

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

BOARD MEETING AGENDA

January 9, 2020

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, January 9, 2020, in the BART Board Room, 2040 Webster 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>); at [bart.legistar.com](http://bart.legistar.com); and via email ([https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic\\_id=CATRANBART1904](https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART1904)) 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](http://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](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.

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. Approval of Minutes of the Meetings of December 5, 2019 and December 19, 2019.\* Board requested to authorize.
- B. 2020 Organization of Committees and Special Appointments.\* Board requested to ratify.
- C. BART Accessibility Task Force (BATF) Membership Appointment.\* Board requested to authorize.
- D. Award of Invitation for Bid No. 9067A, Automated External Defibrillator (AED) Devices.\* Board requested to authorize.
- E. Fiscal Year 2020 First Quarter Financial Report.\* 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. ADMINISTRATION ITEMS

Director Simon, Chairperson

- A. Award of Digital Railway's Master Program License Agreement (MPLA), with Mobilitie Services, LLC.\* Board requested to authorize.

5. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

- A. Fiscal Year 2019 Quality of Life Reserve Expenditure Plan.\* Board requested to authorize.
- B. Award of Contract No. 15EI-181, Willow Pass Road High Voltage Substation (CWS) Transformer Replacement Project.\* Board requested to authorize.
- C. Award of Contract No. 15II-120A, Station Emergency Lighting.\* Board requested to authorize.

- D. Award of Contracts for Communications Based Train Control.\*
- Contract No. 49GH-110, Communications Based Train Control.
  - Contract No. 49GH-120, Train Control Performance Support Services.

Board requested to authorize.

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

Director Raburn, Chairperson

- A. Memorandum of Understanding for Transit Oriented Development at Ashby and North Berkeley Stations.\* Board requested to authorize.
- B. Update on El Cerrito Plaza Transit Oriented Development.\*  
For information.
- C. Update on BART and Valley Transportation Authority Phase I.\*  
For information.

7. GENERAL MANAGER'S REPORT

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

8. BOARD MATTERS

- A. Amendment to Consent Calendar Guidelines.\*  
(President Simon's request) Board requested to adopt.
- B. 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.)
- C. 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.)
- D. In Memoriam.  
(An opportunity for Board members to introduce individuals to be commemorated.)

9. PUBLIC COMMENT

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

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

Board of Directors  
Minutes of the 1,853rd Meeting  
December 5, 2019

A regular meeting of the Board of Directors was held on December 5, 2019, convening at 9:01 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

Present: Directors Ames, Foley, Li, McPartland, Raburn and Dufty.

Absent: Director Saltzman. Directors Allen and Simon entered the Meeting later.

Consent Calendar items brought before the Board were:

1. Metropolitan Transportation Commission (MTC) Exchange Account Withdrawal for Expansion Rail Cars Procurement.
2. Resolution Fixing the Non California Public Retirement System (CalPERS) Medical Plan Structure and Rates for Calendar Year 2020.
3. Agreement between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support.
4. Award of Invitation for Bid No. 9068, 750 kmil Direct Current (DC) Power Cables.
5. Award of Invitation for Bid No. 9076, Bearing Assembly, Truck Journal.
6. Expansion of National Association of State Procurement Officials Value Point Purchase Program for Parts and Supplies.

Director Raburn made the following motions as a unit. Director McPartland seconded the motions, which carried by unanimous electronic vote. Ayes: 6 – Directors Ames, Foley, Li, McPartland, Raburn, and Dufty. Noes: 0. Absent: 3 – Directors Allen, Saltzman, and Simon.

1. That the withdrawal of up to \$18,000,000.00 from the BART Car Replacement Funding Exchange Account to fund the purchase of railcars under the Transbay Corridor Core Capacity Project, be formally approved.
2. That Resolution No. 5430, In the Matter of the Non-CalPERS Medical Plan Plan Structure and Rates For Calendar Year 2020, be adopted.
3. That the General Manager be 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.

4. That the General Manager be authorized to award Invitation for Bid No. 9068, for 750 kmil 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 Procedures and the Federal Transit Administration's (FTA) requirements related to protests.
5. That the General Manager be authorized to award Invitation for Bid 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 Procedures.

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

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

Consent Calendar report brought before the Board was:

1. Independent Auditor's Reports on the Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2019.

President Dufty called for Public Comment. No comments were received.

Director Allen entered the Meeting.

Director Simon entered the Meeting.

President Dufty brought the matter of Independent Police Auditor's Report before the Board. Mr. Russell Bloom, Independent Police Auditor, presented the report.

Mr. Bloom introduced Ms. Gia Irlando, Board Member for the National Association for Civilian Oversight of Law Enforcement (NACOLE).

Director Ames requested information on de-escalation training for police officers.

President Dufty asked how training is provided to police officers and about assessments for the additional training.

Director McPartland welcomed Ms. Irlando and asked for clarification of education efforts. Ms. Irlando responded to Director McPartland's question.

President Dufty commented on developing a plan to approach young people as part of an outreach program and on Board Members' involvement in outreach efforts.

Director Raburn expressed support for the awareness survey and appreciation for Mr. Bloom's leadership within NACOLE. He also commented on the NACOLE meeting held at BART and asked Ms. Irlando to discuss mediation practices in Denver, CO. Ms. Irlando responded to Director Raburn's request. Director Raburn expressed appreciation for Ms. Irlando's work with bridging the gap between cops and kids, and he commented on BART Police Department's bake sale fundraiser for the Shop with a Cop program.

Director Simon, Chairperson of the Administration Committee, had no report.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Award of Contract No. 54RR-270, Richmond Yard Fire Protection, before the Board. Mr. Samuel Hoffman, Principal Mechanical Engineer, Maintenance and Engineering, presented the item.

Director McPartland moved that the General Manager be 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 Procedures. Director Raburn seconded the motion and commented on the Minority Business Enterprise (MBE) and Disadvantaged Business Enterprise (DBE) percentages received on the contract. The motion brought by Director McPartland and seconded by Director Raburn carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes – 0. Absent – 1: Director Saltzman.

Director Foley brought the matter of Change Orders to Contract No. 09AU-120, BART Earthquake Safety Program Transbay Tube (TBT) Internal Retrofit before the Board. Mr. Zecharias Amare, Group Manager Capital Projects; Mr. Carl Holmes, Assistant General Manager, Design and Construction; and Ms. Tamar Allen, Assistant General Manager, Operations, presented the item.

Director Raburn asked whether the item had been presented to the Earthquake Safety Program Citizens' Oversight Committee.

Director Allen asked for additional information regarding the \$8,000,000.00 cost increase and for clarification of the original contract requirements.

Director McPartland commented on the justification for the Change Order No. 114 Part 01: Impacts from Rule Changes to Contract No. 09AU-120.

John Arantes addressed the Board.

Director Foley asked whether the work has previously been performed by District staff and about the duration of the expected need for this next phase of the project.

Director McPartland commented on the regulations that gave rise to Change Order No. 114 Part 01 and Ms. Tamar Allen clarified Director McPartland's comments.

Sal Cruz addressed the Board.

Director Simon expressed that she would like staff to discuss changes with union leaders prior to public meetings and include information about these discussions in Board presentations.

Sal Cruz addressed the Board.

John Arantes addressed the Board.

Ms. Tamar Allen offered additional comments.

Director McPartland asked whether the Change Order No. 114 Part 01 needed to be approved immediately and whether the staff can respond to the union leaders' concerns after approving the Change Order.

Sal Cruz addressed the Board.

John Arantes addressed the Board.

Director McPartland moved that the General Manager be 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. Director Allen seconded the motion.

Director Raburn clarified that the funding source for this project is the Earthquake Safety Bond from 2004. He also commented that there is an oversight body for the Earthquake Safety Bond and that the funds will be spent before the project is completed. Director Raburn expressed that the project requires close scrutiny and that his vote in support of the motion is contingent upon ensuring ongoing outreach to the Earthquake Safety Program Citizens' Oversight Committee and labor units.

President Dufty supported Director Raburn's comment.

Director Ames expressed concern regarding transparency and requested more detailed information about Change Orders.

Director Foley suggested that union locals should be provided with opportunities to ask questions and resolve issues and he requested that staff continue lines of communication.

The motion brought by Director McPartland and seconded by Director Allen carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes – 0. Absent – 1: Director Saltzman.

Director Foley brought the matter of Quarterly Service Performance Review – First Quarter Fiscal Year 2020 before the Board. Ms. Tamar Allen and Interim Chief of Police Ed Alvarez presented the item.

Director Simon asked questions about whether organized groups committed the thefts of mobile devices, how police officers are stationed at the end of the line, and the process for calling for police service.

Director Li asked a question regarding insurance liability for bicycle thefts from BikeLink® lockers or rooms and she commented on a rider's experience with obtaining reimbursement from BikeLink for a stolen bicycle.

Director Raburn commented on the train delay data, the wayside train control system data, automatic fare collection (AFC) gate changes, the fencing surrounding the elevator at 12<sup>th</sup> Street Oakland City Center Station, the additional data regarding homelessness and customer comments related to train cleanliness, and asked for clarification of the data regarding employee injuries on trains.

President Dufty commented on train checks and the availability of social services in local cities and counties and asked staff to discuss the BART Police Department's activities at the Embarcadero and downtown stations and the number of BART Police Officers who participate in issuing a single citation for fare evasion.

Director Simon commented on a video depicting an indigent homeless man, six police officers, and three inspectors.

President Dufty shared a BART employee's recent experience in a station, and suggested he, Director Li, Director Simon, Chief Alvarez, and Ms. Tamar Allen meet with the new District Attorney for the City and County of San Francisco, Mr. Chesa Boudin, to discuss Mr. Boudin's philosophy and BART's challenges. President Dufty also shared that he would be attending an Alameda County Board of Supervisors hearing to discuss the Civil Grand Jury Report and available resources for BART. President Dufty asked for clarification of BART Police Officer retirements.

Director Ames asked questions regarding police actions, the number of police officers who would respond to a "police action," the time of day when calls for service are received, automobile burglaries at the Hayward and South Hayward stations, and how cities are involved in addressing burglaries. Director Ames shared the experience of a bicycle theft victim.

Director Allen commented on the train delay data, the status of recently hired BART Police Officers, and riders' desire for an increase in police presence throughout the BART system.

Director McPartland asked clarifying questions regarding the size of the BART police force; the required number of train rides for each BART Police Officer; and the arrest of the suspect who committed automobile burglaries on the A-Line.



Director Foley requested that reports include information about proactive changes to achieve goals in the next quarter and commented on reduced weekend fare and efforts to encourage ridership on evenings and weekends.

President Dufty commented on the relationship between safety and increased ridership.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of 2020 Federal and State Advocacy Program before the Board, and recognized Ms. Emily Bacque DaSilva with CJ Lake, LLC. Ms. Amanda Cruz, Manager of Government Relations and Legislative Affairs; Mr. Roddrick Lee, Assistant General Manager, External Affairs; and Mr. Robert Powers, General Manager, presented the item.

Ms. Bacque presented information about federal legislative activities and BART's meetings with legislators and the Federal Transit Administration.

Director Li asked clarifying questions about discretionary grant programs that operate under a continuing resolution and funding for Better Utilizing Investment to Leverage Development (BUILD) grant cycles.

Director Ames asked questions about funding for the Core Capacity grant, the strategy to secure the funding, the deadline for BART to receive the funding, and surface transportation funds. Director Ames requested an analysis of climate-change related improvements that will be addressed by both administrations and commented on climate change.

President Dufty commented on his meetings with legislators regarding the second rail crossing, thanked Mr. Powers for his contributions during the meetings, and recognized CJ Lake, LLC and Ms. Bacque for their work.

Director Raburn expressed support for Ms. Bacque's approach and commented on revisions to the Americans with Disabilities Act (ADA) regarding service animal parameters.

Ms. Cruz presented the District's proposed federal and state advocacy goals.

Director Ames asked clarifying questions regarding the programs for which funding would be pursued and the staffing levels that would be requested for these programs. Director Ames asked for clarification of the Critical Asset Patrol (CAP) team and the availability of funding for the CAP team. Director Ames expressed a desire to identify funding for a more robust package and asked for clarification of the funding source for station hardening and faregates.

Director Li presented an amendment to the prepared motion to add additional language to the second state advocacy goal to support BART's discount fare program, indicating that the discount for the regional means-based program should increase to 50% and BART should obtain funding from state and regional agencies. She also noted that BART should develop discounted fare programs to encourage ridership and ensure that the system is affordable for those who depend on public transportation, and that state legislators should provide additional assistance with various issues.

Director Li moved that the 2020 Federal and State Legislative Advocacy Program as presented by staff, with the addition of enhanced discount fare programs after the second state advocacy goal, be approved. Director Simon seconded the amended motion.

Director Allen commented on the proposed advocacy for planning funds, the amended motion, subsidizing discounts, subsidizing the cost of projects, and fare prices.

Director Raburn commented on Assembly Bill (AB) 2923 implementation and Assemblymember Chiu's assistance with obtaining funding from the Metropolitan Transportation Commission (MTC); the District's obligations and his discussion with the former Mayor of Berkeley regarding Ashby Station; the allocation of funding for special districts; support for item number four of the proposed state advocacy goals; the California Integrated Travel Project; the FASTER Bay Area Act and BART's Safe Routes to BART Program; funding faregates and affordable housing; his experience at the ribbon-cutting event for the development at Millbrae Station; homelessness and providing jobs for homeless individuals; interest in reviewing the bills that BART will sponsor and monitor; adding Santa Clara County to the prohibition order language; and support for Director Li's comments and the amended motion.

The amended motion brought by Director Li and seconded by Director Simon carried by electronic vote. Ayes – 7: Directors Ames, Foley, Li, McPartland, Raburn, Simon, and Duffy. Noes – 1: Director Allen. Absent – 1: Director Saltzman.

Director Raburn brought the matter of BART and Valley Transportation Authority Operations & Maintenance Agreement before the Board. Mr. Carl Holmes, Ms. Bernadette Lambert, Project Manager, Extensions, and Ms. Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item.

The Board applauded staff members who had worked on the Operations & Maintenance Agreement.

Mr. Holmes and Ms. Lambert continued the presentation.

Director Ames commented on the station platform size and requested that staff provide information about ridership issues, including the size of the platform at Diridon Station.

Director Ames moved that the General Manager or his designee be hereby authorized to execute an Operations and Maintenance Agreement between BART and the Santa Clara Valley Transportation Authority (VTA) for the Silicon Valley BART Extension. Director Raburn seconded the motion.

Director Allen asked clarifying questions regarding the cost reimbursement agreement for the Extension, the allocation of fare revenue, operating costs, direct costs, indirect costs, reimbursement for the core system, and the cost recovery formula outlined in the Operations and Maintenance Agreement.

Director McPartland exited the Meeting.

Director Allen asked for clarification of the projected estimate of the costs in the coming year attributed to stations located North of Santa Clara County and commented on the five-year assessment included in the Operations and Maintenance Agreement, the San Francisco International Airport extension, equity, and the previously proposed extension to Livermore.

Director Raburn commented on scheduling an additional BART-VTA joint meeting, the five-year reassessment provision included in the Operations and Maintenance Agreement, and BART staff's involvement in developing the Agreement.

Director Foley asked clarifying questions regarding the stations included in the Agreement and loss of revenue.

Director Ames acknowledged the comments regarding operational and capital costs and expressed support for an additional BART-VTA joint meeting. Director Ames commented on payment and ridership issues, noted that BART will have ongoing dialogue with the VTA and political leaders, and suggested that impacts to the system be measured.

The motion brought by Director Ames and seconded by Director Raburn carried by electronic vote. Ayes – 5: Directors Ames, Li, Raburn, Simon, and Dufty. Noes – 2: Directors Allen and Foley. Absent – 2: Directors McPartland and Saltzman.

Director Raburn brought the matter of Update on Silicon Valley BART Extension, Phase 1 before the Board. Mr. Holmes presented the item.

