

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

BOARD MEETING AGENDA

August 22, 2019

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, August 22, 2019, in the BART Board Room, 2040 Webster Street, Third Floor, Oakland, California.

Members of the public may address the Board of Directors regarding any matter on this agenda. Please complete a "Request to Address the Board" form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

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

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

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

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

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

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

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

Jacqueline R. Edwards
Assistant District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

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

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.
 - i. BART Police Department – Presentation on Commission on Accreditation of Law (CALEA).

2. PUBLIC HEARING

- A. New Fee for the Review of Unsolicited Proposals for Property Development on District-owned Land.

3. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of July 25, 2019.*
Board requested to authorize.
- B. Fixed Property Tax Rates Fiscal Year 2019-2020 General Obligation Bonds.* Board requested to authorize.
- C. Invitation For Bid No. 9065, AC Traction Motor Encoder Assembly.*
Board requested to authorize.

4. 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.)

5. ADMINISTRATION ITEMS

Director Simon, Chairperson

- A. Responses to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership".*
Board requested to authorize.
- B. Award of Agreement No. 6M4625, with KPMG, LLP, for the Project Portfolio Management System. *
Board requested to authorize.
- C. Actuarial Report on Changes to Pension. * For information.

6. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

- A. Change Order to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project, with Clark Construction Group, LLC.
 - i. Upgrade the Planned 10KW UPS to 40KVA (C.O. No. 33).*
 - ii. Revise Overhead Power and Communication Conduits and Layout (C.O. No. 39).*
 - iii. Procure Additional Fire Alarms Devices, from 73 to 229 (C.O. No. 54).*
 - iv. 5 Month Delay Compensation (C.O. No. 55).*
 - v. Accelerate Phase 1 of Water Intrusion Mitigation Project (C.O. No. 82).*
 - vi. Retrofit Two Accessible Fare Gates (C.O. No. 90).*
 - vii. Construct a New PG&E Service Meter for New Fire Pump (C.O. No. 91).*Board requested to authorize.

- B. Quarterly Performance Report, Fourth Quarter Fiscal Year 2019 – Service Performance Review.* For information.

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

Director Raburn, Chairperson

- A. BART's Transit-Oriented Development Policy Amendment and New Review Fee: Unsolicited Proposals for Property Development.*
Board requested to adopt.

- B. Re-Authorization of the Exclusive Negotiating Agreement for Transit Oriented Development, with Brookfield Residential, for the North Concord/Martinez BART Station Project.*
Board requested to authorize.

- C. Federal and State Legislation for Consideration.*
Board requested to authorize.

- D. Irvington BART Station to Warm Springs Extension Project Modifications.* Board requested to adopt.

- E. Update on the Proposed Implementation of FASTER Bay Area.*
For information.

8. GENERAL MANAGER'S REPORT

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

9. INDEPENDENT POLICE AUDITOR'S REPORT

- A. Quarterly Report of the Independent Police Auditor. For information.
- B. Revised Citizen Oversight Model Implementation Report.*
For information.

10. BOARD MATTERS

- A. Resolution authorizing an amendment to the Money Pension Plan Contribution for General Manager.* 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.)

11. 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.)

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

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Name of Case: SF BART vs California Public Utilities Commission,
California Court of Appeals, 1st District
Case No.: A157312
Government Code Section: 54956.9(a)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Name of Case: State of California -Occupational Safety and
Health Appeal Board
Case No. 2014-RID4-2102, Inspection No: 31720357
Government Code Section: 54956.9(a)

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 300 Lakeside Drive, Oakland, CA 94612
District Negotiator: Sean Brooks, Department Manager, Property Development
Negotiating Parties: SIC – Lakeside Drive (Swig Company LLC and Rockpoint Group LLC) and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle
Under Negotiation: Price and Terms
Government Code Section: 54956.8

Property: 601 12th Street, Oakland, 94607
District Negotiator: Sean Brooks, Department Manager, Property Development
Negotiating Parties: Oakland T-12, LLC (Shorenstein Realty Partners and Met Life) and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle
Under Negotiation: Price and Terms
Government Code Section: 54956.8

Property: 2150 Webster Street, Oakland, CA 94612
District Negotiator: Sean Brooks, Department Manager, Property Development
Negotiating Parties: W/L 2150 Webster Holdings VIII, L.P. (Lane Partners and Walton Street Capital) and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle
Under Negotiation: Price and Terms
Government Code Section: 54956.8

13. OPEN SESSION

A. Announcement from Closed Session, if any.

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

Board of Directors
Minutes of the 1,846th Meeting
July 25, 2019

A regular meeting of the Board of Directors was held July 25, 2019, convening at 9:00 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

Directors present: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon and Dufty.

Absent: None.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of June 13, 2019 (Regular); June 27, 2019 (Regular); July 11, 2019 (Regular); and July 17, 2019 (Special).
2. BART Police Citizen Review Board (BPCRB) Allocation of Funds for Membership Fees to National Association for Civilian Oversight of Law Enforcement (NACOLE).
3. Resolution Authorizing California State of Good Repair Program Funds for Fiscal Year 2019 -2020.
4. District Engineering Recruitment Sourcing Services.
5. Employee Relocation Assistance for the Deputy Managing Director Capitol Corridor.
6. Agreement with U.S. Bank Voyager Fleet Systems, Inc., for Participation in the State of California Department of General Services Purchase Card (CAL-Card) Program for the Voyager Fuel Card Program.
7. Award of Contract No. 15TC-231, Aerial Structure Fall Protection, M-Line.
8. Invitation for Bid No. 9054, Fujitec Step Assemblies.
9. Invitation for Bid No. 9055, Escalator Step Assemblies.
10. Invitation for Bid No. 9061, Uninterruptible Power Supply.
11. Reject the Single Bid for Agreement No. 6M3425, Systemwide Track Joint Elimination Services.
12. Richmond Greenway Pedestrian/Bike Path Revocable License Agreement with the City of Richmond.

Director Saltzman made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous electronic vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

1. That the Minutes of the Meetings of June 13, 2019 (Regular); June 27, 2019 (Regular); July 11, 2019 (Regular); and July 17, 2019 (Special), be approved.
2. That the Board authorize the allocation of \$400.00 per fiscal year for BART Police Citizen Review Board (BPCRB) membership fees to National Association for Civilian Oversight of Law Enforcement (NACOLE).
3. Adoption of Resolution No. 5413, Authorizing the Acceptance of Fiscal Year 2019-2020 California State of Good Repair Program Funds.
4. That the General Manager or his designee be authorized, in conformance with established District procedures governing the procurement of professional services, to obtain District recruitment sourcing services, to identify qualified candidates for engineering positions identified by the Human Resources Department. The cost of the sourcing services will not exceed an aggregate amount of \$200,000.
5. That the General Manager or his designee be authorized to enter into a relocation expense reimbursement agreement, if necessary, for the role of Deputy Director, Capitol Corridor, in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement.
6. That the General Manager be authorized to enter into an agreement with U.S. Bank Voyager Fleet Systems, Inc., for participation in the State of California DGS Cal-Card Program, reference participating addendum No. 7-16-99-27, Amendment 1, Commercial Card Solutions Contract 00612-Category 2, for the period December 31, 2018, to December 31, 2020.
7. That the General Manager be authorized to award Contract No. 15TC-231, Aerial Structure Fall Protection, M-Line, to SDV Services, Inc., for the Bid price of \$1,382,999.00 pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures.
8. That the General Manager be authorized to award Invitation for Bid No. 9054, an estimated quantity contract, for the purchase of Fujitec escalator step assemblies, to Precision Escalator for the amount of \$1,611,437.05, including taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the District protest procedures.
9. That the General Manager be authorized to award Invitation For Bid No. 9055, an estimated quantity contract, for the purchase of O & K step chain assemblies, to Kone Spares, Moline, Illinois, for the amount of \$1,449,907.44, including taxes, pursuant to notification to be issued by the General Manager.
10. That the General Manager be authorized to award Invitation For Bid No. 9061, an estimated quantities contract, for Uninterruptible Power Supply to Benning Power Electronics, Inc. for an amount of \$893,017.15 (including applicable sales tax),

pursuant to a notification to be issued by the General Manager, subject to compliance with the District's protest procedures.

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

11. That the General Manager be authorized to reject the proposal submitted by Holland, LP for Request for Proposal No. 6M3425 Systemwide Track Joint Elimination Services, to restructure the scope of services and to re-advertise the Request for Proposal.
12. That the General Manager or his designee be authorized to enter into a revocable License Agreement with the City of Richmond for the operation and maintenance of an access point to the Richmond Greenway from South 45th Street in Richmond, and to amend the License Agreement to address landscape improvements on BART property adjacent to the Richmond Greenway.

President Dufty announced that the Board would enter into closed session under Item 2-A (Public Employee Employment) and Item 2-B (Conference with Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session.

The Board Meeting recessed at 9:02 a.m.

The Board reconvened in closed session at 9:03 a.m.

Directors present: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon and Dufty.

Absent: None.

The Board Meeting recessed at 9:35 a.m.

The Board reconvened in open session at 9:35 a.m.

