

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

BOARD MEETING AGENDA

December 5, 2019

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, December 5, 2019, in the BART Board Room, 2040 Webster Street, Third Floor, 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>); at bart.legistar.com; and via email (https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904) or via regular mail upon request submitted to the District Secretary. Complete agenda packets (in PDF format) are available for review on the District's website and bart.legistar.com no later than 48 hours in advance of the meeting.

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

Patricia K. Williams
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. Metropolitan Transportation Commission (MTC) Exchange Account Withdrawal for Expansion Rail Cars Procurement.* Board requested to authorize.
- B. Resolution Fixing the Non California Public Retirement System (CalPERS) Medical Plan Structure and Rates for Calendar Year 2020.* Board requested to adopt.
- C. Agreement between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support.* Board requested to authorize.
- D. Award of Invitation for Bid No. 9068, 750 kmil Direct Current (DC) Power Cables.* Board requested to authorize.
- E. Award of Invitation for Bid No. 9076, Bearing Assembly, Truck Journal.* Board requested to authorize.
- F. Expansion of National Association of State Procurement Officials Value Point Purchase Program for Parts and Supplies.* Board requested to authorize.
- G. Independent Auditor's Reports on the Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2019.* For information.

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. INDEPENDENT POLICE AUDITOR'S REPORT

- A. Quarterly Report of the Independent Police Auditor. For information.

5. ADMINISTRATION ITEMS

Director Simon, Chairperson
NO ITEMS.

* Attachment available

6. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

- A. Award of Contract No. 54RR-270, Richmond Yard Fire Protection.*
Board requested to authorize.
- B. Change Orders to Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit.*
 - i. Change Order No. 036, Revisions to Gallery Wall Flange Plates.
 - ii. Change Order No. 114, Impact from Rule Changes 2019 to 2021.Board requested to authorize.
- C. Quarterly Service Performance Review – First Quarter Fiscal Year 2020.*
For information.

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

Director Raburn, Chairperson

- A. 2020 Federal and State Advocacy Program.* Board requested to authorize.
- B. BART and Valley Transportation Authority Operations & Maintenance Agreement.* Board requested to authorize.
- C. Update on Silicon Valley BART Extension, Phase 1.* For information.

8. GENERAL MANAGER'S REPORT

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

9. BOARD MATTERS

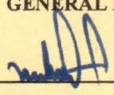
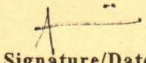
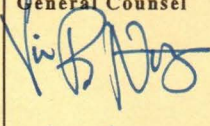
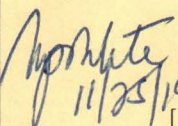
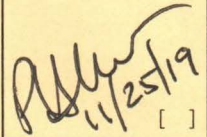
- A. Board Member Reports.
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since last Board Meeting.)
- B. Roll Call for Introductions.
(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.)



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  11/25/19		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board of Directors		
DATE: 11/14/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Priya Mathur Dept: Financial Planning  Signature/Date: 11/25/19	General Counsel  11/20/19 []	Controller/Treasurer  11/25/19 []	District Secretary []	BARC  11/25/19 []

BART Car Replacement Funding Exchange and Reserve Account Withdrawal

PURPOSE:

To request Board approval to withdraw up to \$18 million from the BART Car Replacement Funding Exchange and Reserve Account to fund the purchase of railcars under the Transbay Corridor Core Capacity Project.

DISCUSSION:

In 2006, the Metropolitan Transportation Commission (MTC) and BART signed the BART Car Replacement Funding Exchange and Reserve Account (Exchange Account) Agreement (Agreement) to set aside funds for the eventual purchase of new railcars to replace BART's aging fleet. MTC agreed to program eligible Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funds to BART's preventive maintenance program in exchange for BART depositing an equal amount of local funds into the Exchange Account. Since that time, approximately \$390 million has been deposited into the account. There has been one prior authorized withdrawal of \$15.5 million in 2012, and, as of August 31, 2019, the balance of the account was \$397 million.

In September 2017, the Commission adopted Resolution No. 4302, the Exchange Account Agreement Supplemental, which committed up to \$179 million from the Exchange Account to BART for the costs of new railcars included in BART's Transbay Corridor Core Capacity Program Project (TCCCP) in order to support the advancement of the TCCCP for funding through the FTA's Capital Investment Grant (CIG) Program. Since that time, BART has been advanced through the CIG Program and is now in the Engineering phase, anticipating receipt of a Full-Funding Grant Agreement by the end of the year.

MTC Resolution No. 3738 and the Agreement require that both the Board and the MTC formally approve withdrawals from the Exchange Account. The action proposed today would authorize BART to approve the withdrawal of up to \$18 million from the Exchange Account, which BART would use for initial payments associated with the procurement of 252 railcars (the Project) being acquired under the TCCCP. The MTC is expected to approve this withdrawal request at the December meeting, as required by the Agreement. Upon approval by the Board and the MTC, BART will submit formal requests for reimbursement of funds from the Exchange Account that will outline specific Project details, including but not limited to copies of invoices that include defined costs associated with the Project.

In November 2018, the BART Board authorized the District to negotiate and enter into a sole-source railcar procurement contract with Bombardier Transit Corporation (Bombardier) to manufacture up to 425 rail cars as a follow-on procurement to the 775 railcar procurement initiated in 2012 with Bombardier, which will enable continuous railcar production and eliminate ramp-up costs. This railcar procurement includes 252 rail cars that will be funded and acquired under the TCCCP.

The remainder of the account balance will continue to accrue interest until further withdrawals are requested and authorized to support BART's railcar procurement projects.

FISCAL IMPACT:

This action authorizes the District to request a withdrawal of up to \$18 million from the Exchange Account following the award of a base contract for the procurement of railcars under the TCCCP.

ALTERNATIVES:

Do not authorize the request of a withdrawal from the Exchange Account and potentially delay the award of a base contract for the procurement of railcars under the TCCCP.

RECOMMENDATION:

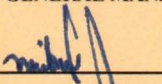
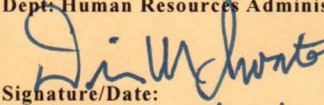
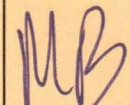
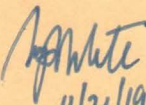

Adopt the following motion.

MOTION:

The Board formally approves the withdrawal of up to \$18 million from the BART Car Replacement Funding Exchange Account to fund the purchase of railcars under the Transbay Corridor Core Capacity Project.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  11/20/19		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/19/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Diane Iwata Dept: Human Resources Administration  Signature/Date: 11/21/2019	General Counsel  11/21/19 []	Controller/Treasurer  11/21/19 []	District Secretary []	BARC  11/21/19 []

Non-CalPERS Medical Plan Structure and Rates for CY 2020

PURPOSE:

To obtain Board approval of a resolution approving a change to the contribution schedule for non-California Public Employee Retirement System (“non-CalPERS”) medical plans that are available to active members of the Board of Directors, eligible former members of the Board, eligible survivors of BART employees and Board members, and eligible non-registered domestic partners of BART employees and retirees for calendar year 2020.

DISCUSSION:

The District has two non-CalPERS medical plans, a self-insured indemnity plan under United Health Care (“UHC”) and a fully-insured health maintenance organization plan under Kaiser Permanente (“Kaiser”). These non-CalPERS plans are available to individuals who are not eligible for CalPERS coverage; specifically, those survivors of employees who died prior to contracting with CalPERS, non-registered domestic partners, and active Board members and former Board members who are eligible for District provided benefits under State law and District policy. The number of individuals currently in the non-PERS plans has remained consistently low over the past few years. A total of 49 individuals participate in these plans, forty-two (42) in UHC and seven (7) in Kaiser.