President Dufty called for the General Manager's Report. Mr. Powers reported on his Listening Tour sessions at the San Francisco International Airport, Millbrae, El Cerrito Del Norte, and Embarcadero stations, upcoming Listening Tour sessions at Fruitvale and West Oakland stations, the ground-breaking event at Millbrae Station, and BART's partnership with The Salvation Army for the seasonal Red Kettle Campaign. Mr. Powers commented on ridership data for November 2019; weekend and evening ridership data for the year; Clipper® card utilization for November 2019; active Roll Call for Introductions (RCI) requests; and BART Police Officer and Community Service Officer staffing.

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

Director Foley reported that he had attended the Sun Terrace Neighborhood Group meeting.

Director Ames reported that she had attended the California Transportation Commission meeting.

Director Raburn reported that he had attended Mr. Mike Healy's presentation about the history of BART to the Oakland Heritage Alliance and the Millbrae Station ground-breaking event.

Director McPartland re-entered the Meeting.

Director Li reported on her experience with public transit in Hong Kong.

Director Li requested a presentation from BART staff in early 2020 regarding “quality of life” citations and contacts. Information should include the total number, location, and times of all types of citations that are considered as quality-of-life violations, as well as, available demographics of the persons cited. Violations should include, but not be limited to, the individual violations under California Penal Code Part 1, Title 15, Chapter 2, Section 640. The purpose of this presentation should be to provide a data-driven account for the way BART resources, particularly law enforcement, are deployed and the benefits to our ridership and system safety. President Dufty seconded the request.

Director Allen commented on a *San Francisco Examiner* article and citation data.

Director Simon reported on her lobbying experience in Washington, D.C. with a delegation of members of the BART Board and staff. Director Simon commented on the research conducted by the Alliance for Girls and an upcoming Town Hall meeting for the Alliance for Girls to provide recommendations and commended BART staff for their interaction with the Alliance for Girls.

Director McPartland reported that he had attended a table top exercise at Embarcadero Station and recognized San Francisco Fire Department Battalion Chief Charles (Charlie) Crane; and he had attended the Millbrae Station ground-breaking event and acknowledged former BART Board Director Joel Keller’s attendance at the event.

President Dufty requested the Meeting be adjourned in honor of Harry Overstreet, the owner and founder of Gerson/Overstreet Architects.

President Dufty requested that his fellow Directors donate to the Holiday Toy Drive and he noted that the Board would be presenting the gifts to Mission Neighborhood Centers, Inc. President Dufty recognized Ms. Molly Burke, Principal Government and Community Relations Representative, and Mr. Richard Fuentes, Manager of Special Projects, Grant Development, for their assistance with BART toy drives. President Dufty commented on the story about The Salvation Army that was reported in *The Bay Area Reporter*; the Lesbian, Gay, Bisexual, Transgender, Queer or Questioning (LGBTQ) community; and services for those in need. President Dufty gave remarks about leadership growth within BART, various projects, and his experience as President of the Board of Directors. President Dufty recognized Director McPartland for his military service.

President Dufty called for Public Comment.

Jerry Grace addressed the Board.

The Meeting was adjourned at 12:38 p.m.

Patricia K. Williams  
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 1,854th Meeting  
December 19, 2019

A regular meeting of the Board of Directors was held on December 19, 2019, convening at 9:09 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

Present: Directors Ames, Foley, McPartland, Raburn, Saltzman, Simon, and Dufty.

Absent: Director Allen. Director Li entered the Meeting later.

President Dufty recognized Director McPartland for his military service.

Director Li entered the Meeting.

President Dufty called for Introduction of Special Guests. President Dufty and Director Ames introduced Sophia Humphrey. President Dufty and Director Ames recognized Ms. Humphrey for her act of selflessness in assisting Mr. Oliver Williams after he was attacked. Ms. Humphrey addressed the Board. President Dufty presented Ms. Humphries with a Certificate of Recognition and Director Ames thanked BART staff and the BART and Hayward Police Departments for their assistance with apprehending the suspect who fatally stabbed Mr. Oliver Williams. President Dufty commented on the Alameda County Board of Supervisors' plan to convene a mental health summit in the spring of 2020. He also noted that BART would participate in the Homeless Services Coordinating Council in Alameda County.

Mr. Michael Jones, Deputy General Manager, introduced Michael C. Healy, retired BART spokesman. Mr. Healy recognized Ms. Humphrey and addressed the Board.

President Dufty thanked and recognized BART Office of External Affairs staff, Ms. Maisha Everhart, Manager of Local Government and Community Relations, and Ms. Molly Burke, Principal Government and Community Relations Representative, and Mr. Carl Holmes, Assistant General Manager, Design and Construction, for their assistance with the 2019 Holiday Toy Drive. President Dufty introduced the following representatives from Mission Neighborhood Centers, Inc. (MNC), the 2019 Holiday Toy Drive recipient: Edward (Teddie) Honey, Site Coordinator for the Precita Valley Community Center; Gloria Dominguez, Mission Girls Site Coordinator; and Rafael Moreno, Family Resource Center Manager. Mr. Honey, Ms. Dominguez, and Mr. Moreno addressed and thanked the Board. President Dufty recognized Police Lieutenant Ja'Son Scott, for his assistance with the 2019 Holiday Toy Drive.

Consent Calendar item brought before the Board was:

1. Approval of Minutes of the Meeting of November 21, 2019.

Director Foley moved that the Minutes of the Meeting of November 21, 2019 be approved. Director McPartland seconded the motion, which carried by unanimous electronic vote. Ayes: 7 – Directors Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes: 0. Abstain: 1 – Director Saltzman. Absent: 1 – Director Allen.

President Dufty called for Public Comment.

Suzanne Gamble addressed the Board.

Director Simon, Chairperson of the Administration Committee, had no report.

Director Foley, Chairperson of the Engineering and Operations Committee, had no report.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, had no report.

President Dufty called for the General Manager's Report. Mr. Robert Powers, General Manager, introduced Mr. Maceo Wiggins, Director of the Office of Civil Rights. Mr. Wiggins recognized the Small Business Support Services Team, Ms. Anna Duckworth, Communications Officer, and Mr. Javiree PruittHill, Senior Administrative Analyst, Office of Civil Rights, for their assistance with creating an informational video that encourages small businesses to compete for work related to the new BART headquarters. The video was played.

Mr. Powers reported on his Listening Tour sessions at the Walnut Creek, 16th St. Mission, Fruitvale, and West Oakland stations. He reported that the BART website will include information derived from the Listening Tour. He also reported that he spoke at the Women's Transportation Seminar (WTS) International event, and he reminded the Board of the upcoming Board Workshop in February.

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

President Dufty reported that he had attended the Alameda County Board of Supervisors meeting with Directors Raburn, Ames, and McPartland.

Director Simon reported that she had attended a meeting with the Alliance for Girls and BART staff at the Betti Ono gallery. Director Simon also recognized and thanked Ms. Alicia Trost, Chief Communications Officer, for connecting with the Alliance for Girls.

Director Ames thanked Ms. Nicole Franklin, Principal Property Development Officer, Systems Development, for her assistance with her discussion with the City of Fremont regarding the build-out of Warm Springs/South Fremont Station. She also reported on her meetings with the City of Fremont and realty experts. Director Ames reported that she had attended the Shop with a Cop event with Lt. Scott and Interim Chief of Police Ed Alvarez at Walmart in San Leandro and thanked BART staff for their work with the community.

Director Raburn reported that he had attended an open house event at WSP's new offices in Oakland; the Alameda County Building and Construction Trades Council's 45<sup>th</sup> Annual Holiday

Luncheon; the Conference of Minority Transportation Officials (COMTO) celebration and scholarship awards event; the Alameda County Board of Supervisors meeting; and the 56<sup>th</sup> Annual Holiday Moose Feed event sponsored by the Northern California Carpenters Regional Council and the San Francisco Building and Construction Trades Council. Director Raburn thanked BART Police Officers and Community Service Officers for their fundraising efforts for the Shop with a Cop event.

Director Li reported that over the past year, she has toured different facilities with John Arantes, President of the BART Chapter of the Service Employees International Union (SEIU); participated in a fire drill in the Transbay Tube with Director McPartland; and met with Police Sergeant Rick Martinez, Master Police Officer Keith Garcia, and Mr. Jones to observe the 5:00 a.m. fare enforcement operation at Embarcadero Station. She noted that she met great Fare Inspection Officers, namely Carlos, Jen, and Michael. Director Li also recognized Mr. Cecil Mc Griff, Station Agent, and thanked Ms. Humphrey.

Director Saltzman commented on the Memorandum of Understanding for housing development at the North Berkeley and Ashby stations that was unanimously passed by the Berkeley City Council and thanked Director Simon for her assistance.

Director McPartland reported that he had attended the Alameda County Board of Supervisors meeting; the 56<sup>th</sup> Annual Holiday Moose Feed event; Congressman Eric Swalwell's Military Academy Panel; and the BART Police Citizen Review Board meeting.

Director Foley reported that he had attended the Holiday Open House event for Senator Steve Glazer. Director Foley thanked BART staff and the meeting attendees.

President Dufty requested the Meeting be adjourned in honor of Patrick "Butch" Hallinan, civil rights and criminal defense attorney in San Francisco.

President Dufty expressed thanks to BART leadership and stakeholders over the past year, recognizing Ms. Alicia Trost, Mr. James (Jim) Allison, Mr. Christopher (Chris) Filippi, Ms. Anna Duckworth, Ms. Cheryl Stalter, Ms. Melissa Jordan, Ms. Melissa Miller, Mr. Seung Lee, Ms. Anita Lau-Hung, Ms. Patricia Williams, Ms. Jacqueline (Jackie) Edwards, Ms. April Quintanilla, Mr. Benny Mart, Ms. Jessica Abrego, Ms. Magdalene (Mag) Tatum, and Ms. Sheryel Davis.

President Dufty brought the matter of Election of Officers before the Board and opened the floor for nominations for President. Vice President Saltzman nominated Director Simon for President of the Board of Directors. Vice President Saltzman and President Dufty offered comments regarding Director Simon's leadership and experience. Nominations were closed. Director Saltzman moved that Director Simon be elected Board President for 2020. Director Li seconded the motion, which carried by unanimous electronic vote. Ayes: 8 – Directors Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes: 0. Absent: 1 – Director Allen.

President Simon shared comments about BART staff, the Board of Directors, partnerships with local governments, and the upcoming year.

President Simon opened the floor for nominations for Vice President. Director McPartland nominated Director Foley for Vice President of the Board of Directors. Nominations were closed.

Director McPartland commented on an experience he shared with Director Foley. Director McPartland moved that Director Foley be elected Board Vice President for 2020. Director Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes: 8 – Directors Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes: 0. Absent: 1 – Director Allen.

Vice President Foley shared comments about the upcoming year, associated himself with President Simon's comments, and thanked the Board of Directors.

President Simon thanked Director Dufty for his leadership and presented him with a commemorative plaque.

President Simon called for Public Comment. No comments were received.

The Meeting was adjourned at 10:23 a.m.

Patricia K. Williams  
District Secretary



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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MEMORANDUM

**TO:** Board of Directors

**DATE:** January 3, 2020

**FROM:** District Secretary

**SUBJECT:** 2020 Organization of Committees and Special Appointments

Board Rule 3-3.2 requires the ratification by a majority vote of all members of the Board any appointment of any Committee member by the Board President. The Rule includes a provision that such appointments shall be submitted directly to the Board.

In accordance with Board Rule 3-3.2, President Simon is bringing the 2020 Organization of Committees and Special Appointments before the Board of Directors for ratification at the Regular Board Meeting on January 9, 2020.

Should you have any questions, please contact President Simon or me at your convenience.



Patricia K. Williams

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**MOTION:**

That the Board of Directors ratifies the 2020 Organization of Committees and Special Appointments.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS**

**STANDING COMMITTEES**

**ADMINISTRATION\*\***

John McPartland, Chairperson  
Janice Li, Vice Chairperson  
Debora Allen

**ENGINEERING AND OPERATIONS\*\***

Bevan Dufty, Chairperson  
Robert Raburn, Vice Chairperson  
Liz Ames

**PLANNING, PUBLIC AFFAIRS, ACCESS AND LEGISLATION\*\***

Rebecca Saltzman, Chairperson  
Debora Allen, Vice Chairperson  
Robert Raburn

**SPECIAL COMMITTEES**

**LABOR NEGOTIATIONS REVIEW SPECIAL COMMITTEE\*\***

Mark Foley, Chairperson                      Janice Li, Vice Chairperson                      Rebecca Saltzman

**PERSONNEL REVIEW SPECIAL COMMITTEE\*\***

Bevan Dufty, Chairperson                      Lateefah Simon, Vice Chairperson                      John McPartland

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY PARTNERSHIP SPECIAL COMMITTEE\*\***

Debora Allen                      Liz Ames                      Bevan Dufty                      Robert Raburn

**SPECIAL APPOINTMENTS – LIAISON**

**CONTRA COSTA TRANSPORTATION AUTHORITY\*\* LIAISON**

Debora Allen, Primary                      Mark Foley, Alternate

**PARATRANSIT SERVICE REVIEW ADVISORY COMMITTEES LIAISON**

Robert Raburn                      Lateefah Simon

**SAN FRANCISCO TRANSPORTATION AUTHORITY\*\* LIAISON**

Janice Li, Primary                      Bevan Dufty, Alternate

\*\* Brown Act Committee, subject to public meeting requirements.

NOTE: BART Directors discharging liaison functions do not serve as members of either a committee of BART or the other organization, nor as members of a joint committee. Any action on behalf of BART must be taken by the full Board.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
ORGANIZATION OF COMMITTEES AND SPECIAL APPOINTMENTS**

**SPECIAL APPOINTMENTS – EXTERNAL**

**ALAMEDA COUNTY TRANSPORTATION COMMISSION \*\***

Rebecca Saltzman, Primary                      Robert Raburn, Alternate

**ALTERNATE REPRESENTATIVE TO THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION BOARD OF DIRECTORS**

Bevan Dufty

**BART AND AC TRANSIT COORDINATING COMMITTEE \*\***

Robert Raburn (Co-Chair)                      Liz Ames    Rebecca Saltzman

**CAPITOL CORRIDOR JOINT POWERS BOARD\*\*\***

Debora Allen, Contra Costa County    John McPartland, Alameda County  
Bevan Dufty, San Francisco County    Robert Raburn, Alameda County  
Janice Li, San Francisco County    Rebecca Saltzman, Contra Costa County  
Liz Ames, Alameda County Alternate

**DIRIDON STATION AREA JOINT POLICY ADVISORY BOARD (City of San Jose)\*\*\***

Robert Raburn

**OVERSIGHT BOARD TO SUCCESSOR AGENCY OF SAN FRANCISCO REDEVELOPMENT AGENCY\*\*\***

Vacant

**PLEASANT HILL BART STATION LEASING AUTHORITY BOARD OF DIRECTORS\*\*\***

Debora Allen    Mark Foley

**SOUTH HAYWARD BART STATION ACCESS AUTHORITY\*\***

Liz Ames    John McPartland    Robert Raburn, Alternate

**TRI-VALLEY – SAN JOAQUIN REGIONAL RAIL AUTHORITY\*\*\***

John McPartland

**WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE (WCCTAC)\*\***

Debora Allen, Primary    Lateefah Simon, Alternate

\*\* Brown Act Committee, subject to public meeting requirements.

\*\*\* Brown Act Board, subject to public meeting requirements.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>mill</i> 1/2/20		GENERAL MANAGER ACTION REQ'D: Robert Powers			
DATE: 12/2/2019		BOARD INITIATED ITEM: Yes			
Originator/Prepared by: Elena Van Loo Dept: Customer Access & Accessibility	General Counsel <i>WBP</i>	Controller/Treasurer <i>Chui Gao</i>	District Secretary	BARC	
Signature/Date: <i>Elena Van Loo</i> 12/27/19	<i>WBP</i> 12/30/19 [ ]	<i>Chui Gao</i> 12/27/19 [ ]		<i>WBP</i> 12/27/19 [ ]	

### BART Accessibility Task Force Membership Appointment

#### PURPOSE:

Request the BART Board of Directors to appoint a nominated candidate, Marjorie McWee, to the BART Accessibility Task Force (BATF).