Directors present: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty.

Absent: None.

President Dufty announced that the Board had voted in closed session to appoint Robert Powers as General Manager by a unanimous vote, subject to the parties reaching agreement on terms and conditions of employment.

President Dufty brought the matter of Compensation and Benefits for General Manager before the Board, and moved that the Board approve the following terms of employment for Robert Powers, which shall be incorporated in a mutually satisfactory written employment agreement prepared by the General Counsel for execution by Mr. Powers and the Board President: Service for an indefinite term at the pleasure of the Board; base salary of \$385,000 per year; twelve months' severance pay for involuntary termination unless a result of death or gross misconduct; annual accrual of vacation at the rate of five weeks per year with subsequent changes in the rate of accrual occurring according to the schedule for non-represented employees generally; benefits afforded non-represented management employees and retirees; and additional annual contributions to the Money Purchase Pension Plan as follows:

Effective upon amendment of the Money Purchase Pension Plan, \$30,000 per year contributed to Mr. Powers' Money Purchase Pension Plan account ratably for each payroll period. The additional contributions to the Money Purchase Pension Plan will be coordinated on Mr. Powers making the maximum deferral contributions to the District's 457(b) Plan under Internal Revenue Code Sections 457(e)(15) and (18). The actuarial impact upon future annual costs to the District will not exceed \$30,000 per year. The Board will work with the Office of the General Counsel and District staff to take the necessary steps to amend the Money Purchase Pension Plan to provide for such additional contributions, including compliance with Government Code Section 7507. Vice President Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes – 9: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0.

The Board Meeting recessed at 9:39 a.m.

The Board reconvened at 9:51 a.m.

Director Raburn introduced Mr. Michael McGill, Chairperson of the Bond Oversight Committee. Mr. McGill presented the committee's Annual Report.

Director Raburn introduced Mr. Rick Goldman, Chairperson of the BART Bicycle Advisory Task Force. Mr. Goldman gave a presentation on behalf of the task force.

Mr. Carl Holmes, Assistant General Manager, Construction and Development introduced the 2019 Summer Interns from the departments of Planning, Development and Construction, and Maintenance and Engineering.

President Dufty called for Public Comment.

The following individuals addressed the Board:

Gena Alexander
Michael Granat
Aleta Dupree
Izzy Meckler

Director Simon exited the meeting.

Director Allen, Vice-Chairperson of the Administration Committee, brought the matter of

Award of Agreement No. 6M4674, with APEX Investigation, for District's Workers' Compensation Investigative Services before the Board. Ms. Pamela Herhold, Assistant General Manager, Performance and Budget; and Mr. Rod Maplestone, Human Resources Division Manager, presented the item. Director Saltzman moved that the General Manager be authorized to award Agreement No. 6M4674, Investigative Services for the District's Workers' Compensation Program, to APEX Investigation for an amount not to exceed \$1,152,470.85 for the base three-year period, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures; and that the General Manager also be authorized to exercise Option Year One (1) for an amount not to exceed \$430,942.60 and Option Year Two (2) for an amount not to exceed \$430,942.60, subject to availability of funds. President Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 1: Director Simon.

Director McPartland exited the meeting.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Agreements for Quality of Life Programs before the Board. Ms. Tamar Allen, Assistant General Manager, Operations; and Mr. Tim Chan, Group Manager, Planning, presented the item. The item was discussed. Director Li moved that the General Manager be authorized to enter into negotiations with the listed agencies for the specified services:

1. Urban Alchemy for elevator attendants at Civic Center, Powell Street, Montgomery and Embarcadero stations. In Fiscal Year 2020 (FY20) not to exceed \$1,500,000, Fiscal Year 2021 (FY21) not to exceed \$1,900,000 and Fiscal Year 2022 (FY22) not to exceed \$3,279,000. BART will enter into a separate reimbursement agreement with San Francisco Municipal Transportation Agency (SFMTA) for 50% of actual costs for these services.
2. San Francisco Public Works (SFPW) for three Pit Stop locations at Powell Street, 16th Street and 24th Street In FY20 not to exceed \$257,500, FY21 not to exceed \$265,225 and FY22 not to exceed \$273,182.
3. Contra Costa Health Services (CCHS) for one dedicated Homeless Outreach Team in Contra Costa County. In FY20 not to exceed \$180,000, FY21 not to exceed \$187,000 and FY22 not to exceed \$194,000.
4. Alameda County Healthcare Services Agency (ACHSA) for one dedicated Homeless Outreach Team (HOT) in Alameda County. In FY20 not to exceed \$250,000, FY21 not to exceed \$257,500 and FY22 not to exceed \$265,225.
5. San Mateo County Human Services Agency (SMCHSA) for one dedicated Homeless Outreach Team (HOT) in San Mateo County and San Francisco International Airport (SFO). In FY20 not to exceed \$250,000, FY21 not to exceed \$257,500 and FY22 not to exceed \$265,225. BART will enter into a separate reimbursement agreement with SFO for up to 50% of the costs based on the actual time spent at the airport.

Director Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Foley brought the matter of Single Source Procurement with Motorola Solutions, Inc., for an Independent Public Safety Tunnel Radio System before the Board. Ms. Tamar Allen; and Mr. Shane Edwards, Chief Maintenance & Engineering Officer, presented the item. The item was discussed. Director Allen moved that pursuant to California Public Contract Code Section 20227, the Board finds that Motorola Solutions, Inc. is the single source for the purchase of equipment for the Project, and that the purchase is for the purpose of duplicating or replacing equipment in use at the District; and that the General Manager be authorized to enter into direct negotiations and execute a contract with Motorola Solutions, Inc. for the procurement of an Independent Public Safety Tunnel Radio System for an amount not to exceed \$1,930,000 plus applicable taxes. President Dufty seconded the motion, which carried by unanimous electronic vote by the required two-thirds majority. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Foley brought the matter of Award of Contract No. 07EA-120, 19th Street/Oakland Station Modernization Project, before the Board. Mr. Holmes and Ms. Shirley Ng, Group Manager, Capital Programs, presented the item. The item was discussed. Director Raburn moved that the General Manager be authorized to award Contract No. 07EA-120, 19th Street Oakland Station Modernization Project, to Proven Management, Inc., for the Bid Price of \$32,691,000 pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and Federal Transit Administration requirements related to protests; and that the General Manager be further authorized to exercise Option 1, Track Wall Mural Painting, subject to certification by the Controller/Treasurer that funding is available. Director Saltzman seconded the motion, which carried by electronic vote. Ayes – 6: Directors Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 1: Director Allen. Absent – 2: Directors McPartland and Simon.

President Dufty exited the meeting.

Director Foley brought the matter of Agreement No. 6M3426 with Loram Maintenance of Way, Inc., for Production Rail Profiling Services before the Board. Ms. Tamar Allen; Mr. Laurence Farrell, Group Manager, Maintenance and Engineering; and Mr. Gregory Shivy, Principal Track Engineer, presented the item. The item was discussed. Director Li moved that the General Manager be authorized to award Agreement No. 6M3426 to Loram Maintenance of Way, Inc., to provide Production Rail Profiling Services for a one (1) year base period with (2) two, (1) one-year options, for an amount not to exceed \$12,636,749.00, pursuant to notification to be issued by the General Manager. Director Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 6: Directors Allen, Ames, Foley, Li, Raburn, and Saltzman. Noes – 0. Absent – 3: Directors Dufty, McPartland and Simon.

Director Foley brought the matter of Change Orders to Contract No. 09DJ-150A, TBT Cathodic Protection Reference Cell Replacement, with DMZ Builders before the Board. Ms. Tamar Allen; Ms. Maansii Chiraq Sheth, Project Manager; and Mr. Myat San, Group Manager, Mechanical/Electrical Engineering, presented the item. Director Allen moved that the General Manager be authorized to execute the Change Orders 9.1 through 16 (a total of 8 Change Orders) for Contract No. 09DJ-150A, TBT Cathodic Protection Reference Cell Replacement for a total estimated amount of \$380,588.00, with a time extension to the Contract Duration of 61 Days. Director Li seconded the motion which carried by unanimous electronic vote. Ayes – 6: Directors Allen, Ames, Foley, Li, Raburn, and Saltzman. Noes – 0. Absent – 3: Directors Dufty, McPartland and Simon. (A description of the eight change orders is attached and hereby made a part of these Minutes.)

President Dufty re-entered the meeting.

Director Foley brought the matter of Change Order to Contract No. 47CJ-120, Procurement of Ticket Vending Machine Transport Installation Kits with Software Modifications, with Cubic Transportation Systems, Inc., to Dispense Clipper Cards (C.O. No. 1) before the Board. Ms. Tamar Allen and Ms. Mitra Moheb, Manager of Engineering Programs, presented the item. The item was discussed. Director Saltzman moved that the General Manager be authorized to execute Change Order No. 001 to Contract No. 47CJ-120, Procurement of Clipper® Vending Machine Transport Installation Kits and Software Modifications to Dispense Clipper® Cards in the amount of \$687,911.00. Directors Allen and Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent – 2: Directors McPartland and Simon.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Award of Agreement No. 57RR-110, with Alex Kushner General, Inc., for Embarcadero and Civic Center Bike Station Modifications before the Board. Mr. Holmes; Mr. Steve Beroldo, Manager of Access Programs; and Mr. Maceo Wiggins, Department Manager, Office of Civil Rights, presented the item. The item was discussed. Director Raburn moved that the General Manager be authorized to award Contract No. 57RR-110, for Embarcadero and Civic Center Bike Station Modifications, to Alex Kushner General Inc., of San Francisco, California, for the bid price of \$573,260, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures. President Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty. Noes – 0. Absent - 2: Directors McPartland and Simon.