Due to industry restrictions, the District cannot match the District’s plan designs identically to CalPERS. However, the District makes every effort to keep these plans as closely aligned in plan design as possible. As UHC is self-funded, the District must establish the premium for this plan; however, the District pays all actual expenses. The Board previously approved matching the UHC rate to the CalPERS Bay Area PERS Choice plan, as the UHC plan is

close in plan design. Since the District's Kaiser Plan is fully insured, the negotiated rate is used for the District plan and not matched to the CalPERS Bay Area Kaiser HMO rates.

Effective January 1, 2020, CalPERS is re-designating its current five regions into three regions and the CalPERS Bay Area region will fall under CalPERS Region 1.

The District has also applied the medical cap formula and contribution amount used for a non-represented employee/annuitant to participants under the non-CalPERS medical plans. The medical cap for non-represented employees/annuitants is the more costly of the CalPERS Region 1 (Bay Area) Blue Shield Access+ HMO basic plan or the CalPERS Region 1 (Bay Area) Kaiser HMO basic plan for the applicable level of plan participation for the employee/annuitant (as previously negotiated for collective bargaining groups in 2009), less the employee/annuitant monthly contribution. For participants under the District plans, the medical cap was modified to be the more costly of the CalPERS Region 1 (Bay Area) Blue Shield Access+ HMO basic plan or the District's non-CalPERS Kaiser HMO basic plan for the applicable level of plan participation for the employee, less the employee/annuitant monthly contribution. For calendar year 2020, the non-represented employee/annuitant contribution is \$150.44 per month. Staff is recommending this same contribution amount be applied to participants under the non-CalPERS medical plans.

FISCAL IMPACT:

For the twenty-five (25) primary participants (does not include dependents) enrolled in the District's non-CalPERS medical plans, the monthly contribution will increase from \$147.14 to \$150.44 in calendar year 2020.

RECOMMENDATION:

Approve the attached resolution. The Office of the General Counsel will approve any agreements or modifications to agreements with plan providers as to form.

MOTION:

To adopt the attached resolution "In the Matter of Non-CalPERS Medical Plan Structure and Rates for CY 2020."

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

In the Matter of the

Resolution No.

Non-CalPERS Medical Plan

Plan Structure and Rates

For Calendar Year 2020

WHEREAS, Board Resolution 4981, adopted April 13, 2006 sets forth at length the applicable law and history of District provided medical benefits for active members and former members of the Board and their eligible survivors and further sets forth required premium contributions by active members and former members, with the latter dependent on when the former Director first served and his/her length of service;

WHEREAS, by Resolution 4981, adopted by the Board on April 13, 2006, the Board confirmed its policy and practice with respect to the participation and contributions of active and former members of the Board in District provided health plans, with the premium contribution structure for all active directors and eligible former directors as identified there indexed to the lowest premium contribution among the employee groups;

WHEREAS, the parties in 2009 collective bargaining agreed that the District's contribution for health insurance premiums for employees and retirees would be capped at an amount up to the applicable level of plan participation (single, two-party, family) and the same Medicare status as elected by the eligible employee or retiree for the most costly HMO Plan offered to the employee by the California Public Employees Retirement System ("CalPERS"), less the indexed employee contribution (\$86.95 for calendar year 2011);

WHEREAS, after contracting with CalPERS for medical benefits for employees under the Public Employees Medical and Hospital Care Act (PEMHCA), the District has maintained two health plans outside of CalPERS for those individuals who are eligible for District provided coverage under collective bargaining agreements or District policy, but are not eligible under the District's contract with CalPERS, including members of the Board of Directors (Board), domestic partners and some survivors of employees, retirees and former Board members;

WHEREAS, by Resolution 5116, adopted on November 19, 2009, the Board approved a premium structure for the non-CalPERS' plans with a cap similar to the negotiated structure for the CalPERS' plans that capped the District contribution for active members and those former

members who are eligible for benefits on the same terms as employees at an amount up to the applicable level of plan participation (single, two-party, family) for the non-CalPERS HMO, less the indexed employee contribution;

WHEREAS, by Resolution 5151, adopted by the Board on December 2, 2010, the Board authorized amendments to the District's agreements for the non-CalPERS Plans with Principal Financial Group and Kaiser to align their benefit and premium structure more closely with the benefits and premium structure then provided under the CalPERS PERS Choice Plan and the Kaiser HMO Plan and authorized a new rate structure effective in Calendar year 2011 applicable to active directors and those former directors who are eligible for District provided benefits at the capped contribution rate;

WHEREAS, effective January 1, 2012, the District replaced Principal Financial Group as its non-CalPERS self-funded plan administrator with United Health Care (UHC);

WHEREAS, as more fully set forth in Resolution No. 4981, State law imposes restrictions on health benefits that may be provided by the District to the current and most former members of its governing board. For those directors who first serve after January 1, 1989, such benefits may not exceed benefits provided to full-time current or retired employees and the terms, conditions, or contributions applicable to any plan provided to employees must also apply to any plan provided for members of the governing board;

WHEREAS, the Board has adopted an employer's monthly contribution structure for the non-represented employees for calendar year 2019 and intends to apply this same structure to current and eligible former Board members and survivors who have non-CalPERS medical plans and who are eligible for District provided benefits under the capped contribution structure;

WHEREAS, effective January 1, 2020, CalPERS re-designated the Bay Area Region to Region 1; and

NOW, THEREFORE BE IT RESOLVED that, (a) the established total premium for determining the applicable employer contribution for the self-funded UHC plan for 2020 will be set at the same level as the CalPERS PERS Choice Region 1 Plan as it has been established for 2020 and the total premium for the insured Non-CalPERS Kaiser Plan used for determining the applicable employer contribution for 2020 shall be established by the rates negotiated between Kaiser and the District for that period;

BE IT FURTHER RESOLVED that, the rate structure and premium contribution for Directors and for former Directors and survivors who are eligible for District provided health benefits under a non-CalPERS plan at the capped employer contribution structure shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in

a health benefits plan up to a maximum of the higher of the Non-CalPERS Kaiser basic plan or the Region 1 Blue Shield Access+ basic plan, less \$150.44 employee/annuitant share each month for the year 2020; and

BE IT FURTHER RESOLVED THAT, the rate structure and premium contribution for these plans for Calendar Year 2020 shall be as follows:

Kaiser Permanente HMO	Single	2-Party	Family
Total Monthly Premium	\$1,271.34	\$2,542.67	\$3,597.88
District's Cost	\$1,120.90	\$2,392.23	\$3,447.44
Director's Cost	\$150.44	\$150.44	\$150.44

United Health Care	Single	2-Party	Family
Total Monthly Premium	\$861.18	\$1,722.36	\$2,239.07
District's Cost	\$710.74	\$1,571.92	\$2,088.63
Director's Cost	\$150.44	\$150.44	\$150.44

BE IT FURTHER RESOLVED THAT, with the exception of the new premium contribution structure applicable to active directors and those former directors who are eligible for District provided benefits at the capped contribution rate, Resolution No. 4981 "In the Matter of Health and Welfare Benefits for Directors" remains in full force and effect.

Adopted at a regular meeting of the Board of Directors of the San Francisco Bay Area Rapid Transit District at Oakland, California this ___ day of _____ 2019.

Signed: _____

President

Attest: _____

District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 11/26/19		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/21/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Catherine Relucio Dept: Capitol Corridor <i>[Signature]</i> Signature/Date: 11/22/19	General Counsel <i>[Signature]</i> 11/25/19 []	Controller/Treasurer <i>[Signature]</i> 11/25/19 []	District Secretary <i>[Signature]</i> 11-25-19 []	BARC <i>[Signature]</i> 11/22/19 []

Authorization to Execute an Agreement Between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support

PURPOSE:

To obtain Board authorization for the General Manager to execute the Administrative Services Agreement between the District and the Capitol Corridor Joint Powers Authority for a five-year term, effective February 20, 2020.