#### DISCUSSION:

The BATF has been in existence since 1975 to advise the BART Board and BART staff on accessibility issues at BART. The BATF by-laws provide for the committee to be composed of up to eighteen members who live or work in the BART service area. The BATF by-laws also state that to become a member of the committee an interested candidate is endorsed by the members of the BATF through a majority vote, then the appointment to the BATF is submitted to the BART Board of Directors.

#### Candidate for BATF membership:

- Marjorie McWee, a candidate for membership to the BATF, was endorsed by a majority of votes by the members of the BATF that were present at the November 13, 2019 BATF meeting.

This BATF membership recommendation is being submitted to the BART Board for consideration. The prospective candidate, if approved by the BART Board, will officially be seated as a member of the BATF on January 23, 2020 for a term of one year, or until the BART Board announces appointments and/or re-appointments for a new term, whichever occurs later. If approved, the BATF will be comprised of sixteen (16) members.

**FISCAL IMPACT:**

Members receive a \$15 monthly stipend for travel to attend regularly scheduled monthly committee meetings. Additionally, members are eligible to be reimbursed for the actual cost of travel for additional pre-approved meetings.

Funds will be budgeted in the Customer Access Department operating budget (Dept. 1102491, Account 681500-Other-Non-Professional Services) in Fiscal Year 2020 and are included in the Department's existing operating budget. Funding for subsequent years will be included in the proposed annual operating budget, which is subject to Board approval.

This action is not anticipated to have any fiscal impact on the unprogrammed district reserves in the current fiscal year.

**ALTERNATIVES:**

Do not make appointment.

**RECOMMENDATION:**

Appoint Marjorie McWee to the BART Accessibility Task Force (BATF).

**MOTION:**

The BART Board accepts the recommendation of the BATF and appoints the nominated candidate, Marjorie McWee, for membership to the BATF for a term beginning January 23, 2020 for one year, or until Board makes new appointments and/or reappointments for a new term, whichever occurs later.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>mehd</i> 1/3/20		GENERAL MANAGER ACTION REQ'D:		
DATE: 11/21/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Edward Moore Dept: System Safety <i>Edward Moore</i> Signature/Date: 1-3-2020	General Counsel <i>[Signature]</i> 1/3/2020 [ ]	Controller/Treasurer <i>[Signature]</i> 1/3/2020 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 1-3-2020 [ ]

## BART Authorization for IFB #9067A Automatic External Defibrillator (AED)

**PURPOSE:** To request Board authorization to award Invitation for Bid (IFB) Number 9067A, Automated External Defibrillator (AED) Devices to Mithril Enterprises DBA FC Safety.

### DISCUSSION:

The District's System Safety Department is currently working on a program to install 46 Automated Defibrillator Devices (AED), Wall Cabinets and Pad Sets at the primary station agent booths at all stations throughout the District. The program calls for the first 21 units to be installed during the first quarter of 2020 at those stations with the heaviest patron traffic. The wall cabinets will be installed by District employees. Following installation of the cabinets and notification of that installation the vendor will have 30 days to deliver the AED devices.

The Contract requires Program Management by the vendor including monthly inspections of the units where they will replace any pads, batteries, wires, or any defective item or unit and provide a monthly report of the inspection results. Monthly service will commence 30 days after AED units are installed at designated stations.

A notice requesting bids was published on July 23, 2019 and sent to three prospective bidders. Bids were opened on September 10, 2019 and two (2) bids were received.

<u>BIDDER</u>	<u>UNIT PRICE</u>	<u>GRAND TOTAL PLUS</u>
<u>9.25% TAX</u>		

Mithril Enterprises

\$224,891.12

Baker MedFirst

\$461,111.47

The lowest responsive bidder was Mithril Enterprises for \$224,891.12. The Independent Cost Estimate by BART staff was \$297,160.00. Staff determined that the bid price is fair and reasonable based on previous cost proposals submitted for these types of devices and services.

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.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this IFB for Small Businesses certified by the California Department of General Services. The lowest responsive Bidder Mithril Enterprises is a certified Small Business, thus, making it eligible for the Prime Preference. Since the Bidder Mithril Enterprises 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 the Bidder Mithril Enterprises.

**FISCAL IMPACT:** The subject EDD proposes to purchase 46 AED units along with entering into a 4-year service and maintenance agreement for the purchased unit for an overall 4-year total of \$224,891.12. All AED units will be purchased during FY 2020 with service and maintenance starting 30 days from installation date. Between February 1, 2020 and January 31, 2021, a total of 46 AED units will be purchased and installed at 46 BART stations.

BART personnel will install purchased AED cabinets at the BART stations.

Total funding for this contract in the amount, not to exceed \$224,891.12, is based upon the following totals by year:

FY 2020	\$112,871.12
FY 2021	\$ 37,340.00
FY 2022	\$ 37,340.00
FY2023	\$ 37,340.00

Total cost for FY 2020, which consist of \$77,031.12 for equipment and \$35,840.00 for the annual maintenance, testing and reporting services for all 46 existing BART stations are

included in the operating budget of Department 1303388, Account number 680030 (Non-Inventory Material Purchases) and 681300 (Professional Fees). The Controller/Treasurer certifies that funding is available.

Funding for subsequent years will be included in the proposed annual operating budget of Department 1303388, which is subject to Board approval. This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year.

Fiscal years 2021, 2022 and 2023 take into account the additions of the Milpitas (\$40,) and Berryessa (\$50) stations.

**ALTERNATIVES:**

Not purchasing the items will minimize the District's ability to respond to medical emergencies experienced by patrons or employees. The District has experienced situations where it is reasonable to assume employees and patrons lives could have been saved or healthy recovery possible if such devices had been available.

**RECOMMENDATION:**

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

**MOTION:**

The General Manager is authorized to award IFB #9067A for the Automated External Defibrillator (AED) Devices to Mithril Enterprises DBA, FC Safety for an amount of \$224,891.12, pursuant to notification issued by the General Manager, subject to compliance with the District's Protest Procedure and FTA's requirements related to Protest Procedure.



# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors

**DATE:** January 3, 2020

**FROM:** General Manager

**SUBJECT:** FY20 First Quarter Financial Report

The FY20 First Quarter Financial Report (July - September 2019) is attached. The net result for the quarter was \$9.1 million (M) favorable to budget; however, staff remains cautious regarding the year-end outlook due to increasing pressure on operating expense.

### Operating Sources


**Total Ridership** was 0.7% over budget for the first quarter of FY20, and 0.9% lower than in the same period of FY19, with weekend ridership performing better than budget expectations. First quarter FY20 weekday trips were 0.1% below budget and 1.7% below FY19, due in part to the timing of special events. Passenger revenue in the first quarter was \$2.4M (1.9%) favorable. A new one-page summary providing additional information is attached to the Quarterly Financial Report.

**Financial Assistance** in the first quarter of FY20 was favorable to budget primarily due to revenue from Sales Tax and Low Carbon Fuel Standard (LCFS) credit sales. The state continues to remit sales tax revenues from prior quarters to agencies, distorting quarterly budget results. Preliminary sales tax data for BART through December indicates sales tax results will be back on budget by the end of the second quarter. Additionally, LCFS credit sales in the first quarter exceeded budget by \$2.4M due to strong credit pricing. Per the LCFS Policy, proceeds from LCFS sales are allocated equally to the Sustainability program and to the general operating fund.

### Operating Uses

**Total Expense** for the first quarter was slightly over budget, finishing \$1.4M (0.7%) unfavorable. Labor and benefits were over budget, at \$5.6M (3.8%) unfavorable, driven by increases to overtime and less than expected capital labor reimbursements. Total non-labor was \$4.2M (8.6%) under budget, largely due to timing of expenses for professional & technical service fees; lower than projected bank card fees; and increased Clipper reimbursements.

Staff is cautious about the outlook for FY20. Ridership and fare revenue are expected to remain close to budget. However, the District faces substantial added financial pressures to address Quality of Life and the customer experience, requiring overtime and redirection of budgeted resources. Additionally, labor expenses are projected to increase while non-labor savings are expected to be offset by increased expenditures later in the fiscal year. Staff will continue cost saving measures and are committed to limiting spending and increasing efficiencies to help manage the FY20 budget.

  
\_\_\_\_\_  
Robert M. Powers

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**Quarterly Financial Report**  
**First Quarter**  
**Fiscal Year - 2020**

**Revenue**

- Avg weekday trips for the quarter were 412,596, 0.1% under budget and 1.7% below the same quarter last year. Total trips for the quarter were 0.7% over budget and 0.9% lower than FY19Q1, with weekend and holiday trips 6.2% over budget. Net passenger revenue was 1.9% over budget.
- Other operating revenue was \$1.2M favorable mainly due to over budget investment income and special fees and permits.

**Expense**

- Labor (excluding OPEB and GASB) was \$5.6M unfavorable in Q1, mostly due to unfavorable overtime and capital labor reimbursement.
- Power was \$0.5M favorable in Q1 due to lower than expected costs for compliance, and hydroelectric and short-term electric procurement.
- Other Non Labor was under budget by \$3.8M for Q1, due to timing of invoice payments (\$3.6M of Professional Fees, \$0.2M Repairs & Maintenance, \$0.2M Rental Expense and \$0.1M Insurance Premiums) and \$1.2M lower than projected bank/credit card fees and an increase in Clipper reimbursement. This favorability was offset by \$1.5M of unfavorable Material Usage.

**Financial Assistance and Allocations**

- Sales Tax for Q1 was 24.7% above FY19Q1 and \$8.5M favorable due to continuing receipt of missing payments from prior periods, however, sales tax is expected to end the year on budget.
- Property Tax, Other Assistance was \$0.3M favorable mainly due to over budget property tax payments.
- Low Carbon Transit Operations Program (LCTOP) revenue was \$5.1M unfavorable due to timing. MTC payments will be on budget at year-end.
- Low Carbon Fuel Standard (LCFS) Program revenue was \$2.4M favorable to budget due to higher than anticipated sale of credits generated as a result of strong market prices.
- Capital and other allocations were \$0.8M lower than budget primarily due to under budget incremental fare increase revenue, offset by increased LCFS revenue (allocated between Sustainability and general operating fund per LCFS Policy) and over budget SFO Ext fare revenue.

**Net Operating Result**

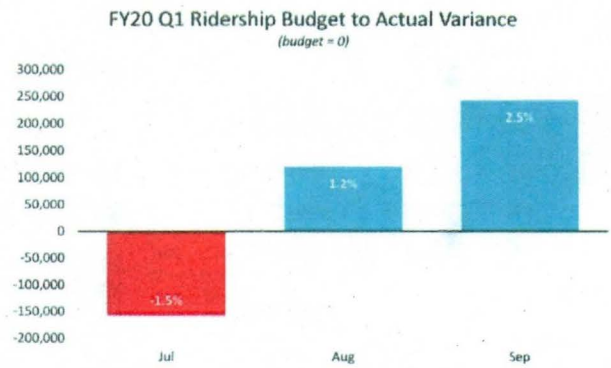
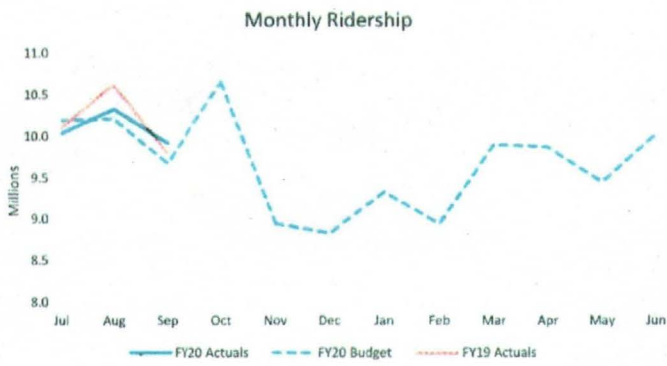
- The Net Operating Result for Q1 was \$9.1M favorable, mostly due to Net Passenger Revenue, Investment Income and Sales Tax revenues.

Current Quarter			(\$ Millions)	Year to Date		
Budget	Actual	Var		Budget	Actual	Var
<b>Revenue</b>						
121.8	124.1	1.9%	Net Passenger Revenue	121.8	124.1	1.9%
9.3	9.3	-0.4%	Parking Revenue	9.3	9.3	-0.4%
7.0	8.2	17.2%	Other Operating Revenue	7.0	8.2	17.2%
<b>138.0</b>	<b>141.6</b>	<b>2.6%</b>	<b>Total Net Operating Revenue</b>	<b>138.0</b>	<b>141.6</b>	<b>2.6%</b>
<b>Expense</b>						
149.0	154.6	-3.8%	Net Labor	149.0	154.6	-3.8%
11.4	10.9	4.0%	Electric Power	11.4	10.9	4.0%
7.9	7.9	0.2%	Purchased Transportation	7.9	7.9	0.2%
29.5	25.8	12.7%	Other Non Labor	29.5	25.8	12.7%
<b>197.8</b>	<b>199.2</b>	<b>-0.7%</b>	<b>Total Operating Expense</b>	<b>197.8</b>	<b>199.2</b>	<b>-0.7%</b>
<b>(59.8)</b>	<b>(57.7)</b>	<b>3.5%</b>	<b>Operating Result (Deficit)</b>	<b>(59.8)</b>	<b>(57.7)</b>	<b>3.5%</b>
<b>Taxes and Financial Assistance</b>						
66.3	74.9	12.9%	Sales Tax	66.3	74.9	12.9%
3.0	3.3	9.2%	Property Tax, Other Assistance	3.0	3.3	9.2%
8.4	3.3	-60.5%	Low Carbon Transit Op Prog	8.4	3.3	-60.5%
3.5	5.9	67.6%	Low Carbon Fuel Std Prog	3.5	5.9	67.6%
(11.8)	(11.8)	0.0%	Debt Service	(11.8)	(11.8)	0.0%
(23.7)	(22.9)	3.6%	Capital and Other Allocations	(23.7)	(22.9)	3.6%
<b>45.7</b>	<b>52.7</b>	<b>15.3%</b>	<b>Net Financial Assistance</b>	<b>45.7</b>	<b>52.7</b>	<b>15.3%</b>
<b>(14.1)</b>	<b>(4.9)</b>	<b>9.1</b>	<b>Net Operating Result</b>	<b>(14.1)</b>	<b>(4.9)</b>	<b>9.1</b>
69.8%	71.1%	1.3%	<b>System Operating Ratio</b>	69.8%	71.1%	1.3%
<b>0.416 ¢</b>	<b>0.419 ¢</b>	<b>-0.8%</b>	<b>Rail Cost / Passenger Mile</b>	<b>0.416 ¢</b>	<b>0.419 ¢</b>	<b>-0.8%</b>

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

- No Problem
- Caution: Potential Problem/Problem Being Addressed
- Significant Problem

### FY20 Q1 Ridership Stats



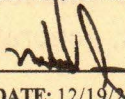
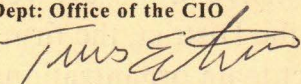
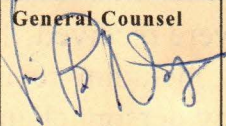
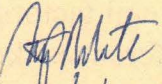
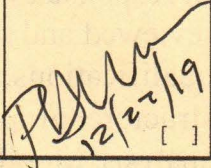
Exits	Actual	Budget	Actual
	FY19 Q1	FY20 Q1	FY20 Q1
Weekday	419,692	412,913	412,596
Saturday	165,941	156,290	164,307
Sunday	123,049	108,342	117,211
Total	30,563,071	30,081,341	30,286,863

FY20 Q1 Actual vs.	
FY19 Q1	FY20 Q1
-1.7%	-0.1%
-1.0%	5.1%
-4.7%	8.2%
-0.9%	0.7%





# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D:		
DATE: 12/19/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Travis Engstrom Dept: Office of the CIO  Signature/Date: 12/27/2019	General Counsel  1/2/2020 [ ]	Controller/Treasurer  1/2/2020 [ ]	District Secretary [ ]	BARC  12/22/19 [ ]

## BART DIGITAL RAILWAY – MASTER PROGRAM LICENSE AGREEMENT (MPLA)

### PURPOSE:

To request Board authorization for the General Manager or his designee to enter into a Master Program License Agreement (MPLA), and associated Project License Agreements (PLAs) with Mobilitie Services, LLC (Mobilitie) for the development of the BART Digital Railway and a related project for the San Francisco Municipal Transportation Agency (SFMTA).

