Fuel and Diesel Exhaust Fluid (DEF)

### PURPOSE:

To reject all bids for Invitation for Bid (IFB) No. 9035, Gasoline, Renewable Diesel Fuel, Red Dyed #2 Diesel Fuel and Diesel Exhaust Fluid (DEF).

### DISCUSSION:

IFB No. 9035 is a five (5) year estimated quantity solicitation for bulk fuel: gasoline, renewable diesel fuel, red dyed diesel fuel, and diesel exhaust fluid. The fuels are to be delivered in bulk to below and above ground storage tanks located in District yards and the eBART Maintenance Facility.

A notice requesting bids was published and uploaded to the BART Vendor Portal on August 10, 2017. Correspondence was sent to four (4) prospective bidders inviting them to view the solicitation on the Vendor Portal. Six (6) prospective bidders downloaded IFB documents from the BART Vendor Portal. Bids were opened on September 12, 2017 and four (4) bids were received.

In reviewing the bids for responsiveness, Staff determined that the Bid Form presented on the Vendor Portal with the contract documents had solicited twenty percent (20%) of the actual quantity needed for the product, Red Dyed Diesel #2. In addition, the instructions for bidding on diesel exhaust fluid were unclear in requesting that bidders submit a DEF price relative to a price index for bulk fuel. This led bidders to modify the bid forms, rendering them non-responsive. Since the District is unable to properly evaluate the bids, all of the bids must be rejected.

Upon rejection, District Staff intends promptly to reissue the IFB with the required corrections and the bid items clarified.

**FISCAL IMPACT:** There is no fiscal impact resulting from the rejection of all bids.

**ALTERNATIVES:**

None. The District cannot determine accurate pricing due to the unclear pricing instructions, and the incorrect quantity of Red Dyed Diesel #2 is insufficient for District needs and would require advertising another contract for more fuel.

**RECOMMENDATION:**

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

**MOTION:**

The Bids for Invitation For Bid No. 9035 for the procurement of Gasoline, Renewable Diesel Fuel, Red Dyed #2 Diesel Fuel and Diesel Exhaust Fluid (DEF) are rejected, and the General Manager is authorized to re-advertise the solicitation.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pown</i> 5 OCT 2017		GENERAL MANAGER ACTION REQ'D: N/A		
DATE: 9/19/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Patricia Schuchardt Dept: Systems Development	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>Patricia Schuchardt</i> 10/2/17	<i>MB</i> 10/5/17	<i>Robert M. Pown</i> 10/5/17	[ ]	<i>Val Alford</i> 10.5.17

## PURCHASE OF CARPET FOR 101 8th ST, OAKLAND, CA 94607

### Purchase of Carpet For 101 8th St. Oakland, CA 94607

#### PURPOSE:

To request Board Authorization to Award Flooring Solutions, Livermore, CA, in the amount of \$126,443.00 (including all taxes and freight) for the purchase of carpet for the MET building located at 101 8th St, Oakland, CA 94607.

#### DISCUSSION:

In June 2017, BART purchased three floors of the MET building at 101 8th St., Oakland. The BART Police Department will occupy the ground level, the reception area, a portion of the second floor and the entire third floor. Several improvements are necessary in order for the Police to occupy the premises including painting walls and ceiling, and bathroom and break room upgrades all performed by BART labor. The carpet on the second and third floors, approximately 50,725 sq. ft. needs to be replaced.

On September 1, 2017 the specifications were sent to four different companies. BART received 3 responsive quotes with Flooring Solutions being the lowest bidder.

<u>Bidder</u>	<u>Price per sq. ft.</u>	<u>Grand Total Including Sale Tax and Freight</u>
Anderson	\$3.04	\$154,384
McCurley's	\$3.52	\$178,665
Flooring Solutions	\$2.49	\$126,443

Independent Cost Estimate by BART staff: \$126,875

**FISCAL IMPACT:**

Funding of \$126,443 for carpet replacement in MET building is included in total project budget for FMS # 17HL100 – MET Building Improvements. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

As of October 4, 2017 \$1,337,509 is available for this project from the following sources:

Fund No.	Source	Fund Description	Amount
891E	BART	Purchase of MET Building	1,088,000.00
851W	BART	FY07-11 CAPITAL ALLOCATION	249,509.00
<b>Total</b>			1,337,509.00

BART has expended \$718,160, committed \$133,324 and reserves \$26,186 to date for other action. This action will commit \$126,443 leaving an available fund balance of \$333,396 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVE:**

Reject the valid quotes and assign staff to research different suppliers that can manufacture and supply the carpet. This, however, is not likely to lead to increased competition or lower price. This will result in delaying the Police Departments' move.

**RECOMENDATION:**

On the basis of analysis by the Controller-Treasurer that the funds are available for this purpose, it is recommended that the Board adopt the Motion.

**MOTION:**

The General Manager is authorized to award a contract to Flooring Solutions, of Livermore, CA, in the amount of \$126,443 for the purchase of carpet for the second and third floors of the MET building.

FINANCE,  
BUDGET,  
AND  
BOND OVERSIGHT  
MATERIAL

October 12, 2017





## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> <b>5 OCT 2017</b>		<b>GENERAL MANAGER ACTION REQ'D:</b> Place on the October 12, 2017 Board of Directors Agenda		
<b>DATE:</b> 10/2/2017		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Kate Jordan <b>Dept:</b> Budget  <b>Signature/Date:</b> 10/3/17	<b>General Counsel</b>  10/5/17 [ ]	<b>Controller/Treasurer</b>  10/4/17 [ ]	<b>District Secretary</b> [ ]	<b>BARC</b>  10/3/17

### Fiscal Year 2017 (FY17) Year-End Budget Resolution

**PURPOSE:** To amend the Fiscal Year 2017 (FY17) Budget for year-end adjustments.

**DISCUSSION:** The District finished FY17 unfavorable by a net of \$0.8 million (M). Sources were \$19.2M (2.2%) unfavorable to budget and total uses were \$18.4M (2.1%) favorable. Financial results are summarized below, with more detail provided in the Background section and Attachments 1, 2, and 3.

FY17 Operating Results (\$ million)*	Budget	Actual	Var.	%
<b>Sources</b>				
Operating Revenue	\$ 571.8	\$ 549.4	\$ (22.4)	-3.9%
Sales Tax	249.2	247.2	(2.0)	-0.8%
Other Assistance	60.9	66.1	5.2	8.5%
<b>Total Sources</b>	<b>882.0</b>	<b>862.8</b>	<b>(19.2)</b>	<b>-2.2%</b>
<b>Uses</b>				
Labor	499.6	488.9	10.7	2.1%
Non-Labor	189.5	201.5	(12.0)	-6.3%
<b>Total Expense</b>	<b>689.1</b>	<b>690.4</b>	<b>(1.3)</b>	<b>-0.2%</b>
Debt Service	51.7	50.5	1.3	2.5%
Capital & Other Allocations	141.1	122.7	18.4	13.0%
<b>Total Debt Service &amp; Allocations</b>	<b>192.9</b>	<b>173.2</b>	<b>19.7</b>	<b>10.2%</b>
<b>Total Uses</b>	<b>882.0</b>	<b>863.6</b>	<b>18.4</b>	<b>2.1%</b>
<b>Net Result</b>	<b>\$ (0.0)</b>	<b>\$ (0.8)</b>	<b>\$ (0.8)</b>	

*\*Note: For clarity, the above table excludes the MTC Rail Car Fund Swap revenue and extraordinary expense, the Other Post Employment Benefit (OPEB) Unfunded Liability, and GASB 68 & 75 pension and OPEB adjustments, which do not impact the Net Result. Results including these adjustments are shown on Attachment 3.*

**BACKGROUND:** Total Operating Sources were \$19.2M unfavorable for the year. The \$22.4M Operating Revenue variance consisted of unfavorable passenger revenue (\$25.2M)

and favorable other operating revenue (\$2.8M). Passenger trips in FY17 totaled 124.2M (6.2% unfavorable to budget) and average weekday ridership was 423,395 (4.9% unfavorable). The \$2.8M favorable result in other operating revenue was due to higher than anticipated investment revenue (\$2.1M), miscellaneous other revenue (\$1.7M), parking revenue (\$1.4M) and fees and permits (\$0.6M), but was offset by unfavorable results in fiber optics and cell site revenue (\$2.4M) and traffic fines and forfeitures (\$0.8M).