DISCUSSION:

Pursuant to the Joint Exercise of Powers Agreement to Establish the Capitol Corridor Joint Powers Authority (JEPA), Section 10.0 of the JEPA requires that the CCJPA enter into a contract with the Managing Agency to identify the responsibilities of the Managing Agency. Effective February 20, 1999, the CCJPA and BART entered into an Administrative Support Agreement (ASA) for an initial term of three years to set forth the manner in which BART would provide all necessary administrative support to the CCJPA with its own staff to enable the CCJPA to perform its duties and responsibilities. Some of the key elements of the ASA include:

- Description of Managing Agency's administrative support duties;
- Appointed staff of Managing Agency;
- Invoicing procedures and availability;
- Audit provisions;

- Liability (Allocated Losses); and
- Initial Term (through February 20, 2002)

Prior to the expiration of the initial term of the ASA, the CCJPA Board agreed at its February 2002 meeting to select BART as the Managing Agency and to extend the ASA with BART for a further three-year term through February 2005 pursuant to the enabling legislation then in effect. BART concurred with this action by the CCJPA at its March 14, 2002 Board meeting and the Board President executed the ASA, effective through February 20, 2005.

The CCJPA's enabling legislation was further amended to eliminate the CCJPA's sunset date (June 30, 2004) and also to lengthen the CCJPA Managing Agency's agreement term from three to five years (effective February 2002) so that the CCJPA Board could better assess the performance of the Managing Agency.

Upon the expiration of the renewal term of the ASA on February 20, 2005, the CCJPA Board (CCJPB) has continuously selected BART to continue in its role in providing administrative support to the CCJPB for five-year terms beginning February 2005 (valid through February 2010), February 2010 (valid through February 2015), and February 2015 (valid through February 2020). The renewals of these ASAs were based on the continuing success of the Capitol Corridor Service performance as well as the positive, cross-beneficial, cooperative relationship between BART and the CCJPA member agencies.

At its November 20, 2019 meeting, the CCJPA Board of Directors approved the extension of the ASA with the District for another 5-year term (February 2020 through February 2025), citing BART's professional partnership with the CCJPA and the continuing positive results in the performance of the Capitol Corridor services (i.e., nation-leading on-time performance, commitment to passenger/employee safety, increased ridership and revenues, high customer satisfaction). The terms of the Agreement during the renewal term remain generally the same.

FISCAL IMPACT:

Pursuant to the terms of the ASA and the Interagency Transfer Agreement (ITA) between the CCJPA and the State of California, all expenses incurred by BART as Managing Agency of the CCJPA will be reimbursed by the CCJPA through the State of California. Therefore, there is no fiscal impact to BART.

ALTERNATIVES:

Do not proceed with this agreement. However, failure to do so would require that the CCJPA find a new Managing Agency, potentially result in a lapse in Capitol Corridor operations, and

necessitate the reassignment of Capitol Corridor staff.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The General Manager is authorized to execute an Agreement Between the Capitol Corridor Joint Powers Authority and the San Francisco Bay Area Rapid Transit District for Administrative Support for a consecutive five-year term through February 19, 2025 under generally the same terms as the current agreement subject to approval of the General Counsel.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Michael</i> 11/26/19		GENERAL MANAGER ACTION REQ'D: Yes		
DATE: 11/7/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Bryant Fields Dept: Maintenance and Engineering <i>Bryant Fields</i> Signature/Date: 11/19/2019	General Counsel <i>[Signature]</i> 11/19/19 []	Controller/Treasurer <i>[Signature]</i> 11/19/19 []	District Secretary []	BARC <i>[Signature]</i> 11.25.2019 []

IFB No. 9068 - 750kcmil Direct Current (DC) Power Cables

PURPOSE:

To request Board Authorization to Award Invitation for Bid (IFB) #9068 to PRYSMIAN CABLES & SYSTEMS, North Dighton, MA in the amount of \$666,803.20 (includes all taxes) for the purchase of 750 kcmil POWER CABLES.

DISCUSSION:

The BART traction power direct current (DC) electrical system supplies power to the 3rd rail for train operations. Many of the existing DC cables, installed over 40 years ago, have reached the end of their useful life and require replacement. This IFB provides for the purchase of 750 kcmil DC Power Cable to be installed by BART forces throughout the District for traction power DC cable replacement.

This is a TWELVE (12) month estimated quantity contract. Pursuant to the terms of the District's standard estimated quantity contract, during the term of the Contract the District is required to purchase from the supplier a minimum amount of 50% 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 August 6, 2019. On the same day, this solicitation was uploaded onto the BART Vendor Portal. Bids were opened on September 10, 2019, five (5) bids were received as follows:

Bidder(s)	Lot Price	Grand Total Including
	41,000 Linear Feet (LF)	9.75% Sales Tax
Prismian Cables & Systems	\$624,640.00	\$666,803.20
North Dighton, MA		
All Industrial Elec. Supply	\$655,694.00	\$699,953.35
Burlingame, CA		
Alameda Elec. Distributors	\$664,252.97	\$709,090.05
Alameda, CA		
The Okonite Company	\$667,977.00	\$713,065.45
San Ramon, CA		
Electrical Design Tech.	\$669,530.00	\$714,723.28
Nevada City, CA		

Independent cost estimate by BART staff: **\$902,000.00**

The difference between the BART cost estimate and bid cost is due to volume discrepancy of unit pricing.

Pursuant to the District's Disadvantaged Business Enterprise (DBE) Program, the Office of Civil Rights is utilizing race- and gender-neutral efforts for Invitations for Bid (IFB). Therefore, no DBE goal was set for this IFB.

CAPITAL FISCAL IMPACT:

Funding in the amount of \$666,803 for award of Contract No. 9068 is included in the total project budget for FMS # 15EK200 – Traction Power Substation Renovation. 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 November 12, 2019, \$31,961,585 is available for this project from the following source:

Fund Group	Amount
Various FTA Grant Sources	\$24,026,380
Local Area Bridge Toll	\$3,627,067
BART Funds	\$4,308,138
Total	\$31,961,585

BART has expended \$28,993,833, committed \$1,140,554 and reserved \$0 to date for other action. This action will commit \$668,803 leaving an available fund balance of \$1,158,395 in this project.

There is no fiscal impact on available unprogrammed District Reserves

ALTERNATIVE:

The alternative to awarding this Contract would be to reject all bids. Staff does not believe this will result in lower prices or increased competition. This would delay the traction power DC cable replacement, which could negatively impact revenue service due to cable failure.

RECOMMENDATION:


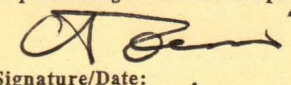
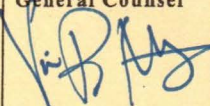
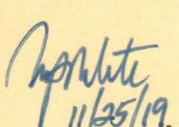
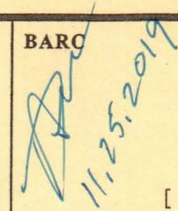
It is recommended that the Board adopt the following motion.

MOTION:

The General Manager is authorized to award IFB # 9068 for 750 kcmil DC Power Cable for Traction Power DC Cable Replacement Projects to **PRYSMIAN CABLES & SYSTEMS, North Dighton, MA** for an amount of **\$666,803.20** (includes all applicable taxes) pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedure and FTA's requirements related to protests.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  11/26/19		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/14/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Cristiano Torresi Dept: Rolling Stock and Shops  Signature/Date: 11/25/19	General Counsel  11/25/19 []	Controller/Treasurer  11/25/19 []	District Secretary []	BARC  11-25-2019 []

AWARD INVITATION FOR BID NO. 9076, BEARING ASSEMBLY, TRUCK JOURNAL

PURPOSE: To request Board Authorization to Award Invitation for Bid (“IFB”) No. 9076 to Jamaica Bearing Co. Inc., in the amount of \$516,702 (inclusive of all taxes and credits) for the purchase of Bearing Assembly, Truck Journal.