### DISCUSSION:

The proposed Digital Railway is a system of wired and wireless communications infrastructure along the District's rights of way, within stations and on board BART's Fleet of the Future. Included as part of the overall Project is a project with the San Francisco Municipal Transportation Agency (SFMTA) expanding commercial cellular communications and fiber optic infrastructure to the SFMTA underground.

The Board authorized the General Manager to enter into a Communications Agreement with SFMTA in September 2016. The Communications Agreement, also approved by the SFMTA Board and the San Francisco Board of Supervisors, authorized BART to work with SFMTA and a commercial vendor to pursue an expansion of the District's revenue generating underground cellular and fiber optic infrastructure to underground areas of SFMTA service, primarily in downtown San Francisco, and share revenue obtained with SFMTA.

In order to obtain proposals to develop and manage the BART Digital Railway and the SFMTA project an Invitation for Proposal (Invitation) was issued in March 2017. The

Invitation included new commercial business opportunities in fiber optic cable, station wireless services and in-train wireless services for the District's Fleet of the Future.

The Invitation sought proposals from private commercial entities to construct commercial telecommunications infrastructure for BART and SFMTA that would provide valuable services to patrons and generate revenue for the District, and in SFMTA areas, generate shared revenue with SFMTA.

In response to the Invitation, ten proposals were received. The responsive proposals were reviewed and scored based on several factors, including revenue for the District, the firm's qualifications, experience and references, key personnel and project team organizational structure, proposed services and project impact and plan and schedule. As a result of the analysis, Mobilitie was determined to be the top respondent.

Mobilitie is the nation's largest private wireless services firm, with infrastructure projects across all 50 states. Mobilitie owns and operates 60 neutral host cellular systems. Mobilitie has built over 3,000 communication towers, 70,000 miles of fiber, over 60,000 cell sites, and generated over 100,000 network designs for the major cellular carriers. Mobilitie has high density metropolitan cellular and fiber deployments in New York City, Chicago, San Francisco and Los Angeles. Mobilitie has deployments in many sports stadiums across the country, resorts and in Seattle's Sound Transit light rail system.

In 2018 the Board authorized an Exclusive Negotiating Agreement (ENA) with Mobilitie. Since then staff has worked with Mobilitie to conduct preliminary design work, meet California Environmental Quality Act (CEQA) requirements and negotiate a Master Program License Agreement (MPLA) and associated Project License Agreements (PLAs) to cover the four primary elements of the BART Digital Railway and SFMTA project, as set forth in the Invitation: 1) Underground Cellular Services for SFMTA, 2) Wayside and Fleet of the Future Wireless Services, 3) In-Station Wireless Services, and 4) Fiber Optic Telecommunication Services for both BART and SFMTA.

District staff has determined that the Project will not have a significant impact on the environment and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations, Section 15301, Existing Facilities, and Section 15303, New Construction or Conversion of Small structures, because the project consists of alternations to equipment on existing faculties involving no expansion of use in addition to the limited construction of new small structures on District property. Therefore, no further environmental review is required.

All agreements will be approved as to form by the Office of General Counsel prior to execution.

Invitation included new commercial business opportunities in fiber optic cable, station wireless services and in-train wireless services for the District's Fleet of the Future.

The Invitation sought proposals from private commercial entities to construct commercial telecommunications infrastructure for BART and SFMTA that would provide valuable services to patrons and generate revenue for the District, and in SFMTA areas, generate shared revenue with SFMTA.

In response to the Invitation, ten proposals were received. The responsive proposals were reviewed and scored based on several factors, including revenue for the District, the firm's qualifications, experience and references, key personnel and project team organizational structure, proposed services and project impact and plan and schedule. As a result of the analysis, Mobilitie was determined to be the top respondent.

Mobilitie is the nation's largest private wireless services firm, with infrastructure projects across all 50 states. Mobilitie owns and operates 200 neutral host cellular systems. Mobilitie has built over 3,000 communication towers, 70,000 miles of fiber, over 15,000 cell sites, and generated over 100,000 network designs for the major cellular carriers. Mobilitie has high density metropolitan cellular and fiber deployments in New York City, Chicago, San Francisco and Los Angeles. Mobilitie has deployments in many sports stadiums across the country, resorts and in Seattle's Sound Transit light rail system.

In 2018 the Board authorized an Exclusive Negotiating Agreement (ENA) with Mobilitie. Since then staff has worked with Mobilitie to conduct preliminary design work, meet California Environmental Quality Act (CEQA) requirements and negotiate a Master Program License Agreement (MPLA) and associated Project License Agreements (PLAs) to cover the four primary elements of the BART Digital Railway and SFMTA project, as set forth in the Invitation: 1) Underground Cellular Services for SFMTA, 2) Wayside and Fleet of the Future Wireless Services, 3) In-Station Wireless Services, and 4) Fiber Optic Telecommunication Services for both BART and SFMTA.

District staff has determined that the Project will not have a significant impact on the environment and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations, Section 15301, Existing Facilities, and Section 15303, New Construction or Conversion of Small structures, because the project consists of alternations to equipment on existing faculties involving no expansion of use in addition to the limited construction of new small structures on District property. Therefore, no further environmental review is required.

All agreements will be approved as to form by the Office of General Counsel prior to execution.

**FISCAL IMPACT:**

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year. This project is expected to generate revenue for the District. The terms of the Master Program License Agreement (MPLA) includes a scheduled minimum license revenue payment made by Mobilitie to the District, a revenue share of all earnings after expenses for each project, and that all Capital and Operating costs for the project will be borne by Mobilitie. The term of these License Agreements will be twenty years, estimated to begin in the first quarter of calendar year 2020, with two optional five year extensions.

Total Anticipated Revenue to the District:	\$243,100,000
Total Minimum Annual Guarantee payments:	\$26,700,000
Total Technology Improvement Fund Reserve:	\$10,000,000
Anticipated Capital Expenditure by Mobilitie:	\$48,200,000

Minimum Annual Guarantee Payment Schedule

Contract Year	Minimum Annual Guarantee
FY20	\$2,000,000
FY21	\$900,000
FY22	\$900,000
FY23	\$900,000
FY24 – FY39	\$1,375,000

**ALTERNATIVES:**

Do not enter into Master Program License Agreement (MPLA) with Mobilitie. This action would significantly delay consideration and development of the BART Digital Railway.

**RECOMMENDATION:**

Adoption of the following motion.

**MOTION:**

The Board of Directors:

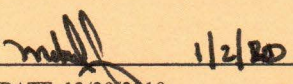
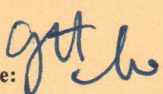
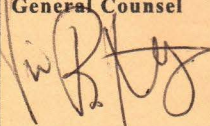
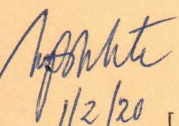
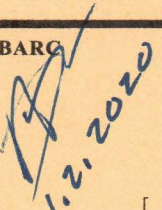
(1) Approves the BART Digital Railway Project.

(2) Authorizes the General Manager or his designee to execute a Master Program License Agreement (MPLA), and associated License Agreements with Mobilitie Services, LLC (Mobilitie), for development of the BART Digital Railway, including 1) Underground Cellular Services for SFMTA, 2) Wayside and Fleet of the Future Wireless Services, 3) In-Station Wireless Services, and 4) Fiber Optic Telecommunication Services for both BART and SFMTA.





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D:		
DATE: 12/29/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Gia Ilole Dept: Human Resources Administration Signature/Date:  1/2/20	General Counsel  1/2/20	Controller/Treasurer  1/2/20	District Secretary [ ]	BARG  1.2.2020

### Fiscal Year 2019 Quality of Life Reserve Expenditure Plan

#### PURPOSE:

To seek Board authorization to allocate \$1,500,000 from Operating Reserve to fund Quality of Life efforts.

#### DISCUSSION:

On October 10, 2019, the Board approved a motion to revise the Fiscal Year 2019 Year-End Budget. Included in the revision was an allocation to a Quality of Life Operating Reserve: \$1,500,000 to fund Quality of Life efforts, including addressing fare evasion, safety and security, homelessness, cleanliness, and a pilot ambassador program.

Based on staff research and stakeholder engagement, staff has determined that the most readily available, efficient, and cost-effective option to pilot a Community Ambassador program is to create the role as a special assignment for Community Service Officers. This recommendation ensures appropriate training, staff commitment, program administration and measurement of effectiveness. Measurements analyzed will include incidents reported, incidents addressed, customer satisfaction comments, and trending in calls for police service.

The Ambassador program will be launched by offering the special assignment for bid upon approval of this motion. Ambassadors will be deployed within one month from bidding selection and will work in teams of 2 daily, on 10 hour shifts providing presence on trains from 2pm to midnight, with full coverage (five teams of 2) on Saturdays. The total cost of the BART Ambassador pilot is not to exceed \$690,000.

The remaining \$810,000 will be allocated to funding a paid area around the Coliseum

elevator. The paid area will ideally utilize a prototype fare gate.

Approval of this recommendation will allow the General Manager to execute this amendment in accordance with the authorization approved by the Board on October 10, 2019.

**FISCAL IMPACTS:**

Quality of Life initiative will be \$1,500,000. The pilot program will be entirely funded by the FY19 Quality of Life Operating Reserve year-end allocation, account 431067, and will not exceed \$1,500,000 cumulatively through FY21. Funding for any subsequent years will be included in the subsequent year's proposed annual operating budget, which is subject to Board approval. This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year.

**ALTERNATIVES:**

Deny authorization of this Agreement, limit the duration and/or allocate the funds to another program/initiative.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

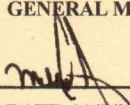
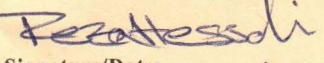
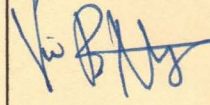
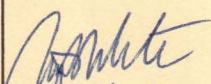
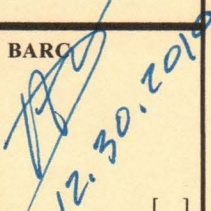
The Board authorizes the General Manager to implement the BART Quality of Life initiatives to include:

- \$690,000 to fund BART Ambassador Program
- \$810,000 to fund Station Hardening

This agreement is not to exceed \$1,500,000 through FY21.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 11/7/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Reza Hessabi Dept: Maintenance and Engineering  Signature/Date: 12/13/2019	General Counsel  12/16/19 [ ]	Controller/Treasurer  12/16/19 [ ]	District Secretary [ ]	BARC  12.30.2019 [ ]

## Award Contract No. 15EI-181 - Willow Pass Road High Voltage Substation (CWS) Transformer Replacement Project

### PURPOSE:

To obtain Board authorization for the General Manager to award Contract No. 15EI-181 for the Willow Pass Road High Voltage Substation (CWS) Transformer Replacement Project to Blocka Construction, Inc., of Fremont, California for the bid amount of \$6,164,500.00.

### DISCUSSION:

Contract No. 15EI-181 is a Measure RR Public Works Construction Contract for the replacement of the critical existing high voltage transformer at the Willow Pass Road High Voltage Substation (CWS) located between the North Concord and Pittsburg/Bay Point stations. The contract work includes the demolition and disposal of the existing transformer, construction of an upgraded mounting pad and containment facility, installation of the replacement Transformer, and the provision of a 27MW spare transformer.

This substation feeds the Evora Road Switching Station which provides power to 5 traction power substations and is an alternative power source to 10 traction power substations.

The existing high voltage transformer, which was installed about 45 years ago, transforms 115KV to 34.5KV to feed the BART traction power system. It has reached the end of its useful life and requires replacement. It has a high risk of failure, which could cause major service disruptions and impose a significant impact to revenue service.

This Contract will provide a new 27-Megawatt natural oil filled Power Transformer and upgrade the existing Control and protection system to ensure reliable power for the Traction

Power Substations.

Advanced Notice to Bidders was emailed, published and posted to the BART Procurement Portal to one hundred eighty-one (181) prospective bidders with an A Contractor License Classification on August 29, 2019. Bids were opened on October 15, 2019, and the following two (2) bids were received

<b>BIDDER</b>		<b>TOTAL BID</b>
Blocka Construction, Inc.	Fremont, CA	\$6,164,500.00
Becker Electric, Inc.	San Francisco, CA	\$8,452,867.00
Engineer's Estimate		\$5,830,000.00

Both Bids were evaluated and Staff determined that the apparent low Total Bid price submitted by Blocka Construction, Inc., of Fremont, CA, is fair and reasonable, based on the Engineer's Estimate. A review of Blocka Construction, Inc.'s business experience and financial capabilities has resulted in a determination that they are a responsible Bidder, and that their Bid is responsive to the requirements of the Contract Book.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 6.0% for Minority Business Enterprises ("MBEs") and 3.9% for Women Business Enterprises ("WBEs"). The Office of Civil Rights has determined that the apparent low Bidder Blocka Construction, Inc. has exceeded both the MBE and WBE Availability Percentages for this Contract at 10.6% for MBEs and 5.4% for WBEs.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 6% Local Small Business (LSB) Subcontractor Participation Goal for this Contract. Bidders who meet the LSB Subcontractor Participation Goal are eligible for an LSB Preference of 7% of the lowest responsive Bidder's Bid, up to a cap of \$150,000. The Office of Civil Rights determined that the Bidder Blocka Construction, Inc. committed to subcontracting 1.7% to LSBs. The apparent low Bidder Blocka Construction, Inc. did not meet the LSB Subcontractor Participation Goal and, therefore, is not eligible for the Bid Preference, but is still the apparent low Bidder.

**CAPITAL FISCAL IMPACT:**

Funding in the amount of \$6,164,500 for award of Contract No. 15EI-181 is included in the total project budget for FMS # 15EIRR1 - CWS Bulk Supply Transformer 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 a combination of these sources as listed.

As of November 12, 2019, \$9,502,570 is available for this project from the following source:

Fund No.	Fund Description	Source	Amount
802A-B	Measure RR GOB	BART	9,502,570
<b>Total</b>			<b>9,502,570</b>

BART has expended \$1,133,503, committed \$70,557 and reserved \$0 to date for other action. This action will commit \$6,164,500 leaving an available fund balance of \$2,134,010 in this project.

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

Reject all bids and re-advertise the Contract. This will not likely result in increased competition or lower prices and would delay the critical replacement, which could negatively impact revenue service due to transformer failure.

**RECOMMENDATION:**

On the basis of analysis and evaluation by Staff and certification by the Controller-Treasurer that funds are available for this purpose, it is recommended that the Board adopt the following Motion

**MOTION:**

The General Manager is authorized to Award Contract No. 15EI-181 - Willow Pass Road High Voltage Substation (CWS) Transformer Replacement Project to Blocka Construction, Inc. of Fremont, California for the Bid Price of \$6,164,500.00, Pursuant to notification to be issued by the General Manager, and compliance with the District's Protest Procedures.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 1/2/20		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 12/5/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Balvir Thind Dept: Maintenance and Engineering <i>[Signature]</i> Signature/Date: 12-26-2019	General Counsel <i>[Signature]</i> 12/26/19 [ ]	Controller/Treasurer <i>[Signature]</i> 12/26/19 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 12.30.2019 [ ]

### AWARD OF CONTRACT 15II-120A STATION EMERGENCY LIGHTING

#### PURPOSE:

To obtain Board authorization for the General Manager to Award Contract No. 15II-120A, Station Emergency Lighting, to Shimmick Construction Inc. of Irvine, CA for the total bid price of \$ 14,840,942.00

#### DISCUSSION:

This project is the second phase of the seven phases plans to replace Station Emergency Lighting systems across the District. The purpose of this contract, is to upgrade the critical emergency lighting systems at eleven (11) passenger stations within Contra Costa and Alameda counties.