Director Raburn brought the matter of Update on Transbay Core Capacity Project before the Board. Mr. Holmes; Mr. Duncan Watry, Project Manager; Ms. Nikki Foletta, Project Manager; and Mr. Thomas Dunscombe, Group Manager, Capital Projects, presented the item. The item was discussed.

President Dufty called for the General Manager's Report.

Ms. Tamar Allen reported on the faregate pilots at Richmond and Fruitvale Stations. Mr. Roddrick Lee, Acting Assistant General Manager, External Affairs, reported on the development of a survey on the modified fare gates to gain customer feedback. General Manager Powers reported on steps he had taken and activities and meetings he had participated in.

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

Director Raburn reported he had met with Blueshield regarding their pending move near the 12th Street/Oakland City Center Station and with Alameda County Supervisor Carson and Alameda County Administrator Muranishi on homeless outreach and transit oriented development, and had attended the Family Bridges Gala, a Service Review Advisory Committee for East Bay Paratransit meeting, the SPUR housing, transportation and urban development symposium, and a meeting of the Tanforan Memorial group.

President Dufty requested an In Memoriam for Joseph "Bunny" Simon, who owned 8 nightclubs in the Fillmore District in the 50's and 60's, and was credited with bringing black jazz to San Francisco. Mr. Simon was the grandfather of Director Lateefah Simon.

Director Saltzman reported she had met with the El Cerrito Democratic Club to discuss transit oriented development and Assembly Bill 2923 and that she would be participating in community outreach with District staff to discuss the San Pablo specific plan.

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

President Dufty announced that the Board would enter into closed session under Item 13-A (Conference With Legal Counsel) of the Regular Meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting recessed at 12:57 p.m.

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

Directors present: Directors Allen, Ames, Foley, Li, Raburn, Saltzman, and Dufty.

Absent: Directors McPartland and Simon.

The Board Meeting recessed at 1:11 p.m.

The Board reconvened in open session at 1:12 p.m.

President Dufty announced that there were no announcements to be made from the closed session.

The Meeting was adjourned at 1:12 p.m. in honor of Joseph "Bunny" Simon.

Patricia K. Williams
District Secretary

EXECUTIVE DECISION DOCUMENT

ATTACHMENT #1

CHANGE ORDER SUMMARY

BACKGROUND

Name of Contractor: DMZ Builders Co., Inc.
Contract No./NTP: 09DJ-150A / July 25, 2018
Contract Description: TBT Cathodic Protection Reference Cell Replacement
Percent Complete as of 7/15/2019 85%

<u>COST</u>	<u>% of Award</u>	<u>CO Totals</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$ 949,850.00
Change Orders:			
Other than Board Authorized C.O.s	9.91%	\$ 94,120.42	
Pending Board Authorized C.O.s	<u>40.07%</u>	<u>\$380,588.00</u>	
Subtotal of all Change Orders	49.98%	\$474,708.42	
<u>Revised Contract Amount:</u>			\$1,424,588.42

SCHEDULE

Original Contract Duration: 360 Days
Time Extension to Date: 0 Days
Time Extension Due to Pending COs: 61 Days
Revised Contract Duration 421 Days

SUMMARY REASON FOR THESE CHANGE ORDER(S)

To address access and coordination conflicts with TBT Retrofit Project and differing site conditions encountered.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Theresa M. Proulx</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/6/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Michaela Morales Dept: Finance <i>Michaela Morales</i> Signature/Date: 8/13/19	General Counsel <i>MB</i> 8/13/19	Controller/Treasurer <i>Myonhite</i> 8/14/19 []	District Secretary []	BARC <i>P. [unclear]</i> 8/13/19 []

FIXED PROPERTY TAX RATES FY 2019-20 - GENERAL OBLIGATION BONDS

PURPOSE:

Fixing the rate of property taxes for BART in San Francisco, Alameda and Contra Costa Counties for Fiscal Year 2019-20 as required by Public Utilities Code Section 29126 to pay for the debt service on the District's General Obligation Bonds.

DISCUSSION:

The net debt service required on the District's General Obligation Bonds for levying the property tax rate during Fiscal Year 2019-20 is \$89,818,187 as determined by BART's financial staff. The District's General Obligation Bonds are composed of two separate measures, Measure AA (Election of 2004) and Measure RR (Election of 2016). The net debt service required on the District's Measure AA (Election of 2004) General Obligation Bonds for Fiscal Year 2019-20 is \$55,619,585 as determined by BART's financial staff. The net debt service required on the Measure RR (Election of 2016) General Obligation Bonds for Fiscal Year 2019-20 is \$34,198,602 as determined by BART's financial staff.

The net debt service tax rate required for both Measures by the District for Fiscal Year 2019-20 is .0120 percent which equates to \$12.00 per one hundred thousand dollars of assessed valuation for the three counties within the District as determined by their Auditor-Controller's Offices. The net debt service tax rate required by the District for Fiscal Year 2019-20 for the Measure AA (Election of 2004) General Obligation Bonds is .0074 percent which equates to \$7.40 per one hundred thousand dollars of assessed valuation for the three counties and the net debt service tax rate required by the District for Fiscal Year 2019-20 for the Measure RR

FIXED PROPERTY TAX RATES FY 2019-20 - GENERAL OBLIGATION BONDS

(Election of 2016) General Obligation Bonds is .0046 percent which equates to \$4.60 per one hundred thousand dollars of assessed valuation for the three counties within the District as determined by their Auditor-Controller's Offices.

FISCAL IMPACT:

Revenues collected on the basis of the above tax rate will be sufficient for the debt service requirements for the General Obligation Bonds for Fiscal Year 2019-20.

ALTERNATIVES:

None.

RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2019-20 be approved.

MOTION:

Adopt attached Resolution.

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

In The Matter of Fixing The Rate of Taxes
For San Francisco Bay Area Rapid Transit
District for Fiscal Year 2019/20

Resolution No. _____

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2019 to June 30, 2020, and make valid assessments of property and valid levies of taxes in accordance with Public Utilities Code Section 29126; and

WHEREAS, Section 93(c) of the Revenue and Taxation Code authorizes the District to levy an ad valorem property tax in order to produce revenues in an amount equal to the amount needed to make annual payments of principal and interest on the General Obligation Bonds which were approved by over two-thirds vote of the District's voters on November 2, 2004 (Measure AA) and November 8, 2016 (Measure RR); and

WHEREAS, this Board has determined the tax rate for the District taxes for the counties in the District for the fiscal year 2019/20 from the budget of the District for the fiscal year 2019/20 and from the values of property transmitted to this Board by County Auditors;

NOW, THEREFORE, BE IT RESOLVED that the rate of taxes for payment of the General Obligation Bonds of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2019 to June 30, 2020, is hereby fixed at .0120 percent, which equates to \$12.00 per one hundred thousand dollars of assessed value of property. Per Measure AA General Obligation Bonds, the rate of taxes of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2019 to June 30, 2020, is hereby fixed at .0074 percent, which equates to \$7.40 per one hundred thousand dollars of assessed value of property. Per Measure RR General Obligation Bonds, the rate of taxes of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2019 to June 30, 2020, is hereby fixed at .0046 percent, which equates to \$4.60 per one hundred thousand dollars of assessed value of property. AND BE IT FURTHER RESOLVED that the Secretary shall immediately after the effective date of this resolution transmit to the County Auditor of the Counties in which the District is situated a statement of such tax rate. The effective date of this resolution is August 22, 2019.

Adopted: _____

Patricia K. Williams, District Secretary



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 14 Aug 2019 		GENERAL MANAGER ACTION REQ'D:		
DATE: 7/30/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Cristiano Torresi Dept: Rolling Stock and Shops Signature/Date: 8/9/19	General Counsel 8/12/19 []	Controller/Treasurer 8/12/19 []	District Secretary []	BARC 8.12.2019 []

AWARD OF INVITATION FOR BID NO. 9065, ENCODER ASSEMBLY FOR AC TRACTION MOTORS

PURPOSE: To request Board Authorization to Award Invitation for Bid (“IFB”) No. 9065 to ITP Rail Associates, Inc., Avon Connecticut in the amount of \$1,188,592.50 (inclusive of all taxes) for the purchase of Encoder Assembly for AC Traction Motor.

DISCUSSION: The District’s fleet currently consists of 439 A2/B2 cars each of which is equipped with 4 AC Traction Motors. The encoder assembly, is mounted on the front of each traction motor and provides a signal which indicates train movement and signals the door system preventing the doors from opening above zero speed. Failure of the encoder results on a locked axle indication causing the train to stop and causing mainline service delays. Based upon the bearing manufacturer’s projection the expected life of the encoder is eight (8) years.