DISCUSSION: Each District revenue vehicle is equipped with four (4) axles and each axle is equipped with two (2) axle bearings. The axle bearings have a serviceable life limit of six (6) years and are scheduled for replacement before the six (6) year life limit is exceeded. Revenue vehicles with axle bearings past their serviceable life must have the bearings replaced before being allowed to return to revenue service. This procurement provides sufficient stock within the District’s inventory to support the replacement schedule.

This is a two (2) year estimated quantity contract. Pursuant to the terms of the District’s standard estimated quantities contract, during the term of the contract, the District is required to purchase from the supplier a minimum of 50 percent of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150 percent of the contract bid price, subject to availability of funding.

A notice requesting bids was published on September 27th, 2019 and correspondence was sent to eight (8) prospective bidders inviting them to view the solicitation on the Vendor Portal. Bids were opened on November 5th, 2019 and three (3) bids were received.

Bidder	Quantity	Unit Price	Credit	Tax at 9.75%	Total with Tax
Jamaica Bearing	1,200	\$406.00	\$18,000	\$47,502.00	\$516,702.00
Applied Ind. Tech	1,200	\$488.00	\$24,000	\$57,096.00	\$618,696.00
AST Bearings	1,200	\$1,408.55	\$0	\$164,800.35	\$1,855,060.35

Independent Cost Estimate by BART Staff: \$525,483 inclusive of all taxes.

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") or Women Business Enterprise ("WBE") Availability Percentages for this IFB.

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 (DGS). It was determined that there were no certified Small Businesses certified by the DGS among the responsive Bidders and, therefore, the Small Business Prime Preference is not applicable.

Staff has determined that Jamaica Bearing submitted a responsive bid. Staff has also determined that the bid pricing is fair and reasonable based upon the Independent Cost Estimate.

FISCAL IMPACT: Funding of \$516,702 for this procurement will initially come from the inventory budget when the materials are procured. Actual expenses will be charged to the Rolling Stock and Shops ("RS&S") Inventory Material Usage Account (#680-010) as materials are used. Funding for the usage in FY20 is included in the operating budget of department #0803623. Funding for subsequent years will be included in the proposed annual operating budget, which is subject to Board approval. The proposed award of this IFB will not result in any operating costs above the current year's adopted budget. This action is not anticipated to have any fiscal impact on unprogrammed District reserves in the current Fiscal Year. Total funding for this contract in the amount not to exceed 150% of \$ 516,702, is based on the following totals by year:

FY20, \$ 129,175.50
 FY21, \$ 258,351.00
 FY22, \$ 129,175.50

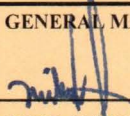
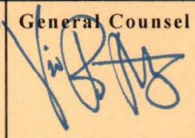
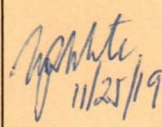
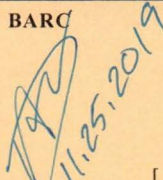
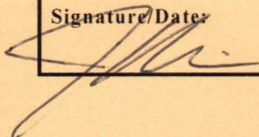
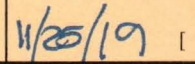
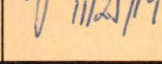
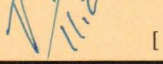
ALTERNATIVE: The alternative to awarding this Contract would be to reject all bids and re-advertise the Contract. Staff does not believe that re-advertising the Contract will result in lower prices.

RECOMMENDATION: It is recommended that the Board adopt the following motion.

MOTION: The General Manager is authorized to award IFB No. 9076 for the purchase of Bearing Assembly, Truck Journal to Jamaica Bearing for the Bid price of \$516,702 including tax, 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:  11/26/19		GENERAL MANAGER ACTION REQ'D: Yes		
DATE: 11/8/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: James Wiscarson Dept: Procurement	General Counsel 	Controller/Treasurer 	District Secretary	BARC 
Signature/Date:  11-25-19	 11/25/19 []	 11/25/19 []	[]	 11.25.2019 []

Expansion of NASPO ValuePoint Purchase Authorization

PURPOSE:

To authorize the General Manager to expand the utilization of the National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Organization for selecting vendors for the procurement of Maintenance and Repair Operations (MRO) supplies and Original Equipment Manufacturer (OEM), and Aftermarket Automotive Parts.

DISCUSSION:

NASPO ValuePoint is a cooperative procurement consortium that allows participating states to make purchases through competitively solicited master agreements. Participating states benefit from cumulative volume discounts and an efficient mechanism to purchase goods and supplies. The California Department of General Services (DGS) is a partner in a variety of NASPO ValuePoint Master Agreements. California Public Contract Code Section 10298 authorizes local agencies, including the District, to makes purchases using NASPO ValuePoint contracts in which the DGS is a participating partner without further competitive bidding. The District has been using this authority for the procurement of computer equipment, computer software, and related installation services since March 2006. Staff is now requesting authority to use NASPO ValuePoint for the procurement of MRO supplies and OEM/Aftermarket Automotive Parts.

In November 2017 NASPO ValuePoint competitively advertised an RFP for Facilities MRO and Industrial Supplies. A total of 31 proposals were received and thirteen vendors were awarded the contract by region. No protests were received. Notice of Award was given on March 1, 2018 for up to five (5) years. The Master Agreement provides for an initial one-year term with a four-year renewal option. DGS executed four (4) State of California Participating Addenda for the Facilities MRO and Industrial Supply contract. The vendors

approved for California are Fastenal, MSC, Grainger, and Noble Supply.

In March of 2015 NASPO ValuePoint competitively advertised an RFP for OEM and Aftermarket Auto Parts. A total of 4 proposals were received and one award was made based on part cost scoring of three separate standard vehicles and an overall discount of the entire catalog. No protests were received. Notice of award was given on January 1, 2016 for a three-year contract with a two-year renewal option to Elliot Auto Supply Company Inc. dba Factory Motor Parts. A California State Participating Addendum allows the District to utilize the discounts offered in this contract to support the Non-Revenue Vehicle Shop.

Staff will work with the Office of General Counsel, the Insurance Department, the Office of Civil Rights, and the Procurement Department to review the agreements for consistency with District procurement requirements. The Office of the General Counsel will approve all agreements to which the District is a party as to form.

Because NASPO ValuePoint contracts are made directly with the vendors, there are no participation goals for either Small Business Enterprise (SBE) or Disabled Veteran Business Enterprises (DVBE).

FISCAL IMPACT:

No specific funding is committed to the procurement. All procurement's pursuant to this authorization will be subject to the requirement that funding by fiscal year, department, account and whether funds are operating or capital be identified with the concurrence of the Controller-Treasurer's office.

ALTERNATIVES:

The alternative is to continue to use the District's standard authorized procurement procedures to purchase operating division supplies.

RECOMMENDATION:

Adopt the following motion.

MOTION:

The General Manager is authorized to utilize the National Association of State Procurement Official's (NASPO) ValuePoint Cooperative Purchasing Organization to make purchases from the Facilities MRO and Industrial Supply contract and the Automotive OEM / Aftermarket contract, until such time that the State of California ceases these or subsequent contracts, subject to the availability of funding.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 11/26/19		GENERAL MANAGER ACTION REQ'D: N/A		
DATE: 11/19/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Christopher Gan Dept: Assistant Controller <i>Chris Gan</i> Signature/Date: 11/22/19	General Counsel <i>[Signature]</i> 11/25/19 []	Controller/Treasurer <i>[Signature]</i> 11/22/19 []	District Secretary []	BARC <i>[Signature]</i> 11/22/19 []

Independent Auditor's Report on Basic Financial Statements and Internal Control for the fiscal year ended June 30, 2019

PURPOSE:

To present the Independent Auditor's Reports on Basic Financial Statements and Internal Control over financial reporting for the fiscal year ended June 30, 2019.