The purpose of the emergency lighting system is to automatically activate lighting on egress passageways so that patrons may safely exit the station for at least ninety minutes during a power outage. The existing emergency lighting systems have been in operation for over twenty years, are difficult to maintain, and are at or near the end of their useful operating life.

The contract scope of work requires the Contractor to provide all equipment, material, installation, testing, commissioning of station emergency lighting system and to ensure full compliance with the National Fire Protection Association ("NFPA") 101 regulatory requirements.

The District provided an Advance Notice to Bidders for eight-one (81) prospective bidders on August 30, 2019. The Contract was advertised on August 30, 2019 in three (3) local publications and posted to the District's Procurement Portal on September 3, 2019. A total of thirty-two (32) entities downloaded the Contract Documents from the BART Procurement Portal. A Pre-Bid Meeting was conducted on September 7, 2019 with seven (7) prospective

bidders. One site tour was conducted on September 7, 2019.

A total of four (4) bids were received and publicly opened on November 5, 2019. All bids received, including the Engineer’s Estimate, are shown in Table 1 below:

Table 1: 15II-120A Station Emergency Lighting Phase-2 Bid Prices

Bidder	Location	Total Bid Price
<b>Rosendin Electric Inc.</b>	San Jose, CA	\$18,699,179.00
<b>Shimmick Construction Inc.</b>	Irvine, CA	\$14,840,942.00
<b>Becker Electric Inc.</b>	San Francisco, CA	\$14,186,852.33
<b>Blocka Construction, Inc.</b>	Fremont, CA	\$25,157,449.00
<b>Engineer’s Estimate</b>		\$16,900,000.00

Becker Electric Inc. was the apparent low Bidder. However, its Bid was deemed non-responsive because it failed to include the required Statement of Qualifications.

Staff determined that 2<sup>nd</sup> lowest bidder, Shimmick Construction Inc., is the lowest responsive Bidder. Shimmick Construction Inc.’s Total Bid Price of \$14,840,942 was found to be fair and reasonable and approximately 12% below the Engineer’s estimate.

Non-Discrimination Program:

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 Bidder Shimmick Construction committed to 0% MBE and 0%WBE participation. The Bidder Shimmick Construction did not meet either the MBE or WBE Availability Percentages; therefore, the Bidder Shimmick Construction was requested to provide the Office of Civil Rights with supporting documentation to determine if it had discriminated on the basis of race, national origin, color, gender or ethnicity. Based on the review of the information submitted by the Bidder Shimmick Construction the Office of Civil Rights found no evidence of discrimination.

Small Business Program:

Pursuant to the District’s Non-Federal Small Business Program, the Office of Civil Rights set a 13% Local Small Business (LSB) Subcontractor Participation Goal for this Contract. Bidders who meet the LSB Subcontractor Participation Goal are eligible for an LSB Preference of 7% of the lowest responsive Bidder’s Bid, up to a cap of \$150,000. The

Office of Civil Rights determined that the Bidder Shimmick Construction committed to subcontracting 0% to LSBs. The apparent lowest responsive Bidder Shimmick Construction did not meet the LSB Subcontractor Participation Goal and, therefore, is not eligible for the Bid Preference, but is still the apparent lowest responsive Bidder.

**FISCAL IMPACT:**

Funding in the amount of \$14,840,942 for award of Contract No. 15II-120A is included in the total Project budget for FMS #15IIRR1 – Station Emergency Lighting.

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:

Funding Source	Amount
Measure RR	\$27,010,696
-	-
<b>TOTAL</b>	<b>\$27,010,696</b>

As of 12/10/2019, \$27,010,696 is the total budget for this project. BART has expended \$3,478,061, committed \$258,070 and reserved \$105,839 to date. This action will commit \$14,840,942 leaving an available fund balance of \$8,327,784 in the fund source for this project.

The Office of the 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 alternatives is to reject all bids and re-advertise the Contract. Staff does not believe that re-advertising will result in increased competition or lower prices.

**RECOMMENDATION:**

Adopt the following motion



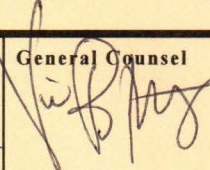
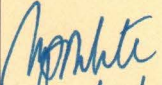
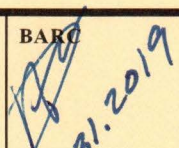
**MOTION:**

The General Manager is authorized to award Contract No. 15II-120A Station Emergency Lighting to Shimmick Construction Inc. of Irvine, CA for the Bid Price of \$14,840,942.00, Pursuant to notification to be issued by the General Manager, and compliance with the District's Protest Procedures.





# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D: Approval		
DATE: 12/13/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Scott Van Dussen Dept: PD&C  Signature/Date: 12/30/2019	General Counsel  12/30/19 [ ]	Controller/Treasurer  12/31/19 [ ]	District Secretary [ ]	BARC  12.31.2019 [ ]
Status: Routed		Date Created: 12/13/2019		

## AWARD OF CONTRACT NO. 49GH-110 FOR DESIGN-BUILD OF A COMMUNICATIONS BASED TRAIN CONTROL SYSTEM

### PURPOSE:

To request Board Authorization for the General Manager to award Contract No. 49GH-110 for Design-Build of a Communications Based Train Control System to Hitachi Rail STS USA, Inc. for the amount of \$798,551,928 and to exercise Option 3 for the Silicon Valley Berryessa Extension for \$56,168,590 and Option 4 for the Silicon Valley Santa Clara Extension for \$25,736,514. In addition, the General Manager requests Board authorization to execute a Stipend Agreement with Alstom Signaling Inc. for the amount of \$1,000,000.

### DISCUSSION:

In an effort to improve reliability, maintainability, reduce costs, and increase the frequency of trains through the Transbay Tube (TBT), the Board directed staff to undertake a Train Control Modernization Program (TCMP) using Communications Based Train Control (CBTC) technology on December 3, 2015. The Board authorized the General Manager to issue solicitation documents for a CBTC System using the Design-Build method of procurement, pursuant to Public Contract Code Section 22160 et seq. As discussed further below, this led to issuance of the Request for Qualifications and Proposals (RFQ/P) for Contract No. 49GH-110 on August 17, 2017.

CBTC technology will replace the existing fixed-block train control system, which has been BART's method of train control since the commencement of revenue service forty-seven years ago. Fixed-block technology is based on traditional signal and track circuit equipment to control train movement and relies on widely spaced signal blocks to denote train

occupancy. This contributes to longer distances between trains, and increased travel times and headways. CBTC technology uses communications equipment to more precisely detect a train's location, leading to more efficient train movement, increased reliability, less travel time, shorter distances between trains, and decreased headways. These improvements are consistent with the overall goals of the TCMP: to achieve a state of good repair, to increase core system passenger-carrying capacity, and to improve train control system reliability, availability and maintainability.

On November 19, 2016, the Board adopted the TCMP as one of BART's four projects within the Transbay Corridor Core Capacity Project (TCCCP), a \$3.5 billion comprehensive and coordinated package of investments funded in part by the Federal Transit Administration's (FTA's) Capital Investment Grant program, which will lead to increased train frequencies between San Francisco and Oakland by more than 36% and increase overall capacity by approximately 45%. This will allow BART to operate 28 ten-car trains per hour on the Core Capacity Corridor, maximizing throughput in the most heavily used part of the BART System.

The TCMP is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(10) which exempts projects that increase passenger or commuter services on rail rights of way already in use.

On September 14, 2017, the FTA concurred with the District's analysis that the TCCCP meets the criteria for a National Environmental Protection Act (NEPA) categorical exclusion in accordance with 29 CFR Part 771.118 (subsections (c)(1) power substations and other discrete utilities within or adjacent to existing right of way; (c)(5) installation and improvement of safety and communication equipment within or adjacent to existing right of way; (c)(7) acquisition of rail cars that can be accommodated by existing facilities or by new facilities that qualify for categorical exclusion; and (c)(12) projects within existing operational right of way including transit power substations and transit venting structures.)

#### Issuance of Request for Qualifications and Proposals

Contract No. 49GH-110, Design-Build of a CBTC System (CBTC Contract), consists of furnishing all management and technical services including coordination, professional services, labor, equipment, materials, safety certification, training and manuals, spare parts, and other services to perform the design, manufacture, installation, testing and commissioning, and handover of the turnkey communications based train control system for BART. The Work includes related vehicle carborne equipment (310 D-cars), wayside, communications, and Operation Control Center's (OCC's) Automated Train Supervision (ATS) Systems work. The Contract performance period is expected to be approximately 11 years from Notice To Proceed.

On March 13, 2017, the District issued the Advance Notice to Proposers of the District's

Request for Qualifications and Proposals (RFQ/P) for Contract No. 49GH-110 and the accompanying Contract No. 49GH-120 for Train Control Performance Support Services (TCPSS) (that is separately being submitted to the Board for award) to prospective CBTC Design-Build Entities. The same Advance Notice was issued to the small business community. On March 15, 2017, the District advertised the RFQ/P in the following publications: San Francisco Examiner, Inter-City Express, Progressive Railroading, Railway Gazette International, and the American Public Transportation Association (APTA) newsletter.

In total throughout the procurement process, the Office of Civil Rights hosted three (3) Networking / Matchmaking Sessions for potential Third Parties on March 30, 2017, September 6, 2017, and May 30, 2018.

Due to the vital safety features of the CBTC System, the RFQ/P is designated as a Security Sensitive Information (SSI) Contract. Accordingly, prospective firms completed the SSI Clearance prior to being issued the RFQ/P Documents on August 17, 2017.

On October 17, 2017, the District received Qualification Statements from seven (7) Design-Build Entities and commenced its Qualification evaluation.

The District's Evaluation Committee, chaired by Procurement/Contract Administration, included representatives from the Planning, Development, and Construction (PD&C), Maintenance and Engineering (M&E), Operations Planning, Rolling Stock and Shops (RS&S), Transportation, Risk and Insurance Management, Office of Civil Rights (OCR), and Performance and Audit Departments who evaluated the Qualification Statements and the Proposals including Best and Final Offers (BAFOs).

On January 5, 2018, the General Manager notified the BART Board of Directors of the Preliminary Notice of Approved Prequalified Proposers which included Thales Transport & Security, Inc. (Thales), Alstom Signaling, Inc. (Alstom), and Ansaldo STS USA, Inc. (subsequently known as Hitachi Rail STS USA, Inc. (Hitachi)). The Final Notice of Approved Prequalified Proposers was sent to the Prequalified Proposers on May 1, 2018.

On May 30, 2018, a Pre-Proposal Conference and Site Tour were conducted for Pre-Qualified Proposers and Systems Equipment Installers.

On March 19, 2019, Technical and Price Proposals were received from Alstom and Hitachi. Due to ongoing commitments, Thales chose to withdraw prior to the Proposal Due Date. The Evaluation Committee, [with the addition of representatives from two (2) peer agencies], completed reviews of the Technical and Price Proposals and determined both Proposals to be responsive. A series of clarification and negotiations meetings with both Alstom and Hitachi were held in June and July 2019.

#### Proposal Evaluation Methodology and Criteria

The RFQ/P required the District to evaluate Proposals based on a best value method of procurement to determine the Proposals that are the best value to the District. The best value methodology allows the Evaluation Committee to evaluate price in combination with other criteria listed below consistent with the Design-Build statute, and in accordance with the District's Source Selection Plan (SSP).

The RFQ/P listed the technical evaluation criteria in the following descending order of importance:

1. Migration Plan.
2. Systems Performance Analysis.
3. System Design / Specifications Compliance.
4. Management Approach.
5. Train Control Performance Support Services Approach.
6. Reliability, Availability and Maintainability (RAM) Analysis.

The Technical Proposals were rated in accordance with a descriptive method: 1) Exceptional, 2) Good, 3) Acceptable, 4) Potential to Become Acceptable, and 5) Unacceptable. A proposal would be excluded from further review if it was rated Potential to Become Acceptable or Unacceptable.

Following the completion of the Technical Proposal Evaluation, those Proposals found to be rated Acceptable or better underwent an evaluation of their Price Proposals. Price evaluations include a comparison against the Engineer's Estimate for the CBTC Contract.

#### Evaluation of Best and Final Offers

A Modification for a Request for Best and Final Offers (BAFOs) was issued on September 5, 2019. In response, BAFOs were received on October 22, 2019 from both Alstom and Hitachi.

Both Alstom and Hitachi's BAFO Technical Proposals (for both the CBTC Contract and for the TCPSS Contract) were determined to be responsive in that all required forms and certifications, including Buy America Certificates, were provided.

The Evaluation Committee evaluated the BAFO Technical Proposals from Alstom and Hitachi as follows:

Alstom's BAFO Technical Proposals were rated Unacceptable regarding three criteria: Management, Migration, and TCPSS. Therefore, in accordance with the Instructions to Proposers, Alstom's BAFO Price Proposals were not opened for review.

Hitachi's BAFO Technical Proposals were rated Good Minus overall. Hitachi provided

better than acceptable quality Proposals meeting all of the technical evaluation criteria listed above, thus instilling confidence of successful Contract performance. Hitachi's BAFO Price Proposals were subsequently opened for review. The CBTC BAFO prices are shown below.

**Table 1 – CBTC BAFO Base Proposal Price Plus Allowances and Options**

	Hitachi Price Proposal	Engineer's Estimate	Difference
CBTC BAFO Base Proposal Plus Allowances	\$798,551,928	\$851,698,430	\$53,146,502
CBTC BAFO Option 1 – Roadway Worker Protection Device	\$357,117		
CBTC BAFO Option 2 – DELETED			
CBTC BAFO Option 3 – VTA Phase I	\$56,168,590		
CBTC BAFO Option 4 – VTA Phase II	\$25,736,514		
CBTC BAFO Base Proposal Plus Allowances and Options 1, 3, and 4	\$880,814,150	\$967,448,430	\$86,634,280

Hitachi's CBTC BAFO Base Price Proposal is \$53,146,502 less than the Engineer's Estimate of \$851,698,430. In addition, Hitachi's CBTC BAFO Price Proposal including Options 1, 3, and 4 is \$86,634,280 less than the Engineer's Estimate of \$967,448,430. After a detailed price evaluation of all BAFO price items contained in the Price Proposal, the Evaluation Committee determined Hitachi's CBTC BAFO Price Proposal to be fair and reasonable.

The Evaluation Committee determined that Hitachi's BAFO Technical Proposals and approach met the requirements specified in the RFQ/P and that Hitachi is a responsible Proposer based on the requirements of the RFQ/P.

Buy America Compliance

The CBTC Contract is subject to Buy America provisions required of public transit agencies by the FTA. Hitachi submitted both completed Buy America certificates for the CBTC Contract indicating compliance as follows:

1. Buy America Certification Requirement for Procurement of Rolling Stock and Associated Equipment, at 70% minimum domestic content.
2. Buy America Certification Requirement for Procurement of Steel, Iron, or Manufactured Products, at 100% domestic content.

### Disadvantaged Business Enterprise

The Design-Build RFQ/P was advertised pursuant to the District's Disadvantaged Business Enterprise (DBE) Program requirements. The Office of Civil Rights reviewed the scope of work for this Contract and determined that there were DBE subcontracting/subconsulting opportunities; therefore, a DBE participation goal of 5% was set for this Contract. The Proposer, Hitachi, committed to subcontracting 5.1% to DBEs. The Office of Civil Rights has determined that Hitachi has met the DBE participation goal commitment set for this Contract.

### **District staff recommends award of the CBTC Contract No. 49GH-110 to Hitachi.**

Separately, staff is recommending award of the TCPSS Contract No. 49GH-120 to Hitachi be made concurrent with the award of Contract No. 49GH-110. This is discussed in more detail on the accompanying EDD for award of Contract No. 49GH-120.