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

A notice requesting bids was published on May 21, 2019 and correspondence was sent to 1 prospective bidder inviting it to view the solicitation on the Vendor Portal. Bids were opened on June 11, 2019 and one bid was received.

Bidder	Units	Unit Price (each)	Total (including all taxes)
ITP Rail Associates, INC Avon, CT.	760	\$ 1,425	\$ 1,188,592.50

Independent Cost Estimate by BART Staff: \$1,165,237.70

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

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services. ITP Rail Associates is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference.

Staff has determined that the only bidder, ITP Rail Associates, INC. submitted a responsive bid. Staff has also determined that the bid pricing is fair and reasonable based upon the Independent Cost Estimate.

FISCAL IMPACT: Funding of \$1,188,592.50 for this procurement will come from Rolling Stock and Shops ("RS&S") Inventory Material Usage Account (#680-010) as materials are procured. Funding for FY20 is included in the operating budget of department #0803622. Funding for FY21, will be requested as part of next year's operating budget cycle and is subject to Board approval. The proposed award of this Contract will not result in any operating costs above the current year's adopted budget. This action is not anticipated to have any fiscal impact on unprogrammed District reserves in the current Fiscal Year. Total funding for this contract in the amount not to exceed 150% of \$1,188,592.50, is based on the following totals by year:

FY20, \$ 594,296.25

FY21, \$ 594,296.25

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

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

MOTION: The General Manager is authorized to award IFB No. 9065 for the purchase of Encoder Assemblies for Vehicle Traction Motors to ITP Rail Associates, Inc. for the Bid price of \$1,188,592.50 including tax, pursuant to notification to be issued by the General Manager.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Powers</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D:	
DATE: 8/6/2019		BOARD INITIATED ITEM: No	
Originator/Prepared by: Gregg Marrama Dept: Performance & Budget	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary <i>[Signature]</i> BARC
Signature/Date: <i>Gregg Marrama</i> 8/17/19	<i>[Signature]</i> 8/19/19 []	<i>[Signature]</i> 8/14/19 []	<i>[Signature]</i> 8/14-19 []
			<i>[Signature]</i> 8/21/19 []

Responses to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership"

PURPOSE:

To obtain Board approval of Responses to findings and recommendations contained in the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership"

DISCUSSION:

On June 11, 2019, the 2018-2019 Alameda County Grand Jury issued a Final Report entitled "Crime and Quality of Life: Impact on BART Ridership" ('Report'), which contained five findings and seven recommendations relating to the BART system, including crime, safety and homelessness, fare evasion, system cleanliness, and transparency. Although the Report stands as a thoughtful illustration of these issues, a fuller understanding requires that they be considered within the context of BART's current and planned future efforts in each area. As such, BART welcomes the opportunity to respond in detail to each of the findings and recommendations to describe our position, provide explanatory information, and add clarifying detail.

In conformance with the statutory response requirements, we have indicated agreement or disagreement with the Report findings (supplemented by a narrative response), and provided brief but comprehensive responses to the Report recommendations. These proposed responses are provided as Attachment A and are accompanied by the Report for reference.

FISCAL IMPACT:

Board approval of the responses has no fiscal impact. BART is already advancing several major initiatives as described in Attachment A, and any new initiatives that may be recommended would be determined as part of future budgets.

ALTERNATIVES:

Direct staff to amend responses based on Board input.

RECOMMENDATION:

Approve Attachment A, Responses from the BART Board of Directors to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership"

MOTION:

The Board approves the attached Responses from the BART Board of Directors to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership" and directs staff that those responses be transmitted to the 2018-2019 Alameda County Grand Jury.

Attachment A – Responses to the 2018-2019 Alameda County Grand Jury Final Report, “Crime and Quality of Life: Impact on BART Ridership”

FINDINGS

Finding 19-30:

BART's police department staffing has been insufficient to meet crime levels, as reported by an outside expert, who recommended substantially more patrol officers and revamped patrol assignments.

RESPONSE: *Agree*

We agree that we need to increase our police staffing to address the challenges impacting BART riders. The adopted FY20 budget continues BART's efforts to increase police staffing, by adding 19 new police officer positions and four new Fare Inspector positions. BART's future staffing model includes adding more police officers to increase presence at stations, on trains and having overlap/cover officers. This model will provide a more saturated police presence to increase safety on BART.

Finding 19-31:

Although overall crime on BART is up only slightly from 2014 to 2018, the incidence of violent crime more than doubled during that time. All crime is serious, but the potential for violent crime is particularly frightening to riders. The high volume of lesser offenses, especially thefts of items like phones, computers, wallets, etc., dramatically affects riders' perceptions of safety and well-being on the BART system.

RESPONSE: *Disagree partially*

The significant driving factor in the increase of violent crime is the robbery of cell phones and other electronic devices, which is defined by the FBI's Uniform Crime Reporting (UCR) Program as a violent crime. Unfortunately, electronic device robbery is a growing trend in modern society, and public transit is a target rich environment for cell phone thieves. In the BART system, this is evidenced by the concentration of cellphone thefts which have occurred in our high-density, commuter rich downtown San Francisco stations. As is true on most transit systems, a significant number of riders can be seen using smart phones while commuting on BART. Since the perception of safety is high priority for BART, we continue to educate our riders on how they can reduce the risk of having their cell phone stolen.

It is important, however, to view crime statistics in comparison to the number of riders. When considering the 485 violent crimes reported in 2018, it is important to note that BART carried nearly 120 million passengers during the same year, resulting in a per passenger rate of 0.0004%. We absolutely agree that all crime is serious, particularly violent crime, but the likelihood of becoming the victim of a crime on BART is relatively low.

We also acknowledge that quality of life issues affects the perception of safety on the system. BART expends significant resources to address quality of life issues, including the presence of police personnel to offer resources to homeless persons. When criminal conduct is witnessed, our police officers may take enforcement action as appropriate under the circumstances.

Finding 19-32:

Public concern about fare evasion has been one of the top issues on every customer satisfaction study since 2014. The lack of enforcement erodes confidence in BART and costs upwards of \$25 million, or 5% of passenger revenue.

RESPONSE: *Disagree partially*

While it’s correct that the largest declines for this attribute have occurred in the last three surveys (refer to the table below), it was first identified as an issue for customers in the 2016 survey and became a much greater concern in 2018. It was not a top issue for customers in the 2014 survey, as measured by relative percent change.

Enforcement against fare evasion	1998	2000	2002	2004	2006	2008	2010	2012	2014	2016	2018
% change in mean vs. prior survey	1.1%	-0.4%	1.7%	5.9%	-1.2%	-1.2%	-3.3%	-1.3%	-3.9%	-6.3%	-19.8%

- In 2014, this attribute was not one of the top declines. (Out of the 48 attributes rated, it was number 21 when sorted by % decline. The largest declines were around seat availability, station cleanliness, and onboard temperature.)
- In 2016, it was the 4th largest decline among all attributes.
- In 2018, it was the largest decline among all attributes.
- Note that despite the relatively large declines in 2016 and 2018, the attribute did not appear as a “Target Issue” in the quadrant chart. (“Target Issues” are determined by relatively low attribute ratings combined with relatively high derived importance scores.)

BART’s estimated fare revenue value of a fare evasion rate of 3% to 6% is approximately \$15M to \$25M. It is important to note, however, that not all of this value is potentially recoverable, for two reasons: First, some fare evaders would not ride BART if they were prevented from fare evading; Second, based on the experience of New York City Transit, which has far more physically hardened stations than BART, it is likely not feasible to prevent 100% of all fare evasion.

Although the finding asserts a “lack of enforcement”, it does not accurately reflect BART’s actions in responding to this issue. Over the last several fiscal years, we’ve added funding for community service officers, dedicated fare inspectors, and 19 additional police officers. BART has also committed substantial capital funds directly to station hardening, as well as incorporating hardening design and equipment into our ongoing station modification program. Modifications and additions include raised railings, alarmed swing gates, fare gate pressure increase (“cinch” modification), enclosure of platform elevators to paid areas, additional security cameras, and electronic service gates. BART is also exploring long term solutions for new fare gates, which will include fare evasion mitigation in design and deployment strategy.

Finding 19-33:

Cleanliness of BART trains and stations was the concern most cited in the Customer Satisfaction Study from 2012 through 2018. BART introduced several initiatives to target cleaning resources where most needed and to prevent messes in the first place (e.g., elevator attendants, Pit Stop program). However, continuing dissatisfaction with cleanliness was repeatedly cited in the most recent survey, in large part due to an increase in the homeless population using BART facilities.

RESPONSE: *Disagree partially*

The top 3 attribute declines in the 2018 survey revolved around enforcement and personal security. While issues with cleanliness appeared within four of the 10 attributes with the largest declines, describing them as the most cited concern isn't accurate.

While some customers did comment on cleanliness issues in relation to homelessness, we do not have quantitative data to draw the conclusion that dissatisfaction with cleanliness is due in large part to an increased homeless population on BART. We can conclude that it is a factor, but it would be very difficult to determine how large of a factor with existing Customer Satisfaction Survey data.