DISCUSSION:

The San Francisco Bay Area Rapid Transit District Act provides that an annual audit be made of all books and accounts of the District by an independent public accountant (Public Utilities Code Section 28769).

The independent certified public accounting firm of Macias, Gini and O'Connell LLP conducted the audit for fiscal year 2019. The District's basic financial statements provide information on the District's Enterprise Fund and Fiduciary Fund. The Enterprise Fund includes all revenues, expenses, assets, liabilities and net assets related to the District's operations. The Fiduciary Fund shows all financial transactions of the Retiree Health Benefit Trust, which was created by the District to administer and account for assets which are restricted for the payment of retiree health premiums and administrative costs. Their audit concluded that the District's basic financial statements for the year ended June 30, 2019 present fairly, in all material respects, the financial position of the Enterprise Fund and the Fiduciary Fund and are in conformity with accounting principles generally accepted in the United States of America.

As part of the examination, the auditors performed a review and evaluation of the District's internal control over financial reporting. The results of the evaluation are discussed in the Independent Auditor's Report on Internal Control over Financial Reporting. The auditor's report indicated that no deficiencies were identified in internal control over financial reporting that are material weaknesses.

FISCAL IMPACT:

None

ALTERNATIVES:

None. The District is required by law to have its books and accounts audited every year by an independent certified public accountant.

RECOMMENDATION:

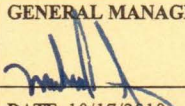
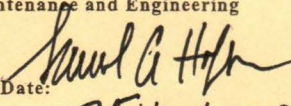
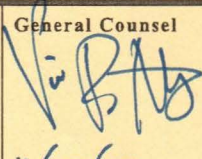
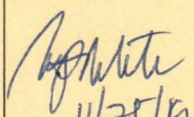
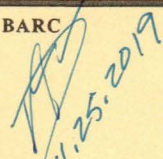
None

MOTION:

None



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  11/26/19		GENERAL MANAGER ACTION REQ'D: Approve and forward to Board of Directors		
DATE: 10/17/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Samuel Hoffman Dept: Maintenance and Engineering Signature/Date:  25NOV2019	General Counsel  11/25/19 []	Controller/Treasurer  11/25/19 []	District Secretary []	BARC  11.25.2019 []

Award of Contract No. 54RR-270, Richmond Yard Fire Protection

PURPOSE:

To request Board authorization to award Contract No. 54RR-270 for Richmond Yard Fire Protection replacement to DMZ Builders, in the amount of \$4,467,950.00.

DISCUSSION:

The fire mains and appurtenances in the District yards are currently beyond their design life. This contract will replace the water distribution infrastructure at the Richmond Yard (ORY), therefore providing a more efficient fire protection system, meeting current National Fire Protection Association (NFPA) standards and requiring less maintenance. The Contract will also expand and repair several domestic water, sanitary sewer and industrial waste pipelines at the Yard. Contract No. 54RR-270 will support the Measure RR Bond initiative of infrastructure renewal.

On August 11, 2019, the District provided Advance Notice to one hundred twenty-three (123) prospective Bidders who received the electronic version of the Contract book, including forms to submit, from the District's Vendor Portal. Plans were sent to six (6) Plan Rooms.

On August 12, 2019, the Contract was advertised in local publications. A total of thirty-one (31) firms downloaded the Contract Documents from the District's Vendor Portal. A pre-bid meeting was conducted on September 12, 2019 with seven (7) prospective Bidders attending the meeting. A site tour was conducted on February 27, 2019 with three (3) prospective Bidders.

A total of three (3) Bids were received and publicly opened on October 22, 2019. Tabulation

of the Bids, including the Engineer's Estimate, is as follows:

No	BIDDER	LOCATION	TOTAL BID
1	Bay Pacific Pipelines, Inc.	Novato, CA	\$2,489,600.00
2	DMZ Builders	Concord, CA	\$4,467,950.00
3	Maggiora and Ghilotti, Inc.	San Rafael, CA	\$4,977,977.00
	Engineer's Estimate		\$4,442,238.23

All bids were reviewed and determined to be responsive by the Engineer and Contract Administrator. Bay Pacific Pipelines subsequently withdrew its bid on October 29, 2019, making DMZ Builders the Low Bidder.

Staff reviewed the variance between the submitted Bids and the Engineer's Estimate. The Low Bid was 0.58% higher than the Engineer's Estimate. Overall, the remaining Bids received were comparable to each other and within 11% of the Engineer's Estimate.

CAPITAL FISCAL IMPACT:

Funding in the amount of \$4,467,950 to award Contract No. 54RR-270 is included in the total project budget for FMS# 54RR270 – Fire Services Yard – ORY.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following source:

Proposed Funding	
F/G 802A – 2017 Measure RR GOB	119,439
F/G 802B – 2019 Measure RR GOB	6,643,273
TOTAL	6,762,712

As of November 18, 2019, \$6,762,712 is the total budget for this project. BART has expended \$147,306, committed \$0, and reserved \$0 to date. This action will commit \$4,467,950, leaving an available fund balance of \$2,147,456 in these fund sources for this project.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 18.2% for Minority Business Enterprises ("MBEs") and 9.3% for Women Business Enterprises ("WBEs"). The Office of Civil Rights has determined that the Bidder, DMZ Builders, has exceeded both the MBE and WBE Availability Percentages for this Contract at 40.5% for MBEs and 23.1% for WBEs.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 7% Local Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services and verified as Local (i.e., located in Alameda, Contra Costa or San Francisco counties) by the District. It was determined that there were no certified Local Small Businesses certified by the DGS among the responsive Bidders and, therefore, the Local Small Business Prime Preference is not applicable.

ALTERNATIVES:

The Board may reject all Bids and re-advertise the work or reject all Bids and decline to re-advertise the work. There is no assurance that a rebid would yield lower prices or that a greater number of bids would be received. By proceeding with the award, the District would reduce operational risks and increase safety.

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 Contract No. 54RR-270 to DMZ Builders for Richmond Yard Fire Protection in the amount of \$4,467,950.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedure.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 11/27/19		GENERAL MANAGER ACTION REQ'D: Approve and forward it to the Board		
DATE: 10/31/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Chuck Bernardo Dept: Extensions	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i> 11/26/19	District Secretary	BART <i>[Signature]</i> 11.26.2019
Signature/Date: <i>Charles Bernardo</i> 11/25/19	11/25/19 []	11/26/19 []	[]	[]

Change Orders to Contract 09AU-120, TBT Internal Retrofit

PURPOSE:

To obtain Board authorization for the General Manager to execute Change Order No. 036 Part 02: Revisions to TBT Gallery Wall Flanges Plates for an amount not to exceed \$3,500,000 and Change Order No. 114 Part 01: Impacts from Rule Changes for an amount not to exceed \$8,000,000 to Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit.

DISCUSSION:

Award of Contract No. 09AU-120, BART Earthquake Safety Program Transbay Tube (TBT) Internal Retrofit to Shimmick/CEC Joint Venture, was authorized by the Board on December 1, 2016; Notice to Proceed was issued on February 2, 2017.

The work in Contract No. 09AU-120 is to, among other things, retrofit key segments of the TBT with steel plating and to provide an upgraded pumping system. The construction activities must be tailored to be completed within the night time work windows to allow for regular revenue service to start the next morning.

Change Order No. 036 Part 02: Revisions to TBT Gallery Wall Flange Plates

Not to Exceed: \$3,500,000

During construction, it was determined by staff that revisions were needed in the design of certain gallery wall flange plates to avoid potential conflicts with certain existing TBT utility lines.