In the Financial Assistance category, sales tax was unfavorable to budget by \$2.0M, growing 2.3% over last year (3.2% growth budgeted). Other Assistance was \$5.2M favorable, which included property tax (\$3.0M), State Transit Assistance (\$1.3M, with \$1M of FY16 funds booked in FY17 due to timing in receipt of information), local financial assistance (\$1.2M), additional Federal preventive maintenance funds (\$4.0M), other federal financial assistance (\$1.8M) and proceeds from sale of Low Carbon Fuel Standard (LCFS) credits (\$0.9M). The Low Carbon Transit Operations Program was unfavorable to budget by \$7.0M since the realized funds (\$2.1M) will be allocated for the Rail Car program and therefore could not be used to support general operations.

Total FY17 operating expenses were \$1.3M (0.2%) unfavorable to budget. Net labor and benefits were \$10.7M (2.1%) favorable to budget. Labor savings in FY17 includes a \$6.0M reduction of Workers Compensation accrual transferred to the non-labor General Liability reserve and savings from vacant positions. These savings were offset by overtime which totaled \$52.8M in FY17 (\$34.4M over budget) largely due to expenses related to capital projects (estimated at approximately \$10.4M, covered by capital labor credits) and maintenance needs, as well as filling behind vacant positions.

Non-labor was \$12.0M (6.3%) unfavorable to budget due to several unbudgeted operating expenses, including \$5.2M of operating expenses originally budgeted as capital but offset by financial assistance and reverse allocations, \$6.0M in the above-noted Workers Compensation accruals transferred to the General Liability reserve, \$1.0M for an environmental compliance issue, and \$3.5M increase in repair and maintenance costs due to the aging system. These negative variances were offset by savings in other categories such as electric power (\$3.1M favorable) and rental expense.

Debt service was \$1.3M favorable for the year due to savings from the 2016 Series A sales tax bond refunding. Capital allocations were \$18.4M lower than budget due to a reduced allocation for eBART pre-revenue service (reduced pre-revenue expense) of \$3.5M, and \$7.2M reduction in allocations to SFO net reserve and priority capital projects due to lower than budgeted fare revenue. These reductions are not anticipated to impact the timing of the new rail cars, the Hayward Maintenance Complex or the Train Control Modernization Project. Reverse capital allocations include \$2.9M to cover costs previously budgeted as capital but deemed to be operating and transfer of prior capital allocations due to receipt of \$4.9M from the San Francisco Municipal Transportation Agency (SFMTA) to cover a portion of improvement projects in the joint downtown stations (originally funded by BART

and reimbursed by SFMTA).

**SUMMARY OF PROPOSED YEAR-END BUDGET BALANCING SOLUTIONS:**

Staff recommends balancing the FY17 shortfall through reversing \$0.8M of over budget, unprogrammed parking revenue directed to the stations and access program. All needed budgeted allocations have been made and no projects will be impacted by this action. A portion of the over budget parking revenue generated as a result of the 2013 modifications to the paid parking program, previously utilized for station access, rehabilitation, and modernization needs only, is proposed to be used on a one-time basis to balance the FY17 shortfall, as included in the amended Resolution 5324 (Exhibit A, attached).

In addition to the proposed capital allocations discussed above, the budget revision also requests Board approval for other adjustments that conform the final budget to Board Rules. These adjustments increase or decrease categories of expense, revenue and allocations and offset each other. For example, the budgets for various categories of financial assistance are increased, as is labor and non-labor, and a number of allocations are increased or decreased, as described in the Background section of this document.

**FISCAL IMPACT:** Board approval of the proposed allocations closes the fiscal year and results in a balanced FY17 Budget.

**ALTERNATIVES:** If the Board does not approve the recommended allocations, the District would end the year with an unfavorable result of \$0.8M. Alternatively the Board could identify alternative sources for the funding shortfall.

**RECOMMENDATION:** Approval of the motion below.

**MOTION:** Approval of the attached resolution "In the Matter of Amending Resolution No. 5324 regarding Fiscal Year 2017 Annual Budget."

**Quarterly Financial Report  
Fourth Quarter  
Fiscal Year- 2017**

**Revenue**

- Avg weekday trips for the quarter were 419,794, 5.9% under budget and 3.4% below same quarter last year. For FY17, avg weekday was 423,395, 4.9% under budget, and total trips were 124.2M, 6.2% under budget. Total trips were 3.4% lower than FY16. FY17 net passenger revenue was \$25.2M unfavorable.
- Parking revenue was \$1.4M favorable for FY17 mainly due to over budget Daily Non-Reserve parking revenue.
- Other operating revenue was \$1.3M favorable for FY17 mainly due to over budget investment income and fees and permits, offset by unfavorable telecom and parking citations.

**Expense**

- Labor (excluding OPEB and GASB) was \$6.1M favorable in Q4 due to savings from vacancies, plus a \$3.0M reduction of Workers Comp accrual expenses.
- Power was \$1.3M favorable in Q4 due to below-budget energy prices.
- Other Non Labor \$8.5M unfavorable in Q4, largely due to \$3.0M of Workers Comp accruals transferred to General Liability Reserve; \$2.5M in over-budget software and technical fee expenses; and reclassification of \$5.2M in expenses, mainly professional fees, from capital to operating.

**MTC Rail Car Swap**

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

**Financial Assistance and Allocations**

- Sales Tax for 4Q grew 1.4% over 4QFY16. FY17 grew 2.3% for the year, but was \$2.0M unfavorable (3.2% growth budgeted).
- Property Tax was \$41.6M for FY17 vs. budget of \$38.6M. Other Assistance was \$8.0M favorable to budget, with \$5.8M federal financial assistance (\$4.0M preventive maintenance work, \$1.8M other financial assistance), \$1.2M local financial assistance, and \$0.9M Low Carbon Fuel Standard Program revenue.
- STA for FY17 was \$1.3M favorable and included \$0.8M of FY16 STA booked in FY17.
- Low Carbon Transit Op Prog was budgeted at \$7.0M with \$2.1M received and booked directly to capital for the Rail Car program.
- Debt service for FY17 was \$1.3M favorable due to savings from the 2016 Series A sales tax bond refunding.
- Capital and Other Allocations were \$18.4M favorable to budget due to \$7.2M under budget fare revenue, and a combination of variances as described in the year-end document. Recommended reversal of \$0.8M over budget parking revenue is not yet included.

**Net Operating Result**

- The Net Operating Result for the year was unfavorable by \$0.8M, due in part to under budget passenger revenue.