### Stipend Agreement

The RFQ/P includes a Stipend Agreement in the amount of \$1,000,000 to be paid by the District under certain stated conditions to the responsive Proposers who were not selected for award. If Alstom does not protest the recommended award, it will be entitled to request issuance of the \$1,000,000 stipend. Staff requests that the Board authorize the General Manager to execute the Stipend Agreement with Alstom.

### **FISCAL IMPACT:**

### **FUNDING AVAILABLE TO AWARD CBTC CONTRACT NO. 49GH-110 BAFO BASE PROPOSAL AND STIPEND AGREEMENT**

Funding of \$798,551,928 for award of Contract 49GH-110 is included in the total project budget for 49GH, Train Control Modernization Program (TCMP). An additional \$1,000,000 for a Stipend Agreement is also included in the total project budget for 49GH, TCMP.

Table 2 below lists current funding assigned to the referenced project and is included to track funding history against spending authority. Table 3 below lists funding that has been programmed, but not yet allocated to, the referenced project. Table 4 below lists funding for the referenced project that is pending a Full Funding Grant Agreement (FFGA) with FTA.

Funds needed to meet this request will be expended from the following current, programmed and pending sources:

**Table 2 - Current Funding**

Federal Funds	\$19,883,421
Local	\$1,035,542
Measure RR	\$26,000,000
BART Funds	\$11,093,406
<b>TOTAL</b>	<b>\$58,012,369</b>

As of December 12, 2019, \$58,012,369 is the current available budget for this project. BART has expended \$47,479,329, committed \$7,683,883, and reserved \$0 to date. This action will commit \$2,849,157 leaving an available fund balance of \$0 in these fund sources for this project.

The remaining \$795,702,771 will come from a combination of Programmed and Pending funds, as shown in Table 3 and Table 4 below. The \$397,240,488 of FTA Capital Investment Grant (CIG) funds is anticipated to be programmed as part of a \$1.169 billion FFGA for the Core Capacity Program (CCP) in the first quarter of calendar year 2020.

**Table 3 – Programmed Funding**

Federal Funds	\$49,100,000
TIRCP	\$318,600,000
Measure RR	\$374,000,000
BART Funds	\$41,832,374
<b>TOTAL</b>	<b>\$783,532,374</b>

**Table 4 – Pending Funding**

FTA CIG Funds	\$397,240,488
<b>TOTAL</b>	<b>\$397,240,488</b>

This action will authorize the General Manager to commit \$798,551,928 with Hitachi for CBTC Contract No. 49GH-110, contingent upon execution of the FTA CIG FFGA and subject to concurrence by the Controller-Treasurer that funding is secured.

This action further authorizes the General Manager to execute a Stipend Agreement for \$1,000,000 with Alstom.

### **ADDITIONAL FUTURE FUNDING FOR TCMP**

The District continues to pursue additional funding of approximately \$288M from State and local sources to fully fund the TCMP Project, excluding the VTA components fully described below. Without this funding, the project has sufficient funding to cover Design Services During Construction (DSDC), Construction Management (CM), and BART soft costs for more than seven years.

While this additional future funding is not needed to award CBTC Contract No. 49GH-110 DB BAFO Base Proposal, it is necessary to fully fund DSDC, CM, and BART soft costs through completion. Awarding this Contract commits BART to fully implementing the TCMP, excluding Option 3 and Option 4.

These actions are not anticipated to have any Fiscal Impact on unprogrammed District reserves.

### **FUNDING TO EXERCISE CBTC CONTRACT NO. 49GH-110 OPTION 3 AND OPTION 4**

The exercise of CBTC Contract No. 49GH-110 Option 3 for the Silicon Valley Berryessa Extension and Option 4 for the Silicon Valley Santa Clara Extension will be contingent upon the Controller-Treasurer certifying that full funding of those Options has been secured from the Santa Clara Valley Transportation Authority (VTA).

### **ALTERNATIVES:**

Not proceed with award of the Contract at this time and re-advertise the RFQ/P. This would entail the loss of up to \$318.6 million Transit and Intercity Rail Capital Program (TIRCP) funds already awarded to the project and the likely loss of the pending \$1.169 billion FTA CIG grant. The loss of the TIRCP and FTA CIG funds would impact not only the TCMP, but also the procurement of Core Capacity Program rail vehicles, construction of rail vehicle storage and other improvements at the Hayward Maintenance Complex, and construction of Traction Power Substations. Among other things, this will leave the District with its existing aging Automatic Train Control System.

### **RECOMMENDATION:**

Adoption of the following motions:

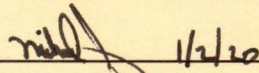
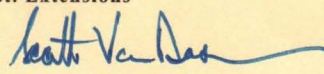
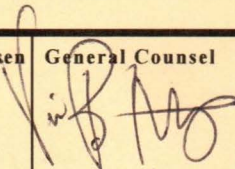
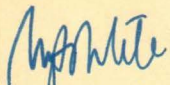
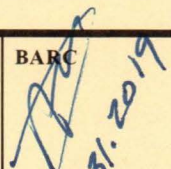


**MOTION:**

1. The General Manager is authorized to award Contract No. 49GH-110 for the Design-Build of a Communications Based Train Control System to Hitachi Rail STS USA, Inc. for the price of \$798,551,928, (including all taxes) upon certification by the Controller-Treasurer that funding is available, 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. The General Manager is further authorized to exercise Option 3, Silicon Valley Berryessa Extension, and Option 4, Silicon Valley Santa Clara Extension, to Contract No. 49GH-110, for \$56,168,590 and \$25,736,514, respectively, subject to escalation and upon certification by the Controller-Treasurer that funding is available.
2. The General Manager is authorized to execute a Stipend Agreement with Alstom Signaling, Inc. in the amount of \$1,000,000 subject to compliance with the conditions specified in the Request for Qualifications and Proposals, and upon certification by the Controller-Treasurer that funding is available.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D:		
DATE: 12/17/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Scott Van Dussen Dept: Extensions  Signature/Date: 12/30/2019	General Counsel  12/30/19 [ ]	Controller/Treasurer  12/30/19 [ ]	District Secretary [ ]	BARC  12.31.2019 [ ]
Status: Routed		Date Created: 12/17/2019		

### AWARD OF CONTRACT NO. 49GH-120 FOR TRAIN CONTROL PERFORMANCE SUPPORT SERVICES

#### PURPOSE:

To request Board Authorization for the General Manager to award Contract No. 49GH-120 for Train Control Performance Support Services to Hitachi Rail STS USA, Inc. for the amount of \$8,630,000 and authorize the General Manager to exercise Option A and Option B for two, 5-year extensions for the amount of \$3,150,000 each.

#### DISCUSSION:

In an effort to improve reliability, maintainability, reduce costs, and increase the frequency of trains through the Transbay Tube (TBT), the Board directed staff to undertake a Train Control Modernization Program (TCMP) using a Communications Based Train Control (CBTC) technology on December 3, 2015. The Board authorized the General Manager to issue solicitation documents for a CBTC System using the Design-Build method of procurement, pursuant to Public Contract Code Section 22160 *et seq.* As discussed further below, this led to issuance of the Request for Qualifications and Proposals (RFQ/P) for both Contract No. 49GH-120 for Train Control Performance Support Services (TCPSS) and Contract No. 49GH-110 for the Design-Build of a CBTC System on August 17, 2017.

The TCPSS Contract provides support services to BART to ensure that after the new CBTC System is installed, it performs as defined per the CBTC Contract; the District efficiently and effectively operates and maintains the CBTC System; the District has a secure supply of replacement parts for those supplied under the CBTC Contract; and the District has support for modifications (hardware/software) to the CBTC System the District deems necessary. The TCPSS Contract is for a term of 10 years, with two 5-year Option

extensions.

On March 13, 2017, the District issued the Advance Notice to Proposers of the District's RFQ/P to prospective CBTC Design-Build Entities. The same Advance Notice was issued to the small business community. On March 15, 2017, the District advertised the RFQ/P in the following publications: San Francisco Examiner, Inter-City Express, Progressive Railroading, Gazette Rail International, and the American Public Transportation Association (APTA) newsletter.

In total throughout the procurement process, the Office of Civil Rights hosted three (3) Networking / Matchmaking Sessions for potential Third Parties on March 30, 2017, September 6, 2017, and May 30, 2018.

Due to the vital safety features of the CBTC System, the RFQ/P is designated as a Security Sensitive Information (SSI) Contract. Accordingly, prospective firms completed the SSI Clearance prior to being issued the RFQ/P Documents on August 17, 2017.

On October 17, 2017, the District received Qualification Statements from seven (7) Design-Build Entities and commenced the Qualification evaluation.

The District's Evaluation Committee, chaired by Procurement/Contract Administration, included representatives from the Planning, Development, and Construction (PD&C), Maintenance and Engineering (M&E), Operations Planning, Rolling Stock and Shops (RS&S), Transportation, Risk and Insurance Management, Office of Civil Rights (OCR), and Performance and Audit Departments who evaluated the Qualification Statements and the Proposals including Best and Final Offers (BAFOs).

On January 5, 2018, the General Manager notified the BART Board of Directors of the Preliminary Notice of Approved Prequalified Proposers which included Thales Transport & Security, Inc. (Thales), Alstom Signaling, Inc. (Alstom), and Ansaldo STS USA, Inc. (subsequently known as Hitachi Rail STS USA, Inc. (Hitachi)). The Final Notice of Approved Prequalified Proposers was sent to the Prequalified Proposers on May 1, 2018.

On May 30, 2018, a Pre-Proposal Conference and Site Tour were conducted for Pre-Qualified Proposers and Systems Equipment Installers.

On March 19, 2019, Technical and Price Proposals were received from Alstom and Hitachi. Due to ongoing commitments, Thales chose to withdraw prior to the Proposal Due Date. The Evaluation Committee, [with the addition of representatives from two (2) peer agencies], completed reviews of the Technical and Price Proposals and determined both Proposals to be in the Competitive Range. A series of clarification and negotiations meetings with both Alstom and Hitachi were held in June and July 2019.

Proposal Evaluation Methodology and Criteria

The RFQ/P required the District to evaluate Proposals based on a best value method of procurement to determine the Proposals that are the best value to the District. The best value methodology allows the Evaluation Committee to evaluate price in combination with other criteria listed below consistent with the Design-Build statute, and in accordance with the District's Source Selection Plan (SSP).

The RFQ/P listed the technical evaluation criteria in the following descending order of importance:

1. Migration Plan.
2. Systems Performance Analysis.
3. System Design / Specifications Compliance.
4. Management Approach.
5. Train Control Performance Support Services Approach.
6. Reliability, Availability and Maintainability (RAM) Analysis.

The Technical Proposals were rated in accordance with a descriptive method: 1) Exceptional, 2) Good, 3) Acceptable, 4) Potential to Become Acceptable, and 5) Unacceptable. A proposal would be excluded from the Competitive Range if it was rated Potential to Become Acceptable or Unacceptable.

Following the completion of the Technical Proposal Evaluation, those Proposals found to be rated Acceptable or better underwent an evaluation of their Price Proposals. Price evaluations include analysis against the Engineer's Estimates.

#### Evaluation of the Best and Final Offers

A subsequent Modification for a Request for Best and Final Offers (BAFOs) was issued on September 5, 2019. In response, BAFOs were received on October 22, 2019 from both Alstom and Hitachi

Both Alstom and Hitachi's BAFO Technical Proposals (CBTC and TCPSS) were determined to be responsive in that all required forms and certifications, were provided.

The Evaluation Committee evaluated the BAFO Technical Proposals from Alstom and Hitachi as follows:

Alstom's BAFO Technical Proposals were rated Unacceptable regarding three criteria: Management, Migration, and TCPSS. Therefore, in accordance with the Instructions to Proposers, Alstom's BAFO Price Proposals were not opened for review.

Hitachi's BAFO Technical Proposals were rated Good Minus overall. Hitachi provided better than acceptable quality Proposals meeting all of the technical evaluation criteria listed

above, thus instilling confidence of successful Contract performance. Hitachi's BAFO Price Proposals were subsequently opened for review. The TCPSS prices are shown below.

### TCPSS BAFO Base Proposal Price Plus Allowances and Options

	Hitachi Price Proposal	Engineer's Estimate	Difference
TCPSS BAFO Base Proposal Plus Allowances (for 10-Year Term)	\$8,630,000	\$6,278,918	\$2,351,082
TCPSS BAFO Option A	\$3,150,000		
TCPSS BAFO Option B	\$3,150,000		
TCPSS BAFO Base Proposal Plus Allowances and Option A and Option B	\$14,930,000	\$10,499,204	\$4,430,796

Hitachi's TCPSS BAFO Base Price Proposal is \$2,351,082 more than the Engineer's Estimate of \$6,278,918. In addition, Hitachi's TCPSS BAFO Price Proposal included Option A and Option B and is \$4,430,796 more than the Engineer's Estimate of \$10,499,204. After a detailed price evaluation of all BAFO price items contained in the BAFO Price Proposal, the Evaluation Committee determined Hitachi's TCPSS BAFO Price Proposal to be fair and reasonable.

The Evaluation Committee determined that Hitachi's BAFO Technical Proposals and approach met the requirements specified in the RFQ/P and that Hitachi is a responsible Proposer based on the requirements of the RFQ/P.

#### Non-Discrimination Program

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for the TCPSS Contract are 2.2% for Minority Business Enterprises (MBEs) and 1.1% for Women Business Enterprises (WBEs). The Proposer, Hitachi, will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-Discrimination Program for Subcontracting do not apply.

#### Small Business Program

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business (SB) Subcontractor Participation Goal for this Contract. Proposers who meet the SB Subcontractor Participation Goal are eligible for a Small Business Preference of 5% of the lowest responsive Proposer's BAFO with a cap of \$150,000. The Office of Civil Rights determined that the Proposer, Hitachi, will not be

subcontracting any portion of the Work. Hitachi did not meet the SB Subcontractor Participation Goal and therefore, is not eligible for the Small Business Preference.

**District staff recommends award of the TCPSS Contract No. 49GH-120 to Hitachi.**

Separately, staff is recommending that award of the CBTC Contract No. 49GH-110 to Hitachi be made concurrent with the award of the TCPSS Contract No. 49GH-120. This is discussed in more detail in the accompanying EDD for award of the Contract No. 49GH-110.

**FISCAL IMPACT:**

**FUNDING AVAILABLE TO AWARD TCPSS CONTRACT NO. 49GH-120**

The TCPSS Contract No. 49GH-120 in the base amount of \$8,630,000 over ten years (\$863,000 per year) starting in Fiscal Year 2027 with two five-year Options (Option A at \$3,150,000 and Option B at \$3,150,000) will be funded as follows:

Funds will be budgeted in the Maintenance & Engineering operating budget (Dept 0802851-M&E Financial Admin, Account 681300-Professional & Technical Svcs) as follows:

Base Contract	
Proposed Funding	
FY27	\$863,000
FY28	\$863,000
FY29	\$863,000
FY30	\$863,000
FY31	\$863,000
FY32	\$863,000
FY33	\$863,000
FY34	\$863,000
FY35	\$863,000
FY36	\$863,000
<b>TOTAL</b>	<b>\$8,630,000</b>

Option A	
Proposed Funding	
FY37	\$630,000
FY38	\$630,000
FY39	\$630,000

FY40	\$630,000
FY41	\$630,000
TOTAL	\$3,150,000

Option B	
Proposed Funding	
FY42	\$630,000
FY43	\$630,000
FY44	\$630,000
FY45	\$630,000
FY46	\$630,000
TOTAL	\$3,150,000

Funding for this maintenance agreement from FY27 to FY46 will be included in the proposed annual Operating Budget, which is subject to Board approval.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year.

**ALTERNATIVES:**

Not proceed with award of the Contract at this time and re-advertise the RFQ/P for the TCPSS. This would result in the District assuming responsibility for support of the new CBTC System without the participation of the CBTC System Supplier. In addition, the District would lose the support of the Supplier in providing replacement parts for the CBTC System which would likely increase the District's costs for replacement parts.