Train interior cleanliness and station cleanliness were reviewed for the last few surveys. Here are results after sorting in ascending order on % change:

- 2018: Train interior cleanliness: -14.1%; station cleanliness: -9.2% (#4 and #12 of 45 attributes with prior year ratings)
- 2016: Train interior cleanliness: -0.7%; station cleanliness: -4.4% (#38 and #10 of 47 attributes with prior survey comparisons)
- 2014: Train interior cleanliness: -4.7%; station cleanliness: -7.8% (#13 and #3 of 48 attributes with prior survey comparisons)
- 2012: Train interior cleanliness improved vs. prior year (+1.8%), while station cleanliness was -2.6% (#3 of 46 attributes with prior survey comparisons)
- 2010: Train interior cleanliness: -3.7%; station cleanliness: -4.0% (#5 and #4 of 47 attributes with prior survey comparisons)

Finding 19-34:

Board-related documents are difficult to find on the BART website because some, especially those related to the board, are not searchable.

RESPONSE: *Disagree partially*

All Board related documents are posted in the Board of Directors section of bart.gov. Prior to July of 2011, Board Meeting agenda pdfs were searchable. Unfortunately, the software used to create the agenda pdfs was changed in mid-2011 and agendas were uploaded to the website in a way that terms within the agenda were not searchable, although many of the attachments, which contained written reports and presentations, remained key-word searchable. In May 2018, the District began to use industry-standard Legistar electronic agenda creation software, with all agendas accessed through Legistar searchable.

RECOMMENDATIONS

Recommendation 19-30:

BART must increase police patrol officer staffing over the next five years to make the entire BART system safer, in accordance with the expert study it commissioned and received in 2018.

RESPONSE:

The BART District is committed to increasing police officer staffing. As recommended in the staffing study, the BART Board of Directors recently approved 19 additional police officer positions in the FY20 budget. The BART Police Department and BART Human Resources are working together to aggressively recruit and hire police officers. During the recent labor negotiations, the District negotiated with our BART Police Officer Association to allow the outsourcing of background investigations for police officer applicants. This allowance has significantly increased our ability to hire officers at a much faster pace. In addition, the new labor agreement provides for an improved compensation package that will make BART more salary competitive and support increased recruitment. BART has also instituted, and recently increased, a hiring bonus for lateral applicants with prior law enforcement experience. Lateral officers are trained and become solo officers more quickly than entry level applicants.

The hiring of additional police officers is a very high priority for BART, and we are making significant progress.

Recommendation 19-31:

BART must better educate the public on crime prevention to reduce opportunities for robberies and thefts on the transit system.

RESPONSE:

In keeping with our longstanding practice, BART remains committed to using a variety of channels to educate the public on crime prevention and reducing opportunities for robberies and thefts. This includes frequent overhead Public Address announcements, safety tips that scroll on our platform digital signs, [posters](#) on board train cars, [social media messages](#), passenger bulletins inside stations, [website postings](#), a dedicated [Safety and Security webpage](#), in-station outreach and community outreach with [safety tip flyers](#) in [multiple languages](#), and frequent interviews with the media to spread the message beyond our riders. BART also has the following message in bold at the bottom of BART Service Advisories that are emailed out: Ride Safe: Download the BART Watch App, save 510-464-7000 for BART Police in your phone, and secure electronic devices when the train door is opening. More tips and info about what we are doing to help keep BART safe can be found at www.bart.gov/ridesafe.

In May 2019 BART Communications and BART Police teamed up to renew the call for riders to protect their phone. A [public information campaign](#) was deployed, electronic theft data was shared, and we released [surveillance footage](#) showing how quickly the thefts can occur. BART Police Detectives walked trains handing out [cards advising riders](#) to be aware of their surroundings, so they can avoid falling victim to thieves who are after their cellphones. The index-card sized handout includes tips in multiple languages for keeping cellphones safe with an emphasis on the importance of looking up from your device near train doors and while waiting on station platforms.

BART Police and BART staff also participate in several community outreach events each year including [National Night Out](#), [Coffee with a Cop](#), [Trunk or Treat](#), having booths at local fairs and festivals handing out flyers with safety tips and special events during the busy holiday shopping season to remind riders to be aware of their surroundings. These education and outreach efforts work in tandem with BART's efforts to increase police staffing and visibility, as well as improvement and enhancement of security surveillance systems (cameras in all cars and comprehensive digital coverage in stations) to reduce crime in the system.

Recommendation 19-32:

BART should continue the enforcement crackdown on fare evaders and improve its overall process for handling the collection of fare evasion fines.

RESPONSE:

BART's primary fare payment enforcement tools involve Proof of Payment verification and Fare Evasion observation and detention, and there are important distinctions between the two.

Proof of Payment violations result in a civil citation, predominantly issued by our non-sworn Fare Inspectors. This occurs when our Fare Inspectors asks persons to present a ticket or Clipper card inside the paid area of BART or on BART trains. Our Fare Inspectors are limited in their ability to verify a person's identity, which results in civil citations issued to fictitious names. Our Fare Inspectors are trained on how to ask for valid identification and how to detect if someone is likely giving false information. If a Fare Inspector has reason to believe that a person is giving false information, the Fare Inspector can request an officer to respond and run an identification check. Civil citations for Proof of Payment are processed through an outside service contractor. Late payments are assessed an additional fee, and unpaid fines are referred to the Franchise Tax Board. The service contractor has a process to refer unpaid fines to collections agencies, and BART is considering that as an option.

Fare Evasion citations issued by our police officers are criminal infractions. This occurs when a police officer witnesses someone entering or exiting the paid area of BART without processing fare media. When police officers detain someone for fare evasion, the officer runs an ID check to confirm identity and to check for warrants. Consequently, fare evasion citations are most often issued to accurate names. Fare Evasion citations are processed through court, since they are a criminal infraction. Unpaid criminal citations have the potential of being sent to collections and/or becoming a warrant, at the discretion of the court. BART is not involved in the collection of fare evasion fines for criminal infractions.

As we continue to enhance enforcement efforts, in FY20 BART is expanding the number of Fare Inspectors by four and adding 19 more Police Officers. This will allow for more focused enforcement. BART also deploys managers, staff and additional police officers to select downtown San Francisco stations starting with the opening of revenue service to provide an active presence to deter early morning fare evasion. While resource intensive, this effort has resulted in measurable improvements to the passenger experience.

Recommendation 19-33:

BART must continue and expand its initiatives to keep trains and stations clean and to respond more quickly to bio-hazard complaints.

RESPONSE:

BART continues to focus on station and train cleanliness. Within the last two fiscal years, BART has restructured its system service department to achieve greater efficiencies in deploying train and station cleaning resources, committed additional resources for station brightening, station refresh, and maintaining station entrances, increased frequency of “deep” cleaning of cars from 120 to 90 days, increased frequency of end-of-line car cleaning coverage, and added permanent mid-line cleaning staff. Stations receive full cleanings each day involving a sweeping of the platforms, concourse, escalator steps and stairs, damp mop of any spills, and cleaning of elevator floors and panels. Any mess encountered will be removed and surface sprayed with the appropriate cleaning agent. We are also establishing a robust training system for station cleaners, instituting audits to ensure better results, and taking steps to make sure our workers have access to the most effective cleaning tools available. These changes also include new staffing levels for each station designed to make sure our cleaning teams are making the greatest impact.

Additionally, in May 2018 BART added a feature to its website and mobile website (and made it available on the official BART app when it launched November 2018) that allows customers to report biohazards to BART. The feature alerts cleaning crews of the biohazard so they can be immediately cleaned up. BART continues to work with local outreach organizations to address the spillover of the regional opiate epidemic into the system.

Recommendation 19-34:

BART should continue to partner with social service agencies that serve the homeless, while strongly advocating for a comprehensive regional, rather than county by county, program to aid the homeless, especially those with mental health conditions.

RESPONSE:

While BART supports a regional approach/strategy for this regional problem, BART operates in four, soon to be five, counties, each with varying levels of challenges with homeless populations. As a transit agency, BART has limited resources and our system is not a suitable shelter for homeless people. BART is committed to providing our riders with a safe and clean environment and a key part of that is developing a comprehensive strategy that includes connecting homeless people with support services. We are strongly advocating for a regional approach and are working with county agencies to develop a strategy and plan

BART is partnering with SFMTA and the City of San Francisco’s Department of Homelessness to provide two full-time Homelessness Outreach Teams (HOT) in the Downtown San Francisco and Mission St. stations. BART is also partnering with Contra Costa Health Services to provide one full-time HOT team in Contra Costa County. In FY20, BART will partner with Alameda County Healthcare Services Agency to provide one full-time team in Alameda County and with San Mateo County Human Services Agency and SFO for another full-time team in San Mateo County/SFO.

The comprehensive plan also brings a renewed focus on improving the station environment. That includes hiring new station cleaners to focus on our busiest stations and increasing the visible employee presence. BART is adding more community service officers to disrupt drug injection sites as well as recruiting additional police officers. BART is also positioning fully attended Pit Stop bathrooms above ground at major station entrances and exits in downtown San Francisco to provide safe and clean access to restrooms for the public.