Current Quarter			(\$ Millions)	Year to Date		
Budget	Actual	Var		Budget	Actual	Var
128.6	121.9	-5.2%	<b>Revenue</b>			
8.4	9.1	8.5%	Net Passenger Revenue	510.8	485.7	-4.9%
6.8	7.8	15.4%	Parking Revenue	33.7	35.1	4.3%
<b>143.8</b>	<b>138.8</b>	<b>-3.5%</b>	Other Operating Revenue	27.3	28.6	4.8%
			<b>Total Net Operating Revenue</b>	<b>571.8</b>	<b>549.4</b>	<b>-3.9%</b>
123.7	117.6	4.9%	<b>Expense</b>			
0.6	(1.8)	400.0%	Net Labor	499.6	488.9	2.1%
-	11.0	-	OPEB Unfunded Liability	2.4	-	100.0%
-	14.9	-	GASB 68 Pension Adjustment	-	11.0	-
11.1	9.8	11.2%	GASB 75 Pension Adjustment	-	14.9	-
7.0	7.8	-11.2%	Electric Power	41.0	37.9	7.6%
31.0	39.5	-27.3%	Purchased Transportation	28.0	28.3	-1.1%
<b>173.4</b>	<b>198.7</b>	<b>-14.6%</b>	Other Non Labor	120.5	135.3	-12.3%
			<b>Total Operating Expense</b>	<b>691.5</b>	<b>716.2</b>	<b>-3.6%</b>
<b>(29.6)</b>	<b>(59.9)</b>	<b>-102.0%</b>	<b>Operating Result (Deficit)</b>	<b>(119.7)</b>	<b>(166.8)</b>	<b>-39.3%</b>
(11.8)	(47.1)	-300.0%	<b>MTC Rail Fund Car Swap</b>	(47.1)	(52.5)	-11.5%
60.1	59.1	-1.7%	<b>Taxes and Financial Assistance</b>			
18.1	25.3	39.8%	Sales Tax	249.2	247.2	-0.8%
11.8	47.1	-300.0%	Property Tax, Other Assistance	45.0	56.0	24.5%
4.5	6.7	50.5%	MTC Rail Fund Car Swap	<b>47.1</b>	<b>52.5</b>	<b>-11.5%</b>
7.0	-	-100.0%	State Transit Assistance	8.9	10.1	13.4%
(12.9)	(12.7)	-1.7%	LCTOP	7.0	-	-100.0%
(34.0)	(23.1)	-32.0%	Debt Service	(51.7)	(50.5)	-2.5%
-	11.0	-	Capital and Other Allocations	(141.1)	(122.7)	-13.0%
-	14.9	-	GASB 68 Pension Adj. Offset	-	11.0	-
0.6	(1.8)	-400.0%	GASB 75 Pension Adj. Offset	-	14.9	-
<b>55.1</b>	<b>126.3</b>	<b>129.4%</b>	OPEB Unfunded Liability Offset	2.4	-	-100.0%
			<b>Net Financial Assistance</b>	<b>166.8</b>	<b>218.5</b>	<b>31.0%</b>
<b>13.6</b>	<b>19.3</b>	<b>5.7%</b>	<b>Net Operating Result</b>	<b>(0.0)</b>	<b>(0.8)</b>	<b>(0.8)</b>
82.9%	80.3%	-2.6%	<b>System Operating Ratio</b>	82.7%	79.6%	-3.1%
<b>0.35 c</b>	<b>0.36 c</b>	<b>-4.0%</b>	<b>Rail Cost / Passenger Mile</b>	<b>0.35 c</b>	<b>0.37 c</b>	<b>-4.7%</b>

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

No Problem

Caution: Potential Problem/Problem Being Addressed

Significant Problem

## Attachment 2

### Explanation of GASB 68 and 75

Governmental Accounting Standards Board (GASB) Statements No. 68 and No 75 establish accounting and financial reporting standards and requirements related to pension liability and post-employment benefits other than pensions (Other Post-Employment Benefits or OPEB), respectively, for state and local government employers. The standards represent a shift from the “funding based approach” to an “accounting based approach” and are intended to provide standardization and additional transparency for public agency pension and OPEB reporting. The standards call for public agencies to report their present obligation to pay future benefits. These future benefits are recognized in the financial statements but not paid. Therefore, the expenses reported in the District’s financial statements, which follow Generally Accepted Accounting Principles (GAAP) and GASB guidelines, will be different than the amounts required to be paid to CalPERS annually to fund the pension plans and contributions to OPEB. The District’s annual operating budget accounts for actual payment to CalPERS as an expense based on the amount of funds contributed to pensions during the year and the amounts contributed to OPEB per actuarial calculations. The expenses determined under GASB 68 and GASB 75 are not funded by the District, so the recognized expenses are backed out as non-expense allocations to reconcile with the District’s annual operating budget.

The main changes to financial statements from adopting the GASB 68 and 75 are that employers will now report the pension and OPEB liabilities on their balance sheet, and expenses are calculated in a different manner than the payments required to fund the contributions. Local governments will now receive two actuarial reports for each pension plan and OPEB program, one for funding contributions and a second valuation for financial reporting. The actuarial reports for GASB 68 and GASB 75 use new fiscally conservative pension and OPEB measurements. For example, for pensions investment returns are amortized over five years vs. the CalPERS actuarial method of a fixed thirty year period. Similar differences are applied to OPEB programs. It should be noted that GASB 75 applies to all OPEB programs, which include retiree medical, survivor benefits, and life insurance. Prior to GASB 75, the “OPEB Unfunded Liability” listed in BART budget resolutions referred to primarily life insurance.

### Attachment 3

#### FY17 Operating Results, Including Accounting Adjustments and MTC Rail Car Fund Swap

##### FY17 Operating Results (\$ million)

	<b>Budget</b>	<b>Actual</b>	<b>Var.</b>	<b>%</b>
<b>Sources</b>				
Operating Revenue	\$ 571.8	\$ 549.4	\$ (22.4)	-3.9%
Sales Tax	249.2	247.2	(2.0)	-0.8%
Other Assistance	60.9	66.1	5.2	8.5%
<i>Federal Grant - MTC Rail Car Fund Swap</i>	47.1	52.5	5.4	11.5%
<b>Total Sources</b>	<b>929.1</b>	<b>915.3</b>	<b>(13.8)</b>	<b>-1.5%</b>
<b>Uses</b>				
Labor	499.6	488.9	10.7	2.1%
<i>OPEB Unfunded Liability <sup>(1)</sup></i>	2.4	-	2.4	
<i>Pension - GASB 68 Adjustment <sup>(2)</sup></i>	-	11.0	(11.0)	
<i>Non-Pension - GASB 75 Adjustment <sup>(3)</sup></i>	-	14.9	(14.9)	
Non-Labor	189.5	201.5	(12.0)	-6.3%
<b>Total Expense</b>	<b>691.5</b>	<b>716.2</b>	<b>(24.7)</b>	<b>-3.6%</b>
<b>Extraordinary Exp.-MTC Rail Car Fund Swap</b>	<b>47.1</b>	<b>52.5</b>	<b>(5.4)</b>	
Debt Service	51.7	50.5	1.3	2.5%
Capital & Other Allocations	141.1	122.7	18.4	13.0%
<b>Total Debt Service &amp; Allocations</b>	<b>192.9</b>	<b>173.2</b>	<b>19.7</b>	<b>10.2%</b>
<b>Total Uses</b>	<b>931.5</b>	<b>941.9</b>	<b>(10.4)</b>	<b>-1.1%</b>
<i>OPEB Unfunded Liability <sup>(1)</sup></i>	(2.4)	-	(2.4)	
<i>Pension - GASB 68 Adjustment Offset <sup>(2)</sup></i>	-	(11.0)	11.0	
<i>Non-Pension - GASB 75 Adjustment Offset <sup>(3)</sup></i>	-	(14.9)	14.9	
<b>Total Uses - After Adjustments</b>	<b>929.1</b>	<b>916.1</b>	<b>13.0</b>	<b>1.4%</b>
<b>Net Result</b>	<b>\$ (0.0)</b>	<b>\$ (0.8)</b>	<b>\$ (0.8)</b>	