Change Order No. 036 compensates the Contractor for the additional costs associated with

preparation, fabrication, and installation of revised steel details and with surface preparation of the existing concrete walls, which was not part of the original design.

Change Order No. 114 Part 01: Impacts from Rule Changes

Not to Exceed: \$8,000,000

Following the award of the Contract, the District changed its rules related to Contractor oversight and Roadway Worker safety. These changes created new safety responsibilities for the Contractor for access to the Jobsite which were not included in the original Contract. The Board approved Change Order No. 30 in May 2018 and committed \$8,000,000 for the impacts due to the rule changes up to December 2019. This Change Order compensates the Contractor for impacts due to these rule changes through December 2021.

Pursuant to Board Rule 5-2.3, for construction contracts over \$200,000,000 in value, Change Orders involving expenditures greater than \$500,000 require Board approval which staff is now requesting for the above-referenced Change Orders.

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

FISCAL IMPACT:

The total not-to-exceed amount of \$11,500,000 for the above-referenced Change Orders to Contract No. 09AU-120 is included in the total budget for 09AU000 TBT Retrofit. The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

Proposed Funding	
801F & 801J – ESP GO Bond	\$330,080,419
801 – ESP GO Bond Interest Earnings	\$ 40,000,000
802A & 802B – 2017 Measure RR GO Bond	\$109,000,000
850V, 850W & 850X – Capital Allocations	\$ 207,228
TOTAL:	\$479,287,647

As of October 29, 2019, \$479,287,647 is the total budget for this project. BART has expended \$209,490,102, committed \$203,075,963, and reserved \$187,559 to date. This action will commit \$11,500,000 leaving an available fund balance of \$55,034,023 in these fund sources for this project. The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

ALTERNATIVES:

The Board can elect not to authorize the execution of these Change Orders for costs associated with the Change Order work. If not resolved, failure to issue these Change Orders will lead to claims from the Contractor and potential litigation costs, thus increasing the final cost to the District.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 036 Part 02: Revisions to TBT Gallery Wall Flange Plates for an amount not to exceed \$3,500,000 and Change Order No. 114 Part 01: Impacts from Rule Changes for an amount not to exceed \$8,000,000 to Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit with Shimmick/CEC Joint Venture.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

EXECUTIVE DECISION DOCUMENT

ATTACHMENT No 1

CHANGE ORDER SUMMARY

BACKGROUND

Program:	Earthquake Safety Program
Name of Contractor:	Shimmick/CEC Joint Venture
Contract No. / NTP:	09AU-120 / February 2, 2017
Contract Description:	TBT Internal Retrofit
Percent Complete as of 11/01/19	45.42%

COST

	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$ 267,083,110
Change Orders			
Board Authorized COs	20.78%	\$ 55,500,000	
Other Than Board Authorized COs	4.29%	\$ 11,446,698	
This Change Order No. 36 & 114	4.31%	\$ 11,500,000	
Subtotal of all Change Orders	29.37%	\$ 78,446,698	
<u>Revised Contract Amount</u>			<u>\$ 345,529,808</u>

SCHEDULE

Original Contract Duration	1,800	days
Time Extension to Date		
Time Extension Due to Approved Cos	309	days
Time Extension Due to these CO 36 & 114	0	days
Revised Contract Duration	2,109	days

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

EXECUTIVE DECISION DOCUMENT

ATTACHMENT No 1

SUMMARY REASON FOR THIS CHANGE ORDER(S)

CO 036: Revisions to TBT Gallery Wall Flange Plates

Compensates Contractor for additional costs associated with preparation, fabrication, and installation of revised steel details and existing concrete surface preparation due to installation conflict between existing TBT Utility line and retrofit plates.

CO 114: Impacts from Rule Changes

Compensates Contractor for additional costs associated with providing additional watchpersons and providing new training to Contractor's staff due to the District's change in policies of providing Roadway Worker Protection during construction.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: November 27, 2019

FROM: General Manager

SUBJECT: Quarterly Service Performance Review – First Quarter FY 2020

Attached is the “Quarterly Service Performance Review – First Quarter FY 2020” presentation that will be presented at the December 5, 2019 meeting as an information item.

If you have any questions about the document, please contact Tamar Allen, Assistant General Manager, Operations at (510) 464-7513.



Robert M. Powers

cc: Board Appointed Officers
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Michael</i> 11/26/19		GENERAL MANAGER ACTION REQ'D:			
DATE: 11/21/2019		BOARD INITIATED ITEM: No			
Originator/Prepared by: Amanda Cruz Dept: Gov't & Community Relations	General Counsel <i>W. P. N. A.</i>	Controller/Treasurer <i>Michelle</i>	District Secretary	BARC <i>Val Merritt Per Com Meeting 11.26.19</i>	
Signature/Date: <i>Amanda Cruz</i> 11/26/19	<i>W. P. N. A.</i> 11/26/19 []	<i>Michelle</i> 11/26/19 []	[]	[]	

2020 Federal and State Legislative Advocacy Program

PURPOSE:

To review, discuss, and seek approval of the District's 2020 Federal and State Legislative Advocacy Program.

DISCUSSION:

BART's federal and state advocacy efforts are guided by annual goals adopted by the Board of Directors. The goals reflect BART's legislative priorities and provide guidance for the District's activities in Washington, D.C. and Sacramento. The following summarizes proposed federal and state goals BART plans to actively pursue in 2020.

PROPOSED FEDERAL ADVOCACY GOALS:

Ensure timely execution of a Full Funding Grant Agreement (FFGA) for BART's Transbay Corridor Core Capacity Project (TCCCP) within the Federal Transit Administration's (FTA) Capital Investment Grant (CIG) Program.

BART's TCCCP is eligible to receive a total of \$1.169 billion in CIG Core Capacity funding. This funding represents a 43.2% federal share on CIG-eligible project costs, totaling \$2.7 billion. BART received approval from the FTA for Entry into Engineering in June 2019 and was allocated \$300 million in Fiscal Year (FY) 2018 CIG Core Capacity funds. In 2020, BART will work with Congress and the FTA to secure a FFGA and ensure the timely obligation of CIG funds for the TCCCP.

Support FY 2020 appropriations for all federal surface transportation programs that meet, at a minimum, authorized spending levels within the Fixing America's Surface

Transportation (FAST) Act; advocate for the highest possible levels of funding for individual programs that support BART projects.

With respect to FY 2020 appropriations, BART will work to ensure Transportation, Housing and Urban Development (THUD) appropriations meet, at a minimum, levels authorized within the FAST Act. BART is opposed to the reduction of CIG funding proposed by both House and Senate THUD bills and will advocate for funding levels that can support current and outyear projects advancing through the program pipeline. BART also supports the inclusion of language within appropriations bills that directs the Department of Transportation to execute the CIG program as intended by Congress and prevents the FTA from imposing new criteria on projects seeking a grant agreement.

Pursue available grant funding to enhance BART's quality of life initiatives; Advocate for increased funding for all transit security and safety grant programs.

Transit security and safety remain a top priority for the District. Progress has been made towards a sustained increase in law enforcement presence through a Five-Year Strategic Patrol Staffing Plan and the BART Police have undertaken operations focused on crime prevention, increased visibility, and law enforcement. BART will continue efforts to educate members of Congress of ongoing quality of life initiatives and advocate for increasing funding for all transit security programs. BART may also pursue available grant funding administered by the Department of Homeland Security, Department of Transportation, and Department of Justice.

Advocate for robust transit funding in a federal surface transportation reauthorization bill.

The FAST Act will expire at the end of FY 2020 unless extended. To simply maintain current federal Highway Trust Fund spending levels, Congress will need to identify an additional \$114 billion for a six-year surface transportation reauthorization bill. At the same time, it is crucial that federal transportation programs provide long-term funding stability for projects that take multiple years to plan and construct. BART will work with national and statewide organizations to advocate for new sustainable, user-based revenues to ensure the long-term solvency of the Highway Trust Fund and provide for increased, multi-year direct federal investment.