Recommendation 19-35:

BART must establish a method to track and report on emerging concerns within the *Customer Satisfaction Study report*, initially drawing on passenger comments that document new and persistent concerns of riders.

RESPONSE:

This recommendation will be implemented as part of BART's next Customer Satisfaction Study, tentatively scheduled for fall of 2020, with the final report expected by June of 2021. The final report will include a section covering emerging concerns among BART customers. Emerging concerns will be determined by evaluating the following items in unison:

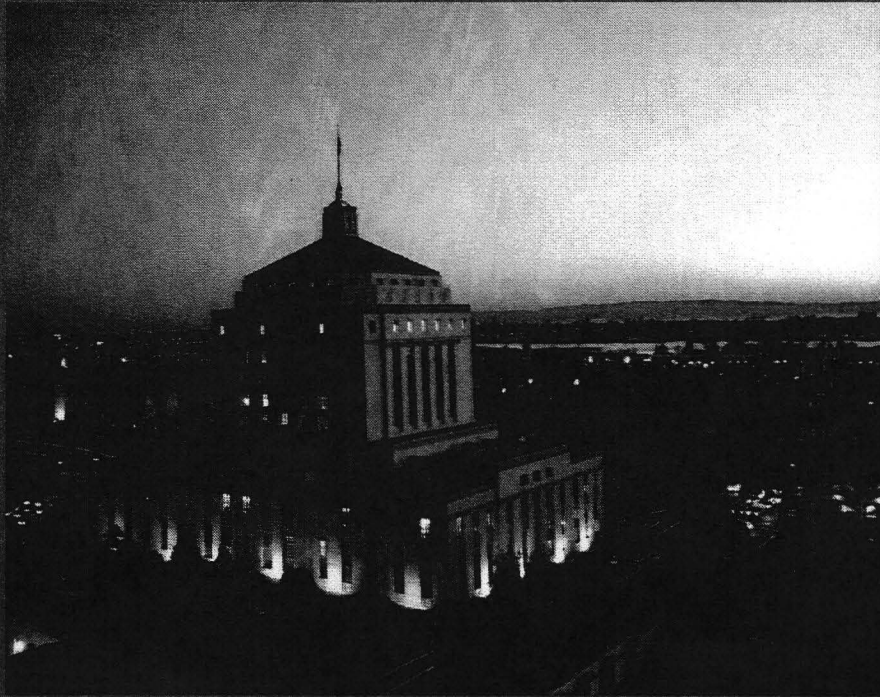
- Attribute rating trends;
- Verbatim comment category counts, including any new categories if applicable;
- Qualitative review of verbatim comments.

Recommendation 19-36:

BART must increase the transparency of BART policies, decisions, and operations by making all Board-related documents and staff reports searchable, so information may be more easily found by the public using the BART website's search feature.

RESPONSE:

BART has recently implemented an industry-standard product called "Legistar" that is a legislative document management system with robust search capabilities. This system is already linked to BART.gov in the area where agendas and Board packets are posted. This new solution, along with reposting all the previous PDFs as documents with Optical Character Recognition (OCR), will enable searchable PDFs, and a robust overall search tool. The District Secretary's Office has begun the process of re-creating and re-posting all agenda packets from mid-2011 to present, and all future agenda packets will continue to be created in a searchable format.



**ALAMEDA CITY COUNCIL
INTERFERENCE**

**OAKLAND UNIFIED
SCHOOL DISTRICT'S
BROKEN ADMINISTRATIVE
CULTURE**

**COUNTY MISMANAGEMENT
LOSES MILLIONS FOR
TERRORISM AND
DISASTER TRAINING**

**INDEPENDENT LIVING
HOMES IN
ALAMEDA COUNTY**

**ALAMEDA COUNTY
FOSTER CARE SYSTEM**

2018–2019 Alameda County Grand Jury Final Report

**COUNTY OVERSIGHT OF
COMMUNITY-BASED
ORGANIZATION
CONTRACTS**

SANTA RITA JAIL

CAMP SWEENEY

**CRIME AND QUALITY
OF LIFE: IMPACT ON
BART RIDERSHIP**

CRIME AND QUALITY OF LIFE: IMPACT ON BART RIDERSHIP

EXECUTIVE SUMMARY

The last few years have been challenging for the Bay Area Rapid Transit (BART) system. The public was shocked by the news of a young woman's murder at the MacArthur BART station in July 2018, the same week that two men were killed by attackers in other BART stations. These tragedies drew attention to crime, safety and quality of life concerns by riders.

Violent crime on BART, including robberies and aggravated assaults, increased by 115% over the last five years. Perhaps not coincidentally, BART lost 8% of its ridership since its 2016 peak, even as the Bay Area population grew and several new stations were added to the system.

Violent crime on BART, including robberies and aggravated assaults, increased by 115% over the last five years.

The Grand Jury identified four interrelated quality of life issues that appear to discourage residents of Alameda County and the greater Bay Area from riding BART. These are not new issues, but have increasingly touched a nerve in current and former riders:

- (A) Homelessness
- (B) Cleanliness of the trains and stations
- (C) Fare evasion
- (D) Security and perception of safety.

The media is aware of these problems; local TV stations and newspapers routinely broadcast or publish reports on BART's problems.

BART's current riders are aware of these problems; public opinion as measured by customer satisfaction studies and letters to the editor consistently mention these quality of life issues and their negative impacts on rider satisfaction.

Most importantly, BART is aware of, and is trying to do something about these problems. Through its investigation, the Grand Jury sought to determine whether BART responded to these issues as quickly as it could, and whether there are other emerging customer satisfaction issues that BART should address. With the retirement of two top leaders – the general manager and the BART police chief – BART's Board of Directors (board) must ensure continuity of leadership on these issues, particularly crime and perception of safety.

BACKGROUND

BART is a public agency that provides rapid transit rail service for the San Francisco Bay Area, with 48 stations and 121 miles of track. All five BART lines run in part through Alameda County, and serve county residents. BART is governed by a nine-member elected board of directors, with a general manager to oversee day-to-day operations. Funding for the transit system's \$768 million operating expense budget²¹ in FY2019 comes from passenger fares (63%), parking (5%), other revenue (5%), and sales tax, property tax and other financial assistance (27%).

BART first opened nearly 50 years ago and the system now requires extensive and expensive infrastructure investments to maintain its services. At the same time, it is extending lines to new parts of the Bay Area (Warm Springs in 2017 and Antioch in 2018, with an extension to San Jose scheduled to open in late 2019 and a later extension to Santa Clara.)

Fewer passengers means less revenue for BART, which is counting on about 60% of its operating expenses to be covered by fares in FY 2020, compared to 74% five years ago.

BART's average weekday ridership has steadily declined from its Fiscal Year (FY) 2016 peak of 433,400 riders to 407,600 in FY 2019 (Table 1). This is a loss of 25,800 daily riders, or 6% fewer passengers each weekday than three years ago. Weekend ridership tells

a similar but more extreme story, with a peak in average weekend ridership in FY 2015, dropping by 23% since then, with 82,500 fewer passengers now riding BART on a typical weekend.

Forecasted ridership for FY 2020 is even lower, especially on weekends. This downward trend in ridership is occurring despite a 2% increase in the Bay Area's population from 2016 to 2018 and despite the new service line extensions.

Fewer passengers means less revenue for BART, which is counting on about 60% of its operating expenses to be covered by fares in FY 2020, compared to 74% five years ago. Between lower fare revenue and expected increases in operating expenses, BART anticipates facing an operating budget deficit this year and over the next few years.

²¹ Excluding bond debt service and allocations. The total budget including those costs is \$922 million.

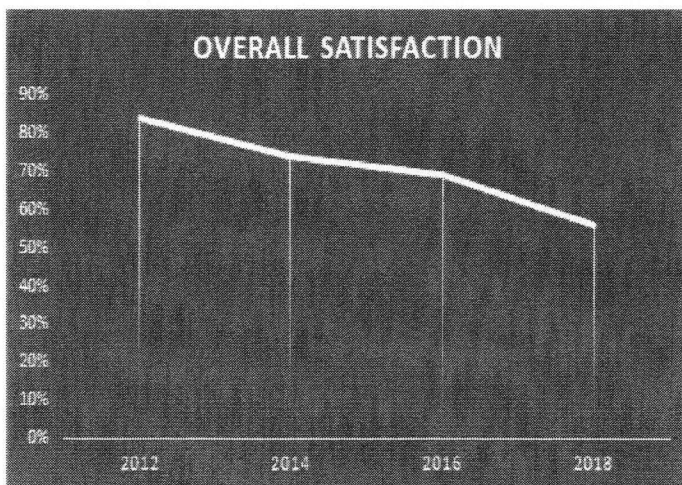
Table 1. BART Ridership, FY 2014 to FY 2020

Fiscal Year	Total Annual Ridership (millions)	% Change	Average Weekly Ridership	% Change	Average Weekend Ridership	% Change
2014	117	--	410,000	--	353,900	--
2015	126	7.6	423,100	3.2	359,100	1.5
2016	129	2.0	433,400	2.4	345,200	-3.9
2017	124	-3.4	423,400	-2.3	321,700	-6.8
2018	121	-2.9	414,200	-2.2	303,200	-5.8
2019 (projected)	118	-1.8	407,600	-1.6	276,600	-8.8
2020 (forecast)	116	-2.0	404,900	-0.7	256,500	-7.3

Note: Average weekend ridership is the sum of Saturday and Sunday riders.

BART management knows the major reasons for the recent decline in ridership:

- Rider satisfaction with BART fell from a high of 84% in 2012 to a low of 56% in 2018, as measured by the 2018 Customer Satisfaction Study (2018 Study), presented to the BART board on January 24, 2019. Respondents clearly identified homelessness, cleanliness, fare evasion, and security and perception of safety as the critical areas that needed improvement. Interestingly, BART’s core function as a transportation system received generally high ratings, with the Clipper Card especially appreciated.
- Ride sharing services like Uber and Lyft cut sharply into ridership, especially on weekends and off-peak hours when traffic congestion is less of an issue so automobile travel is faster. Ride sharing services also capture many short trips during peak hours. BART still remains the quickest way to travel long distances during peak commute hours.



The Grand Jury was particularly interested in investigating the reasons for the public’s dissatisfaction with BART that are within BART’s ability to control, and how quickly BART responded to those problems, recognizing that some causes are beyond BART’s control.

INVESTIGATION

The Grand Jury examined BART public documents, including consultant reports, attended or viewed BART Board meetings and agendas, toured the BART Operations Center in Oakland and interviewed BART senior executives. The difficulty of finding relevant documents on the BART website hampered our investigation. Many board-related documents are saved as images, so the public cannot search for terms within written reports such as agendas, attachments, presentations, and minutes.

As part of its investigation, the Grand Jury looked at how BART's board and management addressed quality of life issues with budget initiatives from FY 2014 to the present. Generally, the budget initiatives proposed in each annual Fiscal Year Preliminary Budget Memo reveal the board's and management's priority projects for each year, with a description and roadmap for funding in the upcoming budget cycle. Once an initiative is approved, funding is usually renewed in subsequent years. Although not all new initiatives are ultimately implemented, these proposals are windows into BART's priorities.

A Customer Satisfaction Study that BART conducts every two years informs many of these priorities. Trends in responses are important indicators for management of which areas need improvement, and help set priorities to improve customer satisfaction. Proposed initiatives should align with customer concerns, especially regarding quality of life issues.

The Grand Jury reviewed customer responses to BART's Customer Satisfaction Study for 2012, 2014, 2016 and 2018 to see which aspects of the BART ridership experience were rated lowest. Each survey uses the same questions and methodology to ensure that results from different years are comparable. BART identifies targeted areas for improvement based on low customer rating of performance and high "derived" importance²² to customers. Table 2 presents the lowest-ranked performance issues from surveys between 2012 and 2018, along with a summary of riders' most frequent written comments on quality of life issues.

Some issues of lesser concern to customers in the earlier years, as measured by low ratings, grew in importance. For example, on a scale where 1 is poor performance by BART and 7 is excellent, the public's rating of fare evasion enforcement steadily declined from 4.65 in 2012 to 4.47 (2014), 4.19 (2016), and 3.36 (2018).

Following are discussions of the major quality of life issues reported in the customer satisfaction studies, along with actions BART took in response to these problems in recent years.

²² The importance measure is statistically derived from a correlation of an issue with overall satisfaction with BART's performance.

Table 2. BART Customer Satisfaction Study – Selected Responses, 2012-2018

Year	Overall satisfaction	Areas needing improvement (by importance)	Written comments (by frequency)
2012	84%	<ul style="list-style-type: none"> • Cleanliness of facilities (train seats/floor/ interior, stations, restrooms, elevators) • Availability of space (luggage, bikes, etc.) • Police presence (train/station/parking lot) 	<ul style="list-style-type: none"> • Police/security • Carpets/musty/doors • Seats on trains/crowding • Parking
2014	74%	<ul style="list-style-type: none"> • Cleanliness of facilities • Availability of seats/space • Police presence • Parking • Fare evasion enforcement 	<ul style="list-style-type: none"> • Seats on trains/crowding • Police/security • Parking • Homeless/panhandling
2016	69%	<ul style="list-style-type: none"> • Police presence, personal security • Cleanliness of facilities • Availability of seats/space • Fare evasion enforcement • Parking 	<ul style="list-style-type: none"> • Seats on trains/crowding • Police/security • Homeless/panhandling • Parking
2018	56%	<ul style="list-style-type: none"> • Addressing homelessness • Cleanliness of facilities • Police presence and personal security • Availability of seats/standing room/space • Fare evasion enforcement • Parking 	Comments not yet available (4/12/2019)

Homelessness

The growing problem of homelessness is not unique to the Bay Area. Poverty, untreated mental health conditions and substance abuse are complex public issues, and have contributed to a nationwide increase in homelessness. Some people ride BART to stay warm and safe and to sleep on trains. However, passengers often do not feel safe sitting next to someone who is unkempt, using drugs or alcohol, or behaving erratically. Of the three homicides on the BART system in 2018, all three perpetrators were homeless, as was one of the victims.

Members of the BART Police Department are often called on to work with homeless and impaired people in the transit system. As with police departments elsewhere, this became increasingly difficult as the number of homeless with mental health and medical problems increased. BART’s efforts have included:

- In 2014, BART Police hired a full-time Crisis Intervention Training Coordinator to coordinate homeless programs and partnerships with social service agencies throughout BART's service area, including Alameda County.
- In 2017 BART first partnered with the San Francisco Municipal Transportation Agency and Department of Homelessness and Supportive Services in creating a Homeless Outreach Team dedicated to the Powell and Civic Center BART stations. The team expanded to Montgomery and Embarcadero stations in 2018, and will add the 16th St. and 24th St. stations in 2019. Staff contact homeless people on BART property to offer housing, social, and health services that may benefit them. A similar outreach team began working overnight at Contra Costa County BART stations in January 2019 in partnership with the county's Coordinated Outreach, Referral, & Engagement program. BART is proposing to establish homeless outreach teams for Alameda and San Mateo Counties in FY 2020.

The Grand Jury is well aware that BART is not set up to provide social services, although BART perhaps could have introduced these measures sooner to help relieve the effect of this crisis on its patrons and on the homeless themselves. The outreach teams are a compassionate step in the right direction, but BART could and should advocate even more strongly for a regional solution.

Cleanliness of Trains and Stations

Riders are increasingly dissatisfied with the cleanliness of train interiors, stations, elevators, and restrooms. The 2018 Study included quotes from some riders who linked the dirty environment to the increase in homeless riders. However, since at least 2012, cleanliness has been a top concern for riders who responded to the survey. Eating and drinking on trains, while prohibited, nonetheless occur and contribute to the problems. As the system ages, cleanliness becomes more of a problem.

BART budget initiatives during the years we reviewed included measures to hire more cleaners and equipment as ridership grew. Over the last couple of years, as ridership declined and problems associated with the homeless increased, BART implemented several programs targeting cleaning and sanitation:

- Since FY 2017 BART has contributed to San Francisco Public Works' Pit Stop program, which provides attended restrooms for the homeless in San Francisco, including at the 16th St./Mission, Powell St., Civic Center and Embarcadero Stations.
- In April 2018 BART began funding elevator attendants at the Powell Street and Civic Center stations as part of a pilot program with the San Francisco Municipal Transportation Agency (Muni). As a result, the elevators are cleaner and passengers who ride them feel safer, according to a survey of riders at the Civic Center.
- In June 2018 BART created several rapid response cleaning teams to respond to biohazard and other complaints. Now, when customers report problems, a team is

dispatched to clean up the area as soon as possible, rather than leaving the problem for clean up at the end of the line, or possibly not until the end of the day.

- BART introduced a new staffing structure and an improved training program for car and station cleaners.

A bright spot for riders this year was the introduction into service of the first of 775 clean new cars to replace the existing ones, many of which have been in use since BART's 1972 opening. As many as 1,200 cars in total may be purchased, depending on demand and funding.

Fare Evasion

Recent news reports about fare evasion at BART showed or described people pushing through emergency gates, jumping over fare gates and fences, or riding street level elevators directly into the station – all without paying their fares. Violators include people in a hurry to get to work, students who want to save money, and others who for personal or financial reasons decide not to pay their fare.

Some residents are of the opinion that fare evasion is not a priority, but customer survey data would say otherwise. Commuters and others who pay for their rides are frustrated by the unfairness of this behavior. Riders gave “enforcement against fare evasion” the largest service rating decline in the 2018 Study, compared to the earlier surveys. Furthermore, fare evasion contributes to a perception of lawlessness, and fear for personal safety. There are major financial consequences of lax enforcement as well; BART estimates that it loses \$25 million each year from fare evaders, representing 5% of passenger fare revenue²³.

The Grand Jury learned from BART senior management that an estimated 15% of riders do not pay their fares, which means that approximately 17.7 million passengers annually are not paying, out of the 118 million total passengers. The comparable rate of fare evaders on similar transit systems is much lower (about 8%) according to the same source.

In response to this problem, BART adopted a two-pronged approach: cite fare evaders, and modify (“harden”) infrastructure to make fare evasion more difficult. Measures that BART recently initiated include:

- The Board adopted a proof of payment requirement, effective January 1, 2018. Not paying the proper BART fare now subjects the violator to a civil citation fine of \$75 for adults and \$55 for minors. Community service options are available instead of cash payments for those who cannot afford the fine or who prefer that option. An adult with a third violation in a 12-month period is issued a criminal citation, with a fine up to \$250 and/or community service. BART may pursue collection of unpaid fines from an individual's California personal income tax refund, through the CA Franchise Tax Board's Interagency Intercept Collection Program. However, that option does not yet appear to have been implemented.

²³ Since fares are based on distance, the percentage loss of revenue is not necessarily equal to the percentage of riders not paying fares.

- Although BART police do issue fare evasion citations when they find a violator, BART hired six dedicated fare inspectors in 2018, and in September 2018 approved hiring ten more to conduct targeted night and weekend inspections. Four more inspectors are proposed for FY 2020. The cost of the fare inspectors is close to \$125,000 each, so the total complement of inspectors will cost approximately \$2.5 million annually.
- After two months of issuing warnings to persons who could not provide proof of fare payment, the fare inspectors began issuing citations to violators in March 2018. Results for the first six months were discouraging:
 - 3,813 citations were issued (90% to adults)
 - 89% of recipients ignored their citation
 - 9% of recipients paid the fine
 - 2% of recipients performed community service
 - Only \$29,000 was collected in fines.

These dismal results mean that only 0.04% of violators were caught during that first six months, according to BART's statistics; for every violator cited, 2,300 got away with not

Only 0.04% of violators were caught during the first six months ... for every violator cited, 2,300 got away with not paying.

paying²⁴. BART recognizes that some passengers can't afford the full fare, so currently offers Clipper Cards with a 50% discount on fares for youths age 5 to 18 and a 62.5% discount for seniors 65 and over and persons who are disabled. The board is also looking into participating in a pilot program to

provide a 20% discount for low income persons.

- As a more permanent solution to fare evasion, BART undertook station hardening projects in FY 2018 and FY 2019 to make fare evasion more difficult, including raising railing heights in stations, installing alarms on swing gates and emergency doors, moving elevators into paid areas, upgrading the security camera network, and retrofitting fare gates by increasing air pressure to make them more difficult to force open. These and similar station hardening measures will continue in 2020 and beyond. BART is currently studying the costs and feasibility of replacing fare gates to prevent people from pushing through or jumping over them. In FY 2018, \$2 million was budgeted for these efforts, with an additional \$1.2 million in FY 2019.

While it is encouraging that BART is serious about responding to fare evasion, one step of enforcement – collecting fines from violators – is seriously lagging, as noted above. If violators face no real consequences for ignoring citations, then the estimated \$2.5 million annual investment in fare inspectors may not be a good use of the public's money, unless BART can demonstrate that the presence of inspectors deters fare evasion and other crimes. It appears that

²⁴ For calendar year 2018, BART reported that 6,799 civil citations and 2,668 criminal citations (given to adult repeat offenders) were issued for fare evasion after 10 months, which is a slight improvement: 0.06% of violators were cited.

investment in station hardening and improved fare gates is a better permanent solution to the problem, perhaps in conjunction with fare inspectors.

Security and Perception of Safety

While perception of security and actual passenger safety are different, riders closely link the two. Respondents to the 2018 Study cite “personal security in BART system” as the second largest service rating decline from the prior survey, just after fare evasion. Lack of visible police presence on trains and in stations has long been a concern of riders, according to the surveys. News reports of the three homicides in July 2018 and video in October 2018 of a man swinging two chainsaws while riding BART reinforced worries among Bay Area residents about their safety on BART.

BART police officers are the first responders to crime on BART property and trains. In 2018 BART police staffing was authorized for 228 sworn officer positions, of which 150 were patrol officers. The BART Police Department is still very much aware of its damaged relationship with residents throughout the Bay Area, particularly African-Americans, in the wake of the death of Oscar Grant, an unarmed man who was shot and killed by a BART police officer on January 1, 2009, at the Fruitvale BART station.

Violent crimes increased by 115% from 2014 to 2018, with robberies and aggravated assaults accounting for nearly all of those crimes.

Table 3 describes crime on BART from 2014 to 2018, derived from FBI Uniform Crime Reporting data. Violent crimes increased by 115% over that period, with robberies and aggravated assaults accounting for nearly all of those crimes. According to the BART website, “Much of the violent crime increase has been driven by snatch-and-run cellphone thefts that are considered robberies because they involve the use of force or fear.”

Non-violent property crime dropped slightly over the same period, with larcenies now accounting for 87% of this category. Larcenies include thefts without the use of force, of phones, computers, wallets, bicycles, etc. from distracted patrons on trains and in the stations.

In 2014, BART introduced its phone app “BART Watch” for riders to report and document crime as it happens so police are able to reach the scene faster.

Table 3 – BART 5-Year Crime Data, Calendar Years 2014 to 2018

CRIMES	2014	2015	2016	2017	2018	Change 2014-18
Homicide	0	1	1	0	3	(a)
Rape	2	3	4	8	3	(a)
Robbery	153	161	232	290	349	+128%
Aggravated assault	71	73	93	121	130	+83%
Subtotal – Violent Crimes	226	238	330	419	485	+115%
Burglary	7	4	12	15	18	(a)
Larceny	2,597	2,325	2,217	2,593	2,590	+0%
Auto theft	522	480	480	420	354	-32%
Arson	0	0	1	4	4	(a)
Subtotal – Property Crimes	3,126	2,809	2,710	3,032	2,966	-5%

(a) Values are too small to compare over different years.

To address crime, BART has taken the following steps in recent years:

- In 2014, BART introduced its phone app “BART Watch” for riders to report and document crime as it happens so police are able to reach the scene faster.
- BART implemented a Safety and Security Action Plan in August 2018 partly in response to the three homicides. While it is not clear that BART could have prevented any of the deaths, BART police worked extensive mandatory overtime in the three weeks after the homicides to reassure riders with a greater police presence. The plan calls for improved surveillance cameras, police callboxes on station platforms, public safety awareness, and related measures, including fare evasion prevention.
- To determine whether there are enough police to patrol the system, BART commissioned a five-year strategic patrol staffing plan in 2017. The consultant²⁵ recommended adding 94 new patrol officers over the next 5 years – 18 or 19 each year – to reach the optimal patrol coverage for the BART system. BART management is requesting that the board authorize an additional 19 police officer positions in the FY 2020 budget to meet this recommendation.
- BART is taking steps to attract more police officer candidates, offering a hiring bonus (now \$15,000) for new officers and lateral transfers from other law enforcement agencies. The latest police union contract includes a 16% pay raise over the next four years, and a provision that allows BART to hire outside contractors to help with background checks

²⁵ Professor Eric Fritsch, Professor and former Chair of the Department of Criminal Justice at the University of North Texas presented the report to the BART Board on September 27, 2018.

for officer candidates, which should shorten the time to hire new officers after retirements and departures.

The Grand Jury believes that BART needs to accelerate its hiring of patrol officers to reduce crime, make riders feel safer, and restore their confidence in BART.

Budget Initiatives in Response to Rider Concerns

Generally, BART has paid attention to rider concerns expressed in the customer satisfaction studies. In the earlier years of the period we examined (FY 2014 to FY 2020), most quality of life budget initiatives supported more funding to clean BART stations and cars. This agreed with the survey responses from riders. Policing and security were important issues as well, both in survey responses and comments, but only recently did BART begin to fund additional officers and security infrastructure.

Although there were no questions on the customer satisfaction study about homeless issues until 2018, many patrons wrote in comments on the 2014 and 2016 surveys. BART prioritized some staffing to coordinate with other agencies on homeless issues. However, it wasn't until FY 2017 that funding to conduct homeless outreach was first requested (\$50,000). The following year, BART funded additional homeless outreach and staffing to report and control illicit activities at downtown SF stations (\$1.2 million).

Riders flagged fare evasion enforcement as an issue starting in 2014, but it wasn't until FY 2018 that specific initiatives to combat fare evasion (enforcement teams, \$0.8 million; station "hardening"/barriers, \$1.9 million) were first introduced. Previously, only BART police were responsible for issuing citations, in addition to their other duties. BART continues to identify fare evasion as a priority initiative, in part because of the revenue lost from people who do not pay.

As noted above, policing and security continue to be priority issues of concern to riders. Without additional officers, BART Police were limited in what they could do, especially as the violent crime rate grew in recent years. Their 2018 strategic patrol staffing plan laid out a blueprint for additional officers and assignments to provide effective coverage for the transit system, and BART is proposing to hire 19 officers next year pursuant to the recommendations.

For FY 2019 BART chose "Quality of Life on BART" as the main strategic focus of its budget, with a suite of projects to combat fare