<sup>(1)</sup> OPEB Unfunded Liability: Other Post Employment Benefits, primarily life insurance (non-cash adjustment)

<sup>(2)</sup> GASB 68 requires restating of pension expense (non-cash adjustment)

<sup>(3)</sup> GASB 75 requires restating of non-pension post-employment expense (non-cash adjustment)

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

In the matter of amending Resolution No. 5324 regarding Fiscal Year 2017 Annual Budget

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

RESOLVED, that Resolution No. 5324 is amended by changing the following line items in Exhibit A thereof:

<u>Fund Source Line Item:</u>	<u>Current Amount</u>	<u>Increase/ (Decrease) In This Resolution</u>	<u>Amended Amount</u>
Operating Revenue	\$ 571,824,943	\$ (22,395,705)	\$ 549,429,238
Property Tax	\$ 38,567,042	\$ 3,055,332	\$ 41,622,374
1/2 ¢ Sales Tax	\$ 249,213,493	\$ (2,028,505)	\$ 247,184,988
Measure B, BB, & J Assistance	\$ 4,603,535	\$ 160,346	\$ 4,763,881
Other Financial Assistance	\$ 110,000	\$ 1,061,633	\$ 1,171,633
Caltrain - Millbrae Station Joint Use	\$ 864,673	\$ -	\$ 864,673
State Transit Assistance	\$ 8,927,632	\$ 1,259,675	\$ 10,187,307
Low Carbon Transit Operations Program	\$ 7,000,000	\$ (7,000,000)	\$ -
Low Carbon Fuel Standards Program	\$ -	\$ 860,000	\$ 860,000
Federal Preventive Maintenance & Other Grants	\$ 861,588	\$ 5,811,841	\$ 6,673,429
MTC Rail Car Fund Swap	\$ 47,116,668	\$ 5,431,044	\$ 52,547,712
<u>Fund Use Line Item:</u>			
Net Labor Expense	\$ 502,056,554	\$ 12,635,078	\$ 514,691,632
Non-Labor Expense	\$ 189,480,901	\$ 12,015,498	\$ 201,496,399
MTC Rail Car Fund Swap - Expense	\$ 47,116,668	\$ 5,431,044	\$ 52,547,712
Revenue Bond Debt Service	\$ 51,744,366	\$ (1,284,007)	\$ 50,460,359
Allocations to Capital - Rehabilitation*	\$ 40,644,844	\$ (12,095,136)	\$ 28,549,708
Allocations to Capital - Rail Car Sinking Fund	\$ 45,000,000	\$ (543,160)	\$ 44,456,840
Allocations to Capital - Priority Capital Programs	\$ 35,383,974	\$ (1,960,243)	\$ 33,423,731
Allocations to Capital - Stations & Access Projects	\$ 5,182,446	\$ 833,213	\$ 6,015,659
Allocations to Capital & Operating - Other	\$ 1,656,499	\$ (181,970)	\$ 1,474,529
Allocation to Rail Car Project from SFO Net Result	\$ 13,272,901	\$ (5,261,434)	\$ 8,011,467
Other Post Employment Benefits Unfunded Liability	\$ (2,449,579)	\$ 2,449,579	\$ -
PERS Employer Current Year Contrib - Reversal Offset (GASB 68)	\$ -	\$ 56,281,887	\$ 56,281,887
PERS Pension Expense - Offset (GASB 68)	\$ -	\$ (67,246,218)	\$ (67,246,218)
Non-Pension Employer Current Year Contrib - Reversal Offset (GASB 75)	\$ -	\$ 29,942,529	\$ 29,942,529
Non-Pension Expense - Offset (GASB 75)	\$ -	\$ (44,801,000)	\$ (44,801,000)

\*Amendment of reduction of \$12,095,136 includes the recommended (a) decrease to Access allocations in the amount of \$833,213 from excess parking revenue, (b) decrease to capital allocations of \$3,479,119 for lower eBART pre-revenue service operations costs, and (c) reverse capital allocations of i) \$4,929,566 from SFMTA to cover a portion of improvement projects in the joint downtown stations, and ii) \$2,853,238 for expenses previously budgeted as capital but later deemed to be operating.

OPERATIONS  
AND  
SAFETY  
MATERIAL

October 12, 2017





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pore</i> 4 Oct 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/27/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gregory Shivy Dept: Maintenance and Engineering Signature/Date: <i>Gregory Shivy</i> 10/04/17	General Counsel <i>MB</i> 10/5/17	Controller/Treasurer <i>John White</i> 10/24/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.4.2017 [ ]

### 15CQ-100 M03 Interlocking Renewal

#### PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15CQ-100, M03 Interlocking Renewal, to ProVen Management Inc, for the bid amount of \$6,543,210.00 for the renewal of the critical M03 interlocking east of the West Oakland station.

#### DISCUSSION:

The Work of this contract includes renewal of critical existing District infrastructure at the M03 interlocking in downtown Oakland. Key elements of this interlocking, most notably the track components, require renewal as they were installed in the 1960's and have reached the end of their useful life. The entire at-grade interlocking will be reconstructed using District-furnished special track work. The project will also include renewal of the maintenance-of-way set-on points at nearby MW05/MW06. This project will utilize weekend track shutdowns around Memorial Day 2018, ahead of the Transbay Tube Retrofit (TBT) work. Renewal of this interlocking is critical to avoid negatively impacting the TBT construction activities, the future communication-based train control (shorter headways) and revenue service for the next several decades.

Advance Notice to Bidders of this Contract was emailed on July 26, 2017 to 85 prospective bidders with A Contractor classification. The Contract was publicly advertised on July 31, 2017 and subsequently posted on the BART Vendor Portal where 24 Plan Holders downloaded the Contract Book. A Pre-Bid meeting was held on August 9, 2017 with 3 prospective bidders in attendance. Two (2) Bids were received on September 19, 2017 with the following tabulated results shown below.

**TOTAL BID AMOUNT**

Shimmick/CEC Joint Venture	\$5,877,350.00
ProVen Management Inc.	\$6,543,210.00
BART Engineers Estimate	\$3,952,813.00

Although the two bids received were above the engineer's estimate of \$3,952,813, we believe these bids are reasonable and the differences are attributable to the following factors that developed after the Engineer's Estimate was prepared:

1. Addendum No. 2, added \$300,000 in allowances to the project as an incentive to reduce the number of weekend shutdowns.
2. Addendum No. 2 also added approximately \$400,000 to the project costs due to upcoming changes in the District Safety Monitor program that will affect the contractor's costs.
3. The engineer's estimate assumed the Contractor already owned a BART-gauge tamper to perform the trackwork. The bids appear to include the additional cost to modify a Contractor-owned tamper for use on BART gauge. This is estimated to have added approximately \$400,000 to the bid price.
4. In the past six months since the engineer's estimate was prepared, there has been a sharp increase in the cost of contracted and subcontracted work in the Bay Area due to a demand in the commercial markets. This disproportionally affects such bid items as demolition, site clearing and grubbing, landscaping, and temporary traffic control. This is estimated to have added approximately \$500,000 to the bid price.