Monitor the United States Department of Labor (USDOL) actions related to the certification of California transit grants.

In 2019, the Amalgamated Transit Union (ATU) objected to the certification of federal transit grants owed to California agencies by the USDOL. ATU claimed that California's Public Employees' Pension Reform Act (PEPRA) of 2013 precluded transit agencies from continuing the collective bargaining rights of their employees under the federal Urban Mass

Transportation Act of 1964. These objections were rejected by the USDOL in June 2019 through reference to an earlier District Court ruling. The USDOL continues to certify California transit agency grants and has expressed interest in limiting the department's role in the grant certification process in the future. Through participation in the California Transit Association's (CTA) Subcommittee on PEPRAs, BART will monitor future objections to the certification of federal transit grants for California as well as any litigation filed in response to USDOL's certifications. BART may also engage in efforts and strategies to permanently address this issue long-term.

Respond to federal legislation, proposed rule-making, and requests for comments that may impact BART programs or operations.

BART will ensure the District's interests are represented in federal policy making decisions that could have a direct impact on system operations, programs, or projects. This may include engagement with various congressional offices, professional committee staff, federal agencies and industry working groups as necessary.

PROPOSED STATE ADVOCACY GOALS:

Pursue state transit funding through formulaic and competitive grant programs; monitor the budget process to identify new funding opportunities that may support BART's operations or capital investment needs.

BART will pursue various Senate Bill 1 funded grants in the upcoming 2020 program cycle. The grants are administered by the State Department of Transportation and California Transportation Commission and will help finance key components of the TCCCP as well as other District initiatives. BART will seek to gain support for such projects within the Legislature, Administration, and state agencies. BART may also pursue additional grant opportunities administered by the Air Resources Board, Department of Housing and Community Development, Strategic Growth Council, Workforce Development Board, and Office of Emergency Services.

Seek state resources to assist BART in addressing homelessness and related quality of life issues; Support legislative proposals that seek to address the state's homelessness and housing crisis.

The FY 2019-20 State Budget created the Homeless Housing, Assistance and Prevention Program (HHAPP) and provided \$650 million in one-time block grants for local jurisdictions to support regional coordination and expand local capacity to address homelessness. This session, BART, in partnership with CTA, will work with the Legislature and Administration to secure direct funding for transit agency programs that seek to address homelessness and related system impacts. BART will also continue to support legislative efforts to address homelessness through improved regional coordination, data-sharing, and innovative housing

solutions.

Collaborate with key stakeholders seeking authorization to place on the ballot a Bay Area transportation revenue measure; advocate for BART's priority projects and investment needs within any legislative proposal.

For the past several months, BART has been working with Bay Area transit agencies and the proponents of FASTER Bay Area to develop a framework to prioritize projects and investments for a potential transportation mega-measure. The Legislature will need to authorize a regional entity, likely the Metropolitan Transportation Commission, to place a revenue measure on the ballot. Throughout this process, BART will actively participate in discussions with the Bay Area legislative delegation on any proposed expenditure plan to ensure the District's priority projects are included and funded at adequate levels.

Seek broader eligibility for state planning assistance and housing funds; update the Legislature and state entities on the implementation of AB 2923 (Chiu and Grayson, 2018); engage in ongoing policy discussions that look at the transit, housing, and jobs nexus.

The FY 2019-20 State Budget included significant funds to incentivize local governments to jump-start planning and housing production. This included \$500 million for capital improvement projects associated with housing production and \$250 million to support local and regional housing plans. Special districts are currently not eligible recipients for the majority of state housing funds. This session, BART will continue discussions with the Legislature and Administration to broaden funding eligibility to support AB 2923 implementation efforts as well as the District's overall TOD and affordable housing goals. BART may also wish to continue engaging in legislative proposals, such as SB 50 (Wiener), that seek to reduce barriers to higher-density housing near transit.

Educate the Legislature, Administration, and various state departments on BART's efforts to bolster transit security, improve rider safety, and address fare evasion.

Transit security, rider safety, and fare evasion are of top concern to many riders, and these sentiments are often expressed to members of the Bay Area legislative delegation. As BART continues to implement various quality of life initiatives, staff and advocates will seek to provide members of the Legislature with regular updates on the District's progress in these areas, seek input, and discuss potential opportunities in which the state may support such efforts.

Pursue and pass necessary BART-sponsored legislation.

As necessary, BART will seek to introduce and pass sponsored legislation that addresses a specific problem or goal as identified by the Board and/or staff.

Monitor and respond to legislation that directly impacts BART.

BART will ensure that the District's interests are represented in any legislative proposal that could directly impact system operations, projects, or funding. This may include bills introduced in the current session as well as bills that were recently enacted.

FISCAL IMPACT:

Funding to support the Federal and State Advocacy Program is within the Government and Community Relations Department operating budget (Dept 0604366, Account 681300 - Professional and Technical Services). The District's current legislative advocacy agreements are with Schott & Associates (state) and CJ Lake, LLC (federal) through April 2020.

ALTERNATIVES:

The Board could amend, or decline to support the 2020 Federal and State Legislative Advocacy Program.

RECOMMENDATION:

For the Board to approve the following motion.

MOTION:

The Board approves the 2020 Federal and State Legislative Advocacy Program, as presented by staff.

Proposed *FEDERAL* Advocacy Goals

1. Ensure timely execution of a Full Funding Grant Agreement (FFGA) for BART's Transbay Corridor Core Capacity Project within the Capital Investment Grants (CIG) Program.
2. Support FY20 Transportation, Housing and Urban Development (THUD) appropriations that meet, at a minimum, authorized levels within the Fixing America's Surface Transportation (FAST) Act.
3. Pursue available grant funding to enhance BART's quality of life initiatives; support increased funding for all transit security and safety grant programs.
4. Advocate for robust transit funding in a federal surface transportation reauthorization bill.
5. Monitor the United States Department of Labor actions related to the certification of California transit grants.
6. Respond to federal legislation, proposed rule-making, and requests for comments that may impact BART programs or operations.



Proposed STATE Advocacy Goals

1. Pursue state transit funding through formulaic and competitive grant programs; identify new funding opportunities within the annual budget.
2. Seek state resources to assist BART in addressing homelessness and related quality of life issues.
3. Collaborate with key stakeholders seeking authorization to place on the ballot a Bay Area transportation revenue measure; advocate for BART's priority projects and investment needs within any legislative proposal.
4. Seek broader eligibility for state planning assistance and housing funds; continue to engage state entities on the implementation of AB 2923 (Chiu & Grayson, 2018).
5. Educate the Legislature, Administration, and state departments on BART's efforts to bolster transit security, improve rider safety, and address fare evasion.
6. Pursue and pass necessary BART-sponsored legislation.
7. Monitor and respond to legislation that may directly impact BART.





EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 11/27/19		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/22/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Bernadette Lambert Dept: Extensions	General Counsel <i>[Signature]</i> 11/26/19 []	Controller/Treasurer <i>[Signature]</i> 11/26/19 []	District Secretary []	BARC <i>[Signature]</i> for C. Y. 11/26/19 []
Signature/Date: <i>B Lambert</i> 11-22-19				
Status: Routed		Date Created: 11/22/2019		

Authorization to Execute the Operations & Maintenance Agreement for the Silicon Valley BART Extension

PURPOSE:

To authorize the General Manager, or his designee, to execute an Operations & Maintenance ("O&M") Agreement with the Santa Clara Valley Transportation Authority ("VTA") for the Silicon Valley BART Extension.