**RECOMMENDATION:**

Adoption of the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 49GH-120 for Train Control Performance Support Services to Hitachi Rail STS USA, Inc. for the price of \$8,630,000, (including all taxes) subject to escalation, and subject to the District's protest procedures. The General Manager is further authorized to exercise Option A and Option B to Contract No. 49GH-120, for two 5-year extensions for \$3,150,000 each, subject to escalation, and upon certification by the Controller-Treasurer that funding is available.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 1/2/20		GENERAL MANAGER ACTION REQ'D: No		
DATE: 12/18/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Abigail Thorne-Lyman Dept: Systems Development Signature/Date: <i>[Signature]</i> 12/31/19	General Counsel <i>[Signature]</i> 12/31/19 [ ]	Controller/Treasurer <i>[Signature]</i> 12/31/19 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 12/31/2019 [ ]
Status: Routed		Date Created: 12/18/2019		

## Berkeley MOU for Transit Oriented Development at Ashby and North Berkeley stations

### PURPOSE:

To authorize the General Manager to execute a Memorandum of Understanding between BART and the City of Berkeley to advance Transit Oriented Development (TOD) at the North Berkeley and Ashby BART stations.

### DISCUSSION:

#### Background

On May 9, 2019, the Berkeley City Council unanimously voted to enter into a Memorandum of Understanding (MOU) with BART to collaborate on development at the North Berkeley BART Station, to advance zoning of the property, and set goals and objectives for the property (Attachment 1).

Since that time, BART and City officials have collaborated on development of an MOU addressing development at both the North Berkeley and Ashby Stations. The MOU establishes a process by which the City and BART may:

1. Identify a shared vision and priorities for development at both stations, and set forth the steps needed to pursue the vision and priorities;
2. Clarify the processes that the parties will pursue to address the development activities and timelines; and
3. Provide greater clarity for all parties, including members of the public, on the steps,



timelines, roles and responsibilities needed to initiate development of TOD on the BART properties at both Stations.

On December 10, 2019 the Berkeley City Council unanimously approved the proposed MOU. It was understood by the City Council that BART Board approval of the MOU is also required.

### **Station Property Context**

The Ashby Station is located under Adeline Street in South Berkeley, perpendicular to Ashby Avenue with Adeline separating two parcels with a combined area of 6.3 acres and encompassing 603 parking spaces. The City retains an option to the air rights over the west parcel. The City has released its draft Adeline Corridor Specific Plan and EIR which establishes goals for the Ashby BART parcels (Attachment 2).

The North Berkeley BART Station sits on approximately 8.1 acres in residential Northwest Berkeley and includes three parking areas with a total of 753 spaces. The North Berkeley BART site is currently zoned U-Unclassified in the City Zoning Code, meaning it currently has no specifically zoned use.

### **Relationship to State Law**

The California Government Code, as amended by AB 2923, requires local jurisdictions to conform with BART's TOD Zoning Standards by July 1, 2022. At the June 16, 2019 BART Board meeting, BART staff indicated that at this time, BART would not set TOD Zoning Standards by the Bill's stated July 1, 2020 deadline, with the intent that, by action of the statute, BART's 2017 TOD Guidelines would become the Zoning Standards for the properties. BART staff are developing a guidance document and 10-Year TOD work plan for discussion by the Board in mid-2020.

The City of Berkeley is aware of its obligation to rezone the Station properties to conform with AB 2923 by July 1, 2022 and has allocated funds to support rezoning of both properties by mid-2021. BART's urban design and land use planning consultants are using BART's North Berkeley property as one of several study areas to provide local jurisdictions guidance on how to address some of the physical and regulatory aspects of the legislation.

### **Summary of Key Terms in the MOU**

The MOU establishes a process for the City and BART to identify a shared vision and priorities, clarify activities and timelines, and identify roles and responsibilities needed to advance TOD at the North Berkeley and Ashby BART Stations in advance of AB 2923 timelines. While the City has a process for zoning and entitlements, and BART has a process for development of its properties, this MOU identifies in broad terms how these processes will work together.

The key terms of the agreement include:

- Scope of Agreement: The MOU addresses potential development of the Ashby BART parcels and the North Berkeley main parking lot. The parties will consider modifications or enhancements to North Berkeley auxiliary BART lots, city streets and other surroundings in order to support TOD at those stations.
- Community Engagement: The City of Berkeley will form a Community Advisory Group for both stations to facilitate community input on site master planning and zoning at the Stations. While there may be distinct concepts and requirements for each station site, the CAG will advise the City Planning Commission on zoning that conforms with AB 2923. The CAG will also provide input to the City and BART as the parties establish a joint vision and priorities document that will be incorporated into eventual Requests for Proposal/Requests for Qualifications for potential developers.
- Zoning: At its own expense, the City of Berkeley will rezone both properties by June 2021 (one year in advance of AB 2923 July 2022 deadline).
- AB 2923: At its own expense, BART will provide an AB 2923 guidance document draft by February 2020 and a final document by July 2020.
- Funding for Affordable Housing: The City of Berkeley will make a decision on set-aside of funding sufficient to assure BART, in its sole discretion that, pending further definition of zoning and site capacity, at least 35% of the housing units proposed to be constructed at both sites would be deed-restricted to low, very low and/or extremely low affordable housing by December 2020.
- Developer Solicitation: BART's 10-year work plan will set out criteria for prioritizing development sites. If the City of Berkeley commits funding by December 2020, together with its commitment to complete rezoning of the properties by June 2021, BART's 10-Year TOD Work Plan will place the Ashby and North Berkeley Stations higher on the list for initiating joint development (i.e. before 2025).
- Station Access: Per AB 2923 requirements and BART practice, BART will fund and complete an access study to address parking replacement and encourage multimodal access alternatives to driving alone. The timeline will depend on the Developer solicitation timing for each station, and the Developer may reimburse BART for the cost of the study.
- Increased City Involvement in the Solicitation Process: The City and BART will meet in December 2020 to 1) determine whether the City has approved a set-aside of sufficient funding to meet the 35% affordable housing minimum for each station; 2) negotiate possible additional City participation in the solicitation processes; and 3) agree upon the timing of the developer solicitations for the BART Properties in December 2020.

If this motion is approved, City and BART staff will finalize and execute the MOU. The Office of the General Counsel will approve the MOU as to form.

**Community Feedback to Date:**

BART staff have participated in public meetings on this topic throughout the last two years. Attendance at these meetings has been high. From these meetings, several unresolved issues

have emerged that must be explored in future BART and City activities throughout 2020 and beyond, including:

1. Affordable housing
2. Station access and parking
3. "Right to Stay, Right to Return" for residents and businesses, including the Ashby Flea Market
4. High quality urban design

**FISCAL IMPACT:**

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year. Current BART Planning & Development staff time will be involved in the implementation of the activities established in the MOU throughout FY2020 and FY2021. AB 2923 activities referenced in the MOU were fully funded in the FY2019 Budget. BART will not advance the station access study without a future allocation of additional funds which may include an external grant or reimbursement from a future developer of the properties. BART is not responsible for costs associated with the zoning of the properties or the Community Advisory Group.

**ALTERNATIVES:**

Do not pursue the MOU. This action would result in a missed opportunity to advance a TOD, improve access and bring new riders and revenue to the District.

**RECOMMENDATION:**

Adoption of the following motion:

**MOTION:**

The General Manager or his designee is hereby authorized to execute the Memorandum of Understanding with the City of Berkeley to cooperatively pursue TOD and the implementation of Assembly Bill 2923 at the Ashby and North Berkeley BART Stations.

**North Berkeley BART Development Goals and Objectives**  
(Approved unanimously by the Berkeley City Council on May 9, 2019)

State law (AB 2923, Chiu) passed in 2018 requires the San Francisco Bay Area Rapid Transit District (BART) to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020.

Prior to the enactment of AB 2923, the Berkeley City Council initiated a community process to explore the potential for transit-oriented development at the North Berkeley BART station. Creating homes at the North Berkeley BART parking lots will help the City of Berkeley address the shortage of affordable homes; reduce vehicle miles traveled and meet our climate change goals; and improve the livability of the surrounding neighborhood through the creation of green open space, pedestrian and bicycle infrastructure improvements; and possible small-scale community, non-profit, and/or retail uses.

AB 2923 requires local jurisdictions like Berkeley to adopt a local zoning ordinance that conforms to BART TOD zoning standards.

While the Berkeley City Council voted at its May 29, 2018 meeting to oppose AB 2923, the City Council recognizes that we now have an obligation to comply with the law. The Council is seeking to comply as soon as possible with AB 2923 for the purposes of developing the North Berkeley BART station in order to ensure that the community has a meaningful opportunity to engage with BART on how the site is developed.

At the same time, the Berkeley City Council acknowledges the unique neighborhood characteristics of each BART station and expresses its intent to incorporate a station-specific design that is sensitive to the existing single-family (R-1) and two-family (R-2) residential zoning directly adjacent to the North Berkeley BART station.

The City of Berkeley seeks to enter into a Memorandum of Understanding with BART that enumerates, among other terms, the following goals and objectives for development:

**Community Input**

**A Community Advisory Committee shall be created for the purposes of providing input to the City's Planning Commission as it considers City and BART TOD zoning standards.**

**The planning process will engage the community in order to ensure that the site reflects the community's values for equity, sustainability, and sense of place.** In particular, community input should be considered for:

- The number/percentage of affordable housing units and populations to be served, including the possibility of a 100% affordable project

- The size, height, scale, spacing, and setbacks of buildings, and their responsiveness to the neighborhood
- The inclusion of green and open spaces
- The possibility of limited, small-scale community, non-profit, and retail space to serve the immediate neighborhood
- Exploration of whether it's appropriate to include small-scale community, non-profit, and/or retail space to serve the immediate neighborhood, whether any parking should be provided for such uses, and consideration of the tradeoff of foregone housing units
- Access options, including traditional modes such as public transit, taxis and private vehicles, active modes such as biking, walking and scooters, emerging modes such as car share, ride share, driverless cars, etc., and access for the disabled and mobility impaired
- Green and sustainable features

### **Station Access**

**BART, the City of Berkeley, and a future developer(s) will address station access.** Specifically, Section 29010.6(h) of AB 2923 requires BART—in cases in which commuter parking is reduced as a result of a TOD project—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station. A station access plan for implementation will seek to explore feasible and effective alternatives to individuals driving to and parking at the station, such as reserved parking spaces for carpools and car-share vehicles, ride-share, enhanced bus/shuttle service, additional electric-assist bikes and scooters, among other alternatives. We will also consider limiting or eliminating parking for residential and/or potential community, non-profit, or retail uses in order to maximize parking availability for commuters. We note that the station access plan should take into account the rapid evolution of mobility trends and technologies and consider the adaptability of the plan to future mobility patterns. Further, we intend to conduct a traffic study to help determine the number of parking spaces that are needed at the site, including reserved spaces for people with disabilities.

In light of Berkeley's long tradition of leadership on issues related to the disabled and mobility impaired, access at the North Berkeley BART station should be first in its class, including consideration for access to and from the station itself, within the station, and to and from the BART platform.

All traditional modes should be considered: public transit, taxis, carpools and cars; all active modes including walking, biking and scooters; all emerging modes including car share, ride share, van pools and driverless vehicles; and all modes of accessibility for the disabled.

### **Affordability**

**Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists.** We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable

units—to potentially be funded by local, state, and regional funding sources. In order to ensure housing for a range of income levels, we will consider inclusionary below-market-rate units and engagement of an affordable housing developer to develop a fully affordable building.

We will seek to support the creation of local jobs through a project labor agreement for construction of the development.

We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

### **Livability**

**Enhance the livability of the neighborhood surrounding the North Berkeley BART station.** The site should create a visual and physical connection with the neighborhood through its architectural design, height, and scale. In particular, we seek a development that considers the character and context of the neighborhood and steps down in height around the perimeter of the station (with consideration for the varying width of streets around the station) in order to blend in visually and physically with the residential neighborhood. Such a design honors a common theme of many of the designs submitted as part of the October 2018 visioning event. We also seek reasonable spacing between buildings, setbacks, and plantings at the perimeter of the station.

The inclusion of green open space should serve as an amenity that enhances the neighborhood's sense of place.

The streetscape design should strive to minimize neighborhood traffic and congestion impacts and support safe access to the station for bicyclists and pedestrians. Transportation demand management and other best practices should be used to reduce traffic and parking impacts in the surrounding neighborhood.

### **Environmental Sustainability**

**Reflect the City's commitment to reducing our carbon footprint in every possible way.** All buildings should strive to: incorporate all-electric designs, achieve Zero Net Energy, and reduce parking for residents and retail to the maximum extent possible.

To ensure universal access, regardless of age or ability, Universal Design should be considered for all elements of housing and of all other private and public spaces.

### 3.7 ASHBY BART

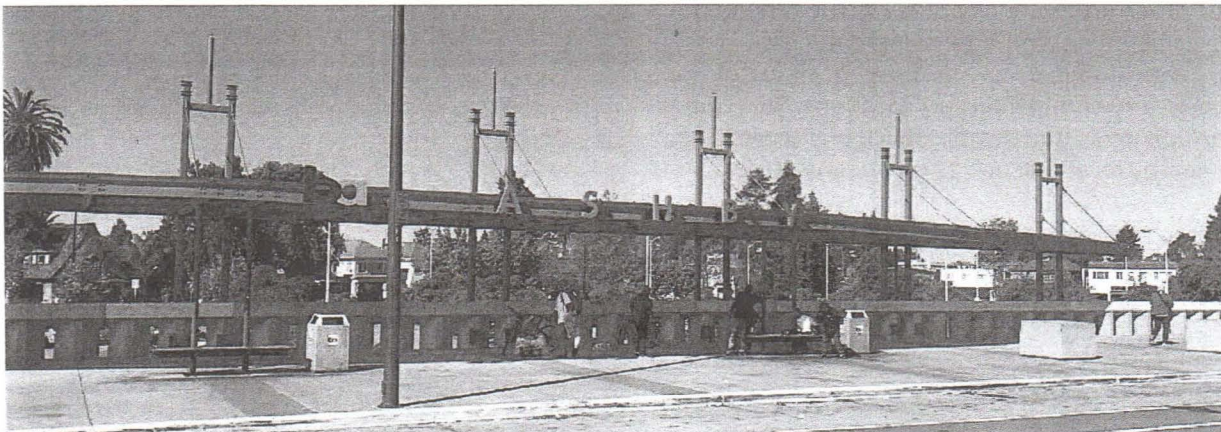
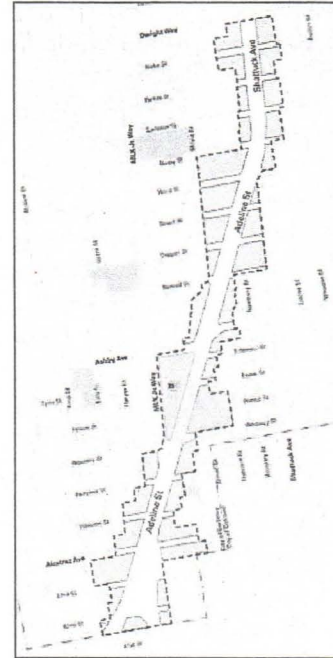
**Future development within the Ashby BART subarea shall provide public space, community-oriented facilities, and affordable housing, consistent with the objectives, parameters, and process outlined in the Adeline Corridor Specific Plan.**

The Ashby BART Station is one of the most prominent landmarks and amenities along the Adeline Corridor, with the potential to support and advance all five key topic areas addressed in this Plan – land use, housing, economic opportunity, transportation, and public space.

As stated in Chapter 2, the Ashby BART subarea is envisioned to be redeveloped as a vibrant neighborhood center with high-density mixed-use development that unifies and knits back together the east and west sides of Adeline Street. The Ashby BART development will be a model for sustainable transit-oriented development, incorporating high levels of affordable housing and complementary commercial and civic uses; public space for community gatherings, special events, and civic celebrations; and green construction.