Shortly before this contract was awarded AECOM acquired Shimmick. Because AECOM participated in the design of this contract, Shimmick/CEC Joint Venture is legally ineligible under California Government Code Section 1090 to be awarded this contract. Consequently it's bid is nonresponsive to the requirements of SC7.5, which requires compliance with the Contractor Code of Conduct (which includes avoiding conflicts of interest and self-dealing). Staff has determined that the Bid by ProVen Management Inc. is responsive and that the Bidder is responsible. The Bid documents submitted by ProVen Management Inc are satisfactory and examination of that firm's business experience and financial status show a satisfactory condition. The Bid by ProVen Management Inc at \$6,543,210.00 is fair and reasonable.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 23% for Minority Business Enterprises ("MBEs") and 12% for Women Business Enterprises ("WBEs"). The Office of Civil Rights has determined that Proven Management, Inc. has exceeded both the MBE and WBE Availability Percentages for this Contract at 67.4% for MBEs and 21.9% for WBEs.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified

by the California Department of General Services. Proven Management, Inc. is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference.

**FISCAL IMPACT:**

Funding of \$6,543,210.00 for the award of Contract#15CQ-100 is included in the total project budget for FMS project #15CQ002- Replace Rails, Ties, Fasteners Ph3 Bond Measure RR. The Office of Controller/treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this commitment will be expended from a combination of these sources as listed.

As of September 26, 2017, \$617,146,525 is the total budget for this project from the following sources:

Fund Group	Source	Total Awarded
Measure RR General Obligation Bonds	BART	616,949,279
BART Operating to Capital Allocation	BART	197,246
Grand Total		617,146,525

BART has expended \$11,214,066, committed \$6,107,491, and reserved \$49,251,513 to date for other actions. This action will commit \$6,543,210; thus leaving an available fund balance of \$544,030,245.

**ALTERNATIVES:**

The alternative is to reject all bids and re-advertise the Contract, which is unlikely to result in a lower Bid price and would likely impact the construction schedules of other district infrastructure renewal projects.

**RECOMMENDATION:**

Based on the analysis by staff, it is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 15CQ-100, M03 Interlocking Renewal, to ProVen Management Inc. for the Bid Price of \$6,543,210.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Powner</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D:		
DATE: 9/15/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gregory Shivy Dept: Maintenance and Engineering <i>Gregory Shivy</i> Signature/Date: 10/04/17	General Counsel <i>NPB</i> 10/5/17	Controller/Treasurer <i>Gregory Shivy</i> 10/4/17 [ ]	District Secretary [ ]	BARC <i>Gregory Shivy</i> 10.4.2017 [ ]

### 15CQ-400 Wheel/Rail Optimization Services

#### PURPOSE:

To authorize the General Manager to award Agreement No. 15CQ-400 for Wheel/Rail Optimization Services to Advanced Rail Management Corporation (ARM) of Indialantic, Florida for a term of one (1) base year, and to authorize the General Manager to exercise four (4), one (1) year options.

#### DISCUSSION:

Over the next six years, the District will be taking delivery of 775 new Bombardier revenue vehicles. These vehicles will arrive with a new conical wheel profile, called the BT-3, which is designed to improve steering and reduce wear to wheels and rails. Recognizing that the wheel and rail are a system, and having the goal to maximize the performance and useful life of both in mind, the District will Contract with ARM to oversee the implementation of a new rail grinding program. This program will ensure that the District safely and efficiently transitions from the old to the new wheel profile.

The new grinding program will improve safety by reducing the risk of rolling contact fatigue induced broken rails, increase the life expectancy of the wheel and the rail and reduce noise pollution system wide. BART forces will work in conjunction with ARM to perform the task of implementing the new rail template designs utilizing two (2) District owned rail grinding machines.

Documents for RFP No.15CQ-400 were advertised on August 2, 2017 in several Bay Area newspapers and publications. Advance Notices were sent to seven (7) firms on July 30, 2017. A pre-bid meeting was held on Friday, August 4, 2017; however, there were no attendees, as this pre-proposal meeting was not mandatory. There were no Addenda issued to this RFP; however, a running series of Questions and Answers were addressed via the

District's Vendor Portal. A total of six (6) firms received the electronic version of the RFP, including forms to submit the RFP. On Tuesday, August 29, 2017 at 2:00 PM, a single Proposal was received from Advanced Rail Management Corporation.

The Proposal was evaluated for technical sufficiency on August 30, 2017 by four (4) members of the Source Selection Committee which included Maintenance and Engineering, Office of Civil Rights and Contract Administration. Upon evaluation by District staff, written technical scores were detailed and it was determined that the single Proposer exceeded all the District's requirements. The Source Selection Committee then moved to open the sealed Price Proposal.

The following are the key terms of ARM's Price Proposal:

Agreement Term	Total	Engineer's Estimate
Base Year	\$2,415,041.00	\$1,338,760.00
Option Year 1	\$1,193,365.00	\$888,760.00
Option Year 2	\$1,229,166.00	\$888,760.00
Option Year 3	\$1,266,041.00	\$888,760.00
Option Year 4	\$1,304,022.00	\$888,760.00
Total	\$7,407,635.00	\$4,890,800.00

Upon further review, the Engineer's Estimate neglected to apply a multiplier to the labor which accurately represented a fully loaded rate. When a multiplier of 2.0 was applied to the raw labor in the Engineer's Estimate, the total labor costs were found to be within 5% of the ARM Price Proposal. On this basis, staff has found the ARM Price Proposal to be fair and reasonable.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Agreement are 16% for Minority Business Enterprises ("MBEs") and 20% for Women Business Enterprises ("WBEs"). The Office of Civil Rights has determined that ARM, the sole Proposer, has exceeded both the MBE and WBE Availability Percentages for this Agreement at 40.4 % for MBEs and 40.4% for WBEs.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Service Agreement for Small Businesses certified by the California Department of General Services. The sole Proposer, ARM, is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference.

**FISCAL IMPACT:**

Funding of \$2,415,041 for the base year of Contract No. 15CQ-400 to Advanced Rail Management Corporation is included in the total budget for FMS project #15CQ002-Replace Rails, Ties, Fasteners Ph3 from Bond Measure RR. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this commitment will be expended from a combination of these sources as listed.

As of September 26, 2017, \$617,146,525 is the total budget for this project from the following sources

<b>Fund Group</b>	<b>Source</b>	<b>Total Awarded</b>
Measure RR General Obligation Bonds	BART	616,949,279
BART Operating to Capital Allocation	BART	197,246
<b>Grand Total</b>		<b>617,146,525</b>

BART has expended \$11,214,066, committed \$6,107,491, and reserved \$39,543,475 to date for other actions. This action will commit \$2,415,041 leaving an available fund balance of \$557,866,452.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

The District could reject this Proposal and re-advertise the RFP which may increase the District's procurement costs as it may not result in obtaining a lower bid. However, since Wheel/Rail Optimization is scheduled to begin in the 2nd Quarter of FY18 and oversight is required for the successful integration of the BT-3 wheels into the BART System, the rejection of this Proposal will affect BART's ability to successfully launch the program.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The General Manager is authorized to award Agreement No. 15CQ-400 to Advanced Rail Management Corporation of Indialantic, Florida for Wheel/Rail Optimization Services, for an amount not to exceed \$2,415,041.00, pursuant to notification to be issued by the General Manager.

The General Manager is authorized to exercise any or all of the four (4), one (1) year options for a total amount not to exceed \$4,992,594.00 subject to certification from the Controller/Treasurer that funds are available.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robt M. Pomeroy</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 9/22/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Sanderson Dept: Planning, Development, and Construction <i>[Signature]</i> 27 OCT 17 Signature/Date:	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

**Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, Change Order No. 131, Drain Connection to Axel Washer and Large Turn Table Parts Washers**

### PURPOSE:

To authorize the General Manager to execute Change Order No. 131 with Clark Construction to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, for drain connection to axel washer and large turn table parts washers, in an amount not to exceed \$277,000.00.

### DISCUSSION:

The Board of Directors authorized the award of Contract No, 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, to Clark Construction on July 23, 2015, in the amount of \$98,390,000. The Contract will construct the new Component Repair Shop and add additional vehicle lifts and associated utilities and trackwork at the existing Hayward Shop.

After award of the Contract, it was determined that within the new Component Repair Shop, the axel washer drain connections, and the large turn table parts washers drain connections should be connected to the industrial waste system for disposal. Because this additional work is not described in the Contract Documents, a change to the Contract is required. The estimated value of this Change Order is an amount not-to-exceed \$277,000.00.

Pursuant to Board Rule 5-2.3, Change Orders involving expenditures greater than \$200,000

require Board approval. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

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

**FISCAL IMPACT:**

Funding of \$277,000 for the award of Change Order No. 131 to Contract 01RQ-110 is included in the total budget for 01RQ003, Hayward Maintenance Complex (HMC). The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

As of September 25, 2017, \$122,844,705 is available for this project from the following sources:

5602	High Speed Passenger Rail Bond	State	\$61,389,000
8526	FY14 Bart Operating Alloc to Capital	BART	\$2,477,367
8529	FY15 Bart Operating Alloc to Capital	BART	\$7,386,920
8530	FY16 Bart Operating Alloc to Capital	BART	\$1,881,418
656K	VTA	Local	\$49,710,000

BART has expended \$82,868,345, committed \$24,623,840, and reserved \$3,464,465 to-date for other action. This action will commit \$277,000 leaving an available fund balance of \$11,611,055 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

The Board can elect not to authorize the execution of this Change Order. If this Change Order is not approved, the District could experience a loss of efficiency during washing of revenue vehicle components, as well as added costs associated with having a third party vendor dispose of the wash water residue.



**RECOMMENDATION:**

Recommend that the Board approve the following motion:

**MOTION:**

The General Manager is authorized to execute Change Order No. 131, for drain connection to axel washer and large turn table parts washers, to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction, for an amount not to exceed \$277,000.00.



**EXECUTIVE DECISION DOCUMENT**

**ATTACHMENT #1**

CONTRACT NO. 01RQ-110

CO No: 131

**CHANGE ORDER SUMMARY**

**BACKGROUND**

Name of Contractor: Clark Construction Group  
Contract No./NTP: 01RQ-110 / October 21, 2015  
Contract Description: Hayward Maintenance Complex Project – Maintenance Facilities

Percent Complete as of: 08/31/2017 - 71.8%

Dollars Percent Complete as of: 08/31/2017 - 79.5%

<b>COST</b>	<u>% of Award</u>	<u>Cost</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$98,390,000.00
Change Orders:			
Other than Board Authorized C.O.s:	2.88%	\$2,833,632.00	
Board Authorized Change Orders:	2.03%	\$1,997,317.00	
This Change Order No. 131:	.28%	\$ 277,000.00	
<hr/>			
Subtotal of all Change Order	5.19%	\$5,107,949.00	\$5,107,949.00
<b><u>Revised Contract Amount:</u></b>			<b>\$103,497,949.00</b>

**SCHEDULE**

Original Contract Duration: 860 Days  
Time Extension to Date: 62 Days  
Time Extension Due to Approved COs: 62 Days  
Revised Contract Duration: 922 Days

**SUMMARY REASON FOR THIS CHANGE ORDER**

Drain Connection to Axle and Large Turntable Parts Washers (RFI 787)

The drainage in the Component Repair Shop (CRS) requires drainage to properly function. Per RS&S request, the following equipment's Axle Wash (W-07), Gear Box Parts Washers (GB-04), Traction Motor Parts Washers (M-01) and Caliper Shop Parts Washer (CA-12) shall be pumped/force-main routed to the wash pits. Additionally, the Traction Motor Hotsy Washer (Future) shall be gravity drained.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pearson</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 9/22/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Sanderson Dept: Planning, Development, and Construction <i>[Signature]</i> 2 OCT 17 Signature/Date:	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

### Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, Change Order No. 193, Wheel Spinning System Post for Back Shop Lifts

#### PURPOSE:

To authorize the General Manager to execute Change Order No. 193 with Clark Construction to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, for wheel spinning system post for back shop lifts, in an amount not to exceed \$487,000.00.

#### DISCUSSION:

The Board of Directors authorized the award of Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, to Clark Construction on July 23, 2015, in the amount of \$98,390,000. The Contract will construct the new Component Repair Shop and add additional vehicle lifts and associated utilities and trackwork at the existing Hayward Shop.

After award of the Contract, it was determined that the addition of a wheel spinning post system, would increase the capabilities of the back shop lifts, allowing the wheels of revenue vehicles to be spun as part of certain maintenance activities, while mounted on a lift. Because the addition of a wheel spinning system post for back shop lifts to the Contract is not described in the Contract Documents, a change to the Contract is required. The estimated value of this Change Order is an amount not-to-exceed \$487,000.00.

Pursuant to Board Rule 5-2.3, Change Orders involving expenditures greater than \$200,000 require Board approval. The Procurement Department will review this Change Order prior

to execution for compliance with procurement guidelines.

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

**FISCAL IMPACT:**

Funding of \$487,000 for the award of Change Order No. 193 to Contract 01RQ-110 is included in the total budget for 01RQ003, Hayward Maintenance Complex (HMC). The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

As of September 25, 2017, \$122,844,705 is available for this project from the following sources:

5602	High Speed Passenger Rail Bond	State	\$61,389,000
8526	FY14 Bart Operating Alloc to Capital	BART	\$2,477,367
8529	FY15 Bart Operating Alloc to Capital	BART	\$7,386,920
8530	FY16 Bart Operating Alloc to Capital	BART	\$1,881,418
656K	VTA	Local	\$49,710,000

BART has expended \$82,868,345, committed \$24,623,840, and reserved \$3,741,465 to-date for other action. This action will commit \$487,000 leaving an available fund balance of \$11,124,055 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

The Board can elect not to authorize the execution of this Change Order. If this Change Order is not approved, the District will experience a loss of efficiency while performing revenue fleet maintenance activities.

**RECOMMENDATION:**

Recommend that the Board approve the following motion:

**MOTION:**

The General Manager is authorized to execute Change Order No. 193, for wheel spinning system post for back shop lifts, to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction, for an amount not to exceed \$487,000.00.



**EXECUTIVE DECISION DOCUMENT**

**ATTACHMENT #1**

CONTRACT NO. 01RQ-110

CO No: 193

**CHANGE ORDER SUMMARY**

**BACKGROUND**

Name of Contractor: Clark Construction Group  
Contract No./NTP: 01RQ-110 / October 21, 2015  
Contract Description: Hayward Maintenance Complex Project – Maintenance Facilities

Percent Complete as of: 08/31/2017 - 71.8%

Dollars Percent Complete as of: 08/31/2017 - 79.5%

<b>COST</b>	<u>% of Award</u>	<u>Cost</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$98,390,000.00
Change Orders:			
Other than Board Authorized C.O.s:	2.88%	\$2,833,632.00	
Board Authorized Change Orders:	2.03%	\$1,997,317.00	
This Change Order No. 193:	.49%	\$ 487,000.00	
Subtotal of all Change Order	5.40%	\$5,317,949.00	\$5,317,949.00
<b><u>Revised Contract Amount:</u></b>			<b>\$103,707,949.00</b>

**SCHEDULE**

Original Contract Duration: 860 Days  
Time Extension to Date: 62 Days  
Time Extension Due to Approved COs: 62 Days  
Revised Contract Duration: 922 Days

**SUMMARY REASON FOR THIS CHANGE ORDER**

The Design, procurement and Installation of Wheel Spinning System Posts for Truck Lifts in Back Shop

This equipment is needed primarily for the following functions: - Checking issues with the wheels, when the BART car is raised using the rail system. The body stems are then raised to support the BART Car. It is also needed to make sure the truck base is secure, when the spin post is raised and support the truck frame. The rail is then lowered and then the wheels are free to spin and then be tested.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pearson</i> 4 OCT 2017		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 9/22/2017		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kevin Sanderson Dept: Planning, Development, and Construction <i>[Signature]</i> 2 Oct 17 Signature/Date:	General Counsel <i>[Signature]</i> 10/2/17 [ ]	Controller/Treasurer <i>[Signature]</i> 10/2/17 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 10.2.2017 [ ]

**Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, Change Order No. 204, Lift Design Changes for Back Shop - 66" vs. 60" Maximum Height**

### PURPOSE:

To authorize the General Manager to execute Change Order No. 204 with Clark Construction to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, for lift design changes for back shop - 66" vs. 60" maximum height, in an amount not to exceed \$262,000.00.

### DISCUSSION:

The Board of Directors authorized the award of Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, to Clark Construction on July 23, 2015, in the amount of \$98,390,000. The Contract will construct the new Component Repair Shop and add additional vehicle lifts and associated utilities and trackwork at the existing Hayward Shop.

After award of the Contract, it was determined that the maximum height of the lifts, as specified, would be too low to be ergonomically feasible. Because the additional work to modify the maximum height specification is not described in the Contract Documents, a change to the Contract is required. The estimated value of this Change Order is an amount not-to-exceed \$262,000.00.

Pursuant to Board Rule 5-2.3, Change Orders involving expenditures greater than \$200,000

require Board approval. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines.

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

**FISCAL IMPACT:**

Funding of \$262,000 for the award of Change Order No. 204 to Contract 01RQ-110 is included in the total budget for 01RQ003, Hayward Maintenance Complex (HMC). The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. The following table depicts funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this request will be expended from a combination of these sources as listed.

As of September 25, 2017, \$122,844,705 is available for this project from the following sources:

Fund	Fund Description	Source	Amount
5602	High Speed Passenger Rail Bond	State	\$61,389,000
8526	FY14 Bart Operating Alloc to Capital	BART	\$2,477,367
8529	FY15 Bart Operating Alloc to Capital	BART	\$7,386,920
8530	FY16 Bart Operating Alloc to Capital	BART	\$1,881,418
656K	VTA	Local	\$49,710,000
Total			\$122,844,705

BART has expended \$82,868,345, committed \$24,623,840, and reserved \$4,228,465 to-date for other action. This action will commit \$262,000 leaving an available fund balance of \$10,862,055 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

The Board can elect not to authorize the execution of this Change Order. If this Change Order is not approved, the District will experience a loss of efficiency while performing revenue fleet maintenance activities.

**RECOMMENDATION:**



Recommend that the Board approve the following motion:

**MOTION:**

The General Manager is authorized to execute Change Order No. 204, for lift design changes for back shop - 66" vs. 60" maximum height, to Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction, for an amount not to exceed \$262,000.00.



**EXECUTIVE DECISION DOCUMENT**

**ATTACHMENT #1**

CONTRACT NO. 01RQ-110

CO No: 204

**CHANGE ORDER SUMMARY**

**BACKGROUND**

Name of Contractor: Clark Construction Group  
Contract No./NTP: 01RQ-110 / October 21, 2015  
Contract Description: Hayward Maintenance Complex Project – Maintenance Facilities

Percent Complete as of: 08/31/2017 - 71.8%

Dollars Percent Complete as of: 08/31/2017 - 79.5%

<b>COST</b>	<u>% of Award</u>	<u>Cost</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$98,390,000.00
Change Orders:			
Other than Board Authorized C.O.s:	2.88%	\$2,833,632.00	
Board Authorized Change Orders:	2.03%	\$1,997,317.00	
This Change Order No. 204:	.27%	\$262,000.00	
Subtotal of all Change Order	5.18%	\$5,092,949.00	\$5,092,949.00
<b><u>Revised Contract Amount:</u></b>			<b>\$103,482,949.00</b>

**SCHEDULE**

Original Contract Duration: 860 Days  
Time Extension to Date: 62 Days  
Time Extension Due to Approved COs: 62 Days  
Revised Contract Duration: 922 Days

**SUMMARY REASON FOR THIS CHANGE ORDER**

Lift System Design Changes for Back Shop 60” vs. 66” Max Lift Height

The new Macton Lifts at the Hayward Main Shop were built to operate at a Max height of 60”, per base contract scope. A 66” maximum height is desired for ergonomic reasons and greater work efficiency. The maximum height of 66” is consistent with existing vehicle lifts in BART’s other three shops.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

---

## MEMORANDUM

**TO:** Board of Directors

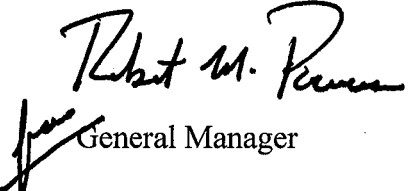
**DATE:** October 5, 2017

**FROM:** General Manager

**SUBJECT:** Proof of Payment Ordinance

Based on feedback received both during and after the first reading of the proposed Proof of Payment ordinance, staff has revised it to allow the penalty for violation of the ordinance to rise from an administrative civil citation for an initial violation to a potential criminal infraction citation for repeat offenders and/or violators who knowingly give false identification information or otherwise obstruct the issuance of a citation. The updated ordinance also includes a revised definition for "paid area."

Because of this change, as a procedural matter, the draft ordinance must be placed on the Board agenda again for a first reading. The plan remains to have both this ordinance and the fare evasion by minors ordinance brought to the Board for proposed adoption at the second meeting in October.

  
General Manager

Ordinance No. 2017-\_\_\_

AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT TO REQUIRE PERSONS INSIDE THE PAID AREA OF BART TO PROVIDE PROOF OF PAYMENT

WHEREAS, the San Francisco Bay Area Rapid Transit District has a substantial interest in collecting fares from riders utilizing BART as a means of transportation; and

WHEREAS, fare evasion constitutes a significant annual financial loss to the San Francisco Bay Area Rapid Transit District; and

WHEREAS, payment is collected from riders as they exit the system; and

WHEREAS, once inside there is currently no means to determine if riders have lawfully entered the transit system; and

WHEREAS, Public Utilities Code Section 28793 authorizes the Board to pass ordinances; and

WHEREAS, Public Utilities Code Section 28793 authorizes the Board to do any and all things necessary to carry out the purposes of the District; and

WHEREAS, the Board has determined that the adoption of this ordinance is necessary to maintain the financial stability of the District;

NOW THEREFORE, be it enacted by the Board of Directors of the San Francisco Bay Area Rapid Transit District: (Public Utilities Code Section 29795)

SECTION I. Ordinance No 2017 \_\_ of the San Francisco Bay Area Rapid Transit District is hereby adopted and made a law of the District as follows:

Section 1. Findings and declaration.

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

The annual loss of revenue due to evasion of the payment of a fare while riding BART justifies the adoption of reasonable regulations to ensure compliance with fare payment requirements. It is the intention of this ordinance to reduce fare evasion and the revenue loss due to fare evasion, which causes a financial burden to the District that otherwise must be addressed through other revenue sources. If voluntary fare compliance fails, this ordinance authorizes BART Police to act to fulfill this ordinance's objectives.

## Section 2. Definitions.

The following words and phrases, whenever used within this ordinance and this chapter, shall be construed as defined in this section:

**Exit coded:** The term "exit coded" means a ticket programmed with sufficient value for the minimum BART fare and which has been used in a BART fare gate to enter the BART system. Exit coded tickets remain valid for a limited period of time as designated by the BART fare schedule.

**Fare:** The term "fare" as used herein means the current passenger fare structure as approved by the Board of Directors.

**Ticket:** The term "ticket" as used herein is intended to include Clipper Cards, BART magnetic stripe tickets, BART-issued voucher or pass, or other fare media as otherwise authorized by BART.

**Paid Area:** The demarcated areas within the BART system accessible only to people with a valid ticket (or other approved fare media) processed for entry via a fare gate or by a station agent. The "paid area" includes; the area of the station concourse enclosed by barrier walls and fare gates, any concourse to platform elevators which access train platforms, the train platforms, and train cars.

**Proof of Payment:** The term "proof of payment" means the valid ticket medium that may be requested from any individual upon entry to, exit from, or anywhere within the paid area.

**Section 3. Prohibition on being in the paid area or on a train without a valid exit-coded ticket.**

No individual may enter into or exit from the paid area of a BART Station other than through the use of a BART ticket at the fare gates.

Individuals in the paid area of the station or on a BART train are required to present a valid exit-coded BART ticket when requested by the District.

## Section 4. Preemption.

Nothing in this ordinance shall be interpreted or applied so as to create any power, duty, or obligation in conflict with, or preempted by, any Federal or State law. Even if not preempted by Federal or State law, the provisions of this ordinance shall not apply if the Federal or State law is more restrictive toward the practices, activities, and/or uses banned herein. If it is determined that a provision included herein becomes preempted by Federal or State law, that preempted provision shall be automatically rescinded from this ordinance. Such rescission shall not affect the validity of the remaining portions of this ordinance.

## Section 5. Penalty for Violation

Violation of this ordinance shall be an infraction, which may result in the following:

### 5.1 Civil Administrative Citation

Public Utilities Code Section 28766 authorizes the BART Board of Directors to regulate its transit facilities including the fixing of charges and the making and enforcement of rules for or in connection with any transit facility owned or controlled by the District. The imposition of civil administrative penalties are a typical type of charge imposed by governments to serve a regulatory purpose and to facilitate the recovery of governmental expenses incurred as a consequence of a rule violation. A civil administrative citation shall be the preferred first option, as opposed to a criminal citation.

Individuals who are unable to show proof of payment in the paid area or on a train may be assessed an administrative penalty not to exceed sixty dollars (\$60) for a minor who has committed the offense and one hundred and twenty dollars (\$120) for an adult who has committed the offense or may be required to perform up to 8 hours of community service.

In lieu of an administrative penalty being issued for violation of this ordinance, a warning may be given to the subject individual. Record of any previous warning will be retained by the Police Department.

Individuals who are unable to show proof of payment may be subject to ejection from the BART system.

### 5.2. Criminal Infraction Citation

- (a) It shall be within the discretion of a peace officer to issue a criminal citation to an adult for a violation of this ordinance, if a civil administrative penalty (or multiple penalties) have been previously imposed upon the adult and repeated violation of this ordinance occurs.
- (b) It shall also be within the discretion of a peace officer to issue a criminal citation to any person, if the person knowingly gives false information to a police officer or District employee engaged in the enforcement of this ordinance, or if the subject person otherwise obstructs the issuance of a citation for a violation of this ordinance.

Any person found to be in violation of this ordinance upon a criminal citation shall be guilty of an infraction, and may be punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment.

Section 6. Statutory Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Liberal Construction

It is the intention of the Board of Directors that this Chapter shall be liberally construed to accomplish its remedial objectives and to be compatible with Federal and State enactments.

SECTION II. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional or invalid.

SECTION III. This ordinance shall be and the same is hereby declared to be in full force and effect on January 1, 2018 and shall be published once following said passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published in the Counties of the District.

In regular session of the board of Directors of the San Francisco Bay Area Rapid Transit District introduced on the \_\_\_ day of \_\_\_\_\_, 2017, and finally passed and adopted this \_\_\_ day of \_\_\_\_\_, 2017 by the following vote:

The foregoing Ordinance was made at the motion of

Director \_\_\_\_\_ and seconded by

Director \_\_\_\_\_ and adopted by the following votes of the Board

AYES:

NOES:

ABSENT:

ABSTAIN:

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and SO ORDERED.

---

President, Board of Directors

ATTEST:

---

Kenneth A. Duron, District Secretary



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

---

**MEMORANDUM**

**TO:** Board of Directors

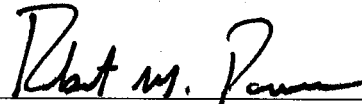
**DATE:** October 5, 2017

**FROM:** General Manager

**SUBJECT:** Train Control Modernization Program Report

The attached report was presented to the Operations, Safety & Workforce Committee at its August 15, 2017 meeting. It details the progress that has been made on the Train Control Modernization Program since the Board approved the Design-Build contracting method for a Communications-Based Train Control (CBTC) system in 2015. The presentation, additionally, outlines the updated scope, schedule, and budget for this vitally important Fix-it-First and Capacity Expansion project.

If you have any questions about the attached information, please contact Robert Powers, Deputy General Manager at 510-464-6126.

  
\_\_\_\_\_  
Grace Crunican

Attachments

**Cc:** Board Appointed Officers  
Deputy General Manager  
Executive Staff

**PLANNING AND LEGISLATION  
MATERIAL**

October 12, 2017

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

## Memorandum

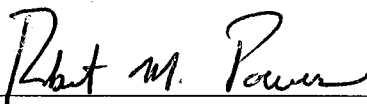
**TO:** Board of Directors

**DATE:** October 5, 2017

**FROM:** General Manager

**SUBJECT:** Station Profile Survey – Overview of Station-level Data

Per President Saltzman's request, attached is an overview of station-level data available from BART's 2015 Station Profile Survey. Staff will be presenting this at the next Board meeting. Additional data and maps are available at [bart.gov/stationprofile](http://bart.gov/stationprofile).

  
\_\_\_\_\_  
*for* Grace Crunican

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff  
Aaron Weinstein  
Maureen Wetter

**CONTROLLER/TREASURER'S  
REPORT**

October 12, 2017

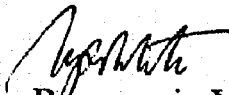
**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

-----  
**INTER-OFFICE COMMUNICATION**

**TO:** Board of Directors **Date:** October 5, 2017  
**FROM:** Controller-Treasurer  
**SUBJECT: QUARTERLY REPORT OF THE CONTROLLER-TREASURER**

Attached is the Quarterly Report of the Controller-Treasurer for the quarter ending June 30, 2017 which will be presented to the Board on October 12, 2017.

Please feel free to call me at 510-464-6070 with any questions you may have.

  
Rosemarie V. Poblete