DISCUSSION:

BART and VTA are currently engaged in a program to extend BART service into Santa Clara County (the "Silicon Valley BART Extension"). In November 2001, the BART and VTA boards of directors authorized the execution of an agreement, referred to herein and elsewhere as the Comprehensive Agreement ("CA"), containing the institutional, project implementation, legal, financial and ongoing operational and maintenance requirements for a proposed 16-mile BART extension project starting from the BART Warm Springs Station and extending south through Milpitas and San Jose to Santa Clara.

Although the originally-proposed project was intended to be constructed in a single phase, due to financial constraints, it was later divided into two phases, and now consists of an initial 10-mile, 2-station Phase I project, for which revenue service is planned to commence in 2020, to be followed by a 6-mile, 4-station Phase II project, which is currently in the design phase. Additionally, while BART and VTA originally anticipated that BART would operate and maintain the entire Silicon Valley BART Extension, in the course of construction

of Phase I, staff at both agencies determined it would be more practical if VTA were to operate and maintain certain elements.

In consideration of the provisions of the CA and the subsequent phasing of the construction work and shared approach toward O&M responsibilities, the O&M Agreement will set forth a detailed expression of general as well as specific rights and responsibilities of both BART and VTA in connection with the operation of the Silicon Valley BART Extension. The O&M Agreement will supersede the O&M and Ongoing Costs/Revenues sections of the Comprehensive Agreement as well as prior agreements of the Parties with respect to the topics addressed in the O&M Agreement; however, the CA and other prior agreements remain in effect for all non-O&M matters.

During the O&M Agreement negotiations, Staff updated the Board of Directors, through board meetings and joint board committee meetings with VTA, on 13 separate occasions on the progress of negotiations and fundamental terms. The following provides a summary of the general intents and the fundamental roles and responsibilities of the Parties in the agreement.

The O&M Agreement will provide for a cooperative relationship between the parties, and neither will have the relationship of contractor to the other. It will address ongoing O&M matters pertaining to the Silicon Valley BART Extension such as operational responsibilities, access and control of areas and facilities, maintenance, ownership of assets, capital improvement, revenue allocation and ongoing cost and funding responsibilities.

- Stations and Revenue Vehicles will be operated and maintained with an identity consistent with the fact that this is a BART extension.
- Each Party will have decision-making authority over its separate O&M activities using its own standards, practices, policies and procedures.
- Each Party will be responsible for controlling the use and access of its respective geographical Area of Control.
- Each Party will be responsible for emergency response, security and policing within its Area of Control.

Figure 1. Roles and Responsibilities General Overview

<u>Area of Control/ Facility/Equipment</u>	<u>Owns</u>	<u>Operates & Maintains</u>	<u>Provides Safety & Security</u>
Station Buildings	VTA	BART	BART
Operating Corridor	VTA	BART	BART
Wayside Support Facilities	VTA	BART	BART

Revenue Vehicles	VTA	BART	BART
Transit Centers (Plazas, Parking, Intermodal areas)	VTA	VTA	VTA
Access Roads	VTA	VTA	VTA
Berryessa Police Zone Facility	VTA	BART	BART
Track Equipment	BART	BART	BART
Operating Software & Licenses	BART	BART	BART
Spare Parts	BART/VTA	BART/VTA	BART/VTA

The O&M Agreement will provide that VTA is responsible for 100% of the costs attributable to the operation of the Silicon Valley BART Extension, including extension operations and maintenance costs and capital costs, a portion of capital costs on BART's core system (that part of the system not in Santa Clara County), and a share of BART's systemwide fixed costs.

With respect to funding sources:

- VTA will receive credit for all net fare revenue from riders that either start or end their trip at a Silicon Valley BART Extension Station, with some exceptions.
- In addition to revenue from fares, VTA must dedicate a revenue stream to BART. In 2008, the voters of Santa Clara County approved Measure B, a VTA-sponsored measure to authorize a 1/8th cent sales and use tax and the revenues from such tax ("Measure B Revenues") will be the initial dedicated revenues for use towards VTA's obligations under the O&M Agreement.
- Additionally, subject to conditions, VTA may use the Silicon Valley BART Extension right of way and facilities to generate ancillary revenues, which it will receive directly and could use toward costs.

In the event that identified fund sources are insufficient in a year to cover all of VTA's costs for that year, VTA will remain contractually obligated to make up the difference with other funds.

In order to provide for BART's timely receipt of funds, BART will be entitled to receipt of a subsidy payment which is anticipated, at least initially, to be transferred to BART on a monthly basis. In addition, prior to the revenue service date, VTA will fund a subsidy assurance account in the amount of \$34.5 million in FY20 dollars for BART to hold in reserve and will deposit with a trustee an equivalent to one month of the subsidy amount and

also will fund a reserve account to be held by a trustee in the amount of \$18.5 million in FY20 dollars. The general flow of funds is as follows:

1. **Trustee:** Trustee will receive Measure B funds and retain trustee's costs;
2. **Subsidy:** Trustee will transfer a calculated subsidy amount to BART;
3. **Subsidy Shortfall:** Trustee will transfer to BART the difference between the calculated subsidy amount and the annual O&M budget;
4. **Subsidy Assurance:** Trustee will transfer to BART amounts sufficient to maintain a reserve equal to the subsidy;
5. **Reserve:** Trustee will hold a reserve amount for BART to draw upon for additional O&M and capital expenses; and
6. **Residual:** Trustee will transfer remaining funds to VTA to hold in a residual account.

In addition to executing the O&M Agreement, the Parties will enter into a trust agreement with a trustee which will provide for the dedication of Measure B Revenues to BART and will contain mechanisms and terms related to the receipt, flow and allocation of Measure B Revenues. BART and VTA will also execute an amendment to the "TDA Pledge and Assignment Agreement" that they entered into effective as of July 1, 2002, which amendment will provide for a suspension of BART's lien on TDA funds created by that agreement while the Measure B Revenues are available.

Other terms include:

- **Regulatory Reporting:** Each party will be responsible for meeting its own regulatory reporting requirements according to its responsibilities.
- **Public Communications** – Each party will take the lead in providing information to the Public related to its area of responsibility.
- **Implementation and Amendment:** General Managers will have authority to enter into implementing agreements and administrative amendments.

At this time, staff at BART and VTA have successfully negotiated terms for the O&M Agreement related to the general intents and fundamental roles and responsibilities of the Parties.

FISCAL IMPACT:

The O&M Agreement will provide that all of BART's costs attributable to the operation of the Silicon Valley BART Extension are the responsibility of VTA.

ALTERNATIVES:

The BART Board of Directors could choose not to authorize the General Manager to execute an O&M Agreement with VTA. Not having an executed O&M Agreement in

advance of the revenue service date would lead to uncertainty as to how the Silicon Valley BART Extension would be operated and maintained and could increase the risk of a delay in the start of service on the Silicon Valley BART Extension. In addition, if BART were to operate the Silicon Valley BART Extension without a full operations and maintenance agreement in effect, it could lead to a delay or uncertainty in BART receiving reimbursement for its costs in connection therewith.

RECOMMENDATION:

Staff recommends that the Board adopt the following motion:

MOTION:

The BART Board of Directors hereby authorizes the General Manager or his designee to execute an Operations and Maintenance Agreement between BART and VTA for the Silicon Valley BART Extension.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

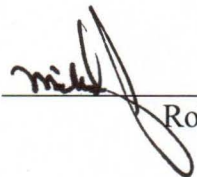
DATE: November 27, 2019

FROM: General Manager

SUBJECT: PPAAL Agenda: BART-VTA Phase 1 Extension - For Information

At the Board of Directors meeting on December 5, 2019, the Silicon Valley BART Extension Phase I, will be presented for information.

If you have any questions, please contact Carl Holmes at (510) 464-7592.

 For

Robert Powers

cc: Board Appointed Officers
Deputy General Manager
Executive Staff