The Plan lays the groundwork for future engagement with the community and BART by outlining key objectives that apply to future development and describing a process for evaluating development proposals for these sites. Future development in the Ashby BART subarea shall be consistent with the seven objectives below, which shall be incorporated into any future master plan and development agreements with potential developers.

**OBJECTIVE 1. AFFORDABLE HOUSING.** For any future development in the BART subarea, at least 50% of the total housing units produced should be comprised of deed-restricted affordable housing, which could also include supportive services or other spaces associated with the affordable housing. This



*The Ashby BART Station*

goal for at least 50% affordable housing at a range of income levels (e.g. Extremely Low, Very Low, Low and Moderate) would be calculated across the entire Ashby BART subarea and could be accomplished through multiple phases of development. Any future development agreement should commit to deliver at least this level of affordable housing, and provide a plan to do so. Amounts of affordable housing exceeding 50% of the total square footage and number of units are encouraged.

**OBJECTIVE 2. PUBLIC SPACE.** Any future development shall include one or more publicly accessible spaces incorporated onto the development parcels within the Ashby BART subarea. The public space could potentially be provided as plazas, green space, pedestrian paseos, rooftop patios, flexible event space, or other pedestrian-accessible spaces that are open to the public. Incorporating elements of “green infrastructure” in these elements is highly encouraged (See Chapter 7).

Future redevelopment of the Ashby BART west parking lot shall incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market and potentially a relocated Farmers Market, as well as support the Juneteenth Festival and other music and entertainment events. This space could include dedicated flexible space on the site and/or in a nearby location such as on Adeline Street. The space shall be designed with the general and specific needs of the Flea Market and Farmers Market, as well as allow flexibility for other programming such as the Juneteenth Festival, music and entertainment, civic events, or other public uses – at different times of the week or in complementary locations. This could include dedicated flexible space on the site or in a nearby location such as on Adeline Street.

**OBJECTIVE 3. ADDITIONAL DEVELOPMENT PARAMETERS.** The following general development parameters will be further refined as implementation steps of this Specific Plan:

**Building Height.** To achieve the affordable housing goal, climate action goals and maximize community benefits from development of public land, high density mixed-use development is envisioned that are generally up to four to seven stories. The City will continue to coordinate with BART as it refines development parameters as part of implementation of Assembly Bill 2923. In general, development fronting on Adeline Street and Ashby Avenue should “step down” or transition to lower heights where development fronts on Martin Luther King Jr. Way, Woolsey, Tremont and Essex Streets.

**Ground-Floor Uses.** As noted in Policy 3.1, the following types of uses shall be required for ground floor uses for the Ashby BART subarea:

- Adeline Street frontage: Ground floor retail or active commercial use required.

### WHAT IS ASSEMBLY BILL (AB) 2923?

Assembly Bill 2923 was signed into law by Governor Jerry Brown on September 30, 2018. AB2923 grants BART the authority to establish transit-oriented development (TOD) zoning standards that apply to its property across the Bay Area, including the North Berkeley and Ashby BART Station sites. The intent of the law is to enable BART to work together with cities to maximize the public benefit of scarce transit-adjacent land (see Appendix B for more information). Although BART has the ultimate authority to establish zoning standards for its property, BART has indicated that it intends to work in close collaboration with local elected officials and community stakeholders. Furthermore, since the City controls the “air rights” for the west Ashby BART parking lot, it would have a direct role in approving any future master plan and development agreement for that site, and would work with BART to implement the Objectives described in the Adeline Corridor Specific Plan for any redevelopment of the Ashby BART subarea.



- Ashby Avenue frontage: Ground floor commercial use required.
- Martin Luther King Jr. Way: Residential or commercial use allowed on ground floor.
- Tremont, Woolsey and Fairview Streets: Residential or commercial use allowed on ground floor.

**Additional Land Uses.** Additional land uses that would be encouraged in the Ashby BART area include the following:

- Potential space for a new African American Holistic Resource Center (see Chapter 5 for more information)
- Ground floor retail, restaurants and family-oriented entertainment;
- Affordable space for neighborhood non-profits
- Small, affordable workspaces
- Universally-accessible community event and recreation space, or performance venues.

**OBJECTIVE 4. PUBLIC ART.** Future redevelopment should maximize opportunities to incorporate permanent and/or temporary public art installations that celebrate neighborhood history, cultural heritage and identity (see Chapters 2, 5 and 7 for more information).

**OBJECTIVE 5. PEDESTRIAN AND BICYCLE CONNECTIONS.** Future development should include pedestrian and bicycle connections that serve users of all abilities and ages. Development of the west parking lot should incorporate the following key bicycle connections at minimum, consistent with the City of Berkeley Bike Plan and as described in the Transportation Chapter of this Plan:

- Connection of the Woolsey/Prince bicycle boulevard facility across the Ashby site
- Provision of an off-street/protected bicycle facility along Adeline Street between Ashby and the intersection with MLK Jr. Way.

## WHAT ARE "AIR RIGHTS?"

Ownership of land can be divided into rights on the surface, subsurface (i.e. mining or mineral rights) and air rights. The City of Berkeley acquired air rights over both parking lots at Ashby BART Station back in 1966 after the voters approved undergrounding the BART lines. In 1999, the City executed a contract with the Ed Roberts Campus to assign the City's option to the air rights over the eastern Ashby BART parking lot (the current Ed Roberts Campus site and the remainder parking lot behind it), to facilitate development of the Ed Roberts Campus. An agreement between the City and the Ed Roberts Campus in 2008 confirmed that the City assigned the air rights over the eastern BART parking lot to the Ed Roberts Campus, but the City still retained the option over the western BART parking lot. The air rights generally refer to the space starting 10 feet above the average finished grade location.

## OBJECTIVE 6. PARKING AND TRANSPORTATION DEMAND MANAGEMENT.

Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce demand for parking and single-use automobile trips (See Chapter 6). Consistent with BART Transit-Oriented Design Guidelines and the City's Climate Action Plan, any future mixed-use development shall provide parking at ratio not to exceed 0.5 spaces/residential unit and 1.6 spaces per 1000 sqft of commercial space. Because of the urban environment of the station, replacement parking for BART patrons can be provided at a ratio of 0.5 spaces/per existing space or less while access improvements are incorporated to offset the loss of parking and ride spaces and offer viable non-auto alternatives to BART patrons.

## OBJECTIVE 7. PROCESS AND ENGAGEMENT.

Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a

deliberate and extensive community decision making process. The City will work with BART to complete a planning process which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. This stakeholder group should participate in decisions regarding the site requirements to be included in any Request for Proposals (RFP). In addition, any RFP that is issued for development at the BART site will outline specific requirements that a selected developer continue to invest in proactive community engagement throughout the development process and to identify appropriate additional community benefits as part of the project design process. A development team's proven track record of managing this kind of community engagement/community benefits process will be one criteria for selection. The local community should continue to be closely involved in development of these key public sites. Chapter 4 (Housing Affordability) includes additional information and considerations for future phasing, funding, programming, and affordable housing strategies for the Ashby BART area.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** January 3, 2020  
**FROM:** General Manager  
**SUBJECT:** El Cerrito Plaza Transit Oriented Development (TOD) Update

At the January 9, 2019 Board meeting, BART Staff will provide an update on the El Cerrito Plaza Transit Oriented Development Request for Qualifications (RFQ) process, with a focus on the Goals & Objectives for the development. The future development relates back to the BART and City of El Cerrito Memorandum of Understanding (MOU) which the BART Board authorized in September 2016.

As background, on November 19, 2019, the El Cerrito City Council provided feedback on the draft TOD Goals and Objectives. Staff refined the Goals and Objectives given the City Council feedback and additional staff input (**Attachment 1**).

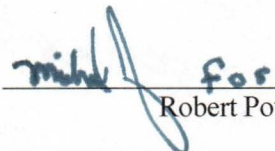
Additionally, at the November 19 meeting, City Council adopted a Resolution to:

- 1) Request the evaluation of a potential City library (to be funded by the City of El Cerrito) to be included in BART's Request for Qualifications (RFQ).
- 2) Support the District's inclusion of Sustainable Access Studies and Strategies in the TOD process.

Leading up to the Board meeting and the forthcoming release of the RFQ, BART staff have conducted extensive outreach, including

- Participation in the February 5, 2019 El Cerrito City Council meeting
- Participation in the July 27 and 29, 2019 City San Pablo Avenue Specific Plan Update meetings
- Held an in-station Open House about future TOD at El Cerrito Plaza BART on August 14, 2019
- Held a workshop on Thursday, October 3, 2019 to update the community on access conditions and the RFQ process
- Participation in the November 19, 2019 City Council meeting.

If you have further questions, please feel free to contact Val Menotti, Chief Planning & Development Officer at 510-287-4794.

  
\_\_\_\_\_  
Robert Powers

### Attachments

cc: Board Appointed Officers  
General Manager  
Executive Staff



**BART El Cerrito Plaza Transit-Oriented Development**  
**PRELIMINARY DRAFT Goals and Objectives**  
*For El Cerrito City Council Review – November 19, 2019*

**A. Complete Communities**

1. **Regularly engage with the community** in the development of the project and associated access investments, and trade-offs between parking, housing and community amenities.
2. **Enhance the Ohlone Greenway's** role in increasing connectivity, sustainability and placemaking.
3. **Create visual and physical connection** between the BART station, adjacent neighborhoods, and shopping/services in El Cerrito Plaza, and along San Pablo Avenue and Fairmount Avenue.
4. **Create active ground floor** on Fairmount Avenue, with a mix of uses that complements and leverages the surrounding area.
5. **City to manage area parking – with BART's support** - to ensure neighborhood and business needs can be met.
6. Explore **options for integrating public library** into the TOD in partnership with City.

**B. Sustainable Communities Strategy**

1. **Deliver community serving facilities and dense residential mid-rise uses at the station** to support envisioned growth in the "San Pablo Avenue Corridor" Priority Development Area and the San Pablo Avenue Specific Plan.
2. **Address the regional housing need** while simultaneously helping the City put in place transportation management tools to avoid potential congestion and traffic impacts of population growth.
3. **Incorporate green and sustainable design** to minimize vehicle- and building-related greenhouse gas emissions.

**C. Ridership**

1. **Increase BART ridership at times and locations when BART has capacity.**
2. **Attract BART patrons from the larger San Pablo Avenue Specific Plan** area and beyond through sustainable access alternatives.

**D. Value Creation & Value Capture**

1. **Deliver a feasible development** that generates long term revenue to support BART operations.
2. **Participate in future area-wide financing efforts** (such as a developer supported set up of a parking benefit district, enhanced infrastructure financing district or business district) to capture value changes resulting from TOD to support community amenities and other investments.
3. **Leverage innovative third-party funding and financing options** that deliver TOD-related BART infrastructure and programming.

**E. Transportation Choice**

1. Per BART's Access Policy, **increase the share of patrons who walk, bike, or take transit to BART** through access improvements that offer safe, viable non-auto alternatives to BART patrons, including accessible demand responsive services.
2. **Minimize the need for BART patron parking replacement** in an on-site garage by maximizing the use of existing available parking capacity in close proximity to the station and exploring other parking and access options for patrons who do not live near the station.
3. Per BART's TOD Policy, develop an **Access Plan** to identify future access needs and strategies.
4. **Enable new residents of the development to reduce their reliance on cars** by providing transportation alternatives through GreenTRIP certification or equivalent.
5. **Expand the pedestrian and bicycle network** – particularly connecting to the Ohlone Greenway – to support the City and BART's active transportation goals.
6. **Embrace the rapid evolution of mobility trends and technologies** to adapt to future transportation needs.

**F. Affordability**

1. **Minimum of 20% of housing units will be affordable** to low and very-low income households or below, and support BART's 35% systemwide affordability goal by aiming for a higher percentage of affordable units.
2. **Support local economy through project labor agreements** for construction of project. Aim for Small Business Enterprise inclusion in design and construction of the TOD.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors


**DATE:** January 3, 2020

**FROM:** General Manager

**SUBJECT:** PPAAL Agenda Item: Update on BART and VTA Phase I - For Information

At the Board of Directors meeting on January 9, 2020, the BART Silicon Valley Berryessa Extension (SVBX) Phase I, will be presented for information.

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

  
\_\_\_\_\_  
Robert Powers

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors

**DATE:** January 3, 2020

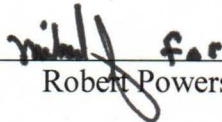
**FROM:** General Manager

**SUBJECT:** Consent Calendar Guidelines

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Attached are proposed revisions to the existing Guidelines for Consent Calendar Items. The revisions increase the dollar limit for items that can be placed on the consent agenda and remove the requirement that only items meeting DBE goals can be considered.

The proposed changes are shown on the attached Resolution in redline/strikeout form. If approved, a new Resolution incorporating those changes would supersede the existing Resolution 5193.

  
Robert Powers

cc: Board Appointed Officers  
Deputy General Manager  
Associate General Counsel  
Executive Staff

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

In the Matter of Establishing  
Guidelines for Consent Calendar  
Items Which are Referred Directly  
To the Board of Directors \_\_\_\_\_

Resolution No. 5193

**WHEREAS**, on January 13, 2000, the Board of Directors of the San Francisco Bay Area Rapid Transit District adopted rules which modified the existing Regular Board Meeting and Committee Meeting schedules which are Intended to streamline the administration of the business of the District, and

**WHEREAS**, it is the continued desire of the Board to make the most productive use of its time by focusing on policy issues and other matters of major importance to the District, and

**WHEREAS**, the Board wishes to further facilitate the business of the District by eliminating the need for routine matters to be presented first to one of the Committees of the Board and then again to the full Board at a regular or special meeting, and

**WHEREAS**, the Board desires to establish a process whereby routine items of District business will be referred directly to the Board as part of the regular Consent Calendar without first being presented to a Committee of the Board, and

**WHEREAS**, it continues to be the policy of the Board that any Board member shall be allowed to remove an item of business from the Consent Calendar upon his/her request,

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby establishes the following guidelines for items of routine District business which shall be referred directly to the Board for action on a Consent Calendar without first being presented to a Committee of the Board:

1. Awards of construction contracts or contracts for the procurement of supplies, equipment and materials when the amount of the contract award is less than ~~\$52,000,000 and any applicable DBE goals of the District's DBE program or any applicable availability percentages of the District's nondiscrimination programs have been achieved.~~

2. Awards of service agreements (including professional, technical, maintenance and repair agreements) and lease of license agreements for District use of real property, facilities, equipment and software when the amount of such agreement is less than \$52,000,000 ~~and any applicable DBE goals of the District's DBE program or any applicable availability percentages of the District's nondiscrimination programs have been achieved.~~
3. Routine insurance matters.
4. Routine real estate matters such as disposal of remnant parcels or leases of District property for periods of three years or less.
5. Reports of Compliance with Environmental Mitigation and Monitoring Plans.
6. Quarterly Financial Reports (internal).
7. Quarterly Audit Reports (Internal).
8. Annual District financial audits (external audit) and Directors' audits.
9. Routine personnel matters including commencing recruitment and relocation efforts for District positions and hiring executive search firms.

**BE IT FURTHER RESOLVED** that prior to the Board Meetings, written information on the foregoing matters shall be mailed to the Board in accordance with established schedules and procedures, and

**BE IT FURTHER RESOLVED** that Board members are encouraged to notify the District Secretary in advance of the Board Meeting if they wish to have items removed from the Consent Calendar so that the Secretary can notify the Board President in advance as time permits, and

**BE IT FURTHER RESOLVED** that these matters shall be itemized on the Board Agenda and Calendar of Business under a separately listed Consent Calendar as the first item of business, and

**BE IT FURTHER RESOLVED** that any matter which requires a vote of more than a simple majority of the Board shall not be placed on the Board Consent Calendar, and

**BE IT FURTHER RESOLVED** that nothing herein ~~supercedess~~supersedes any authority previously or hereafter delegated to the General Manager or other staff to act with respect to District business under any statute, Board Rule, Board Resolution or Board Motion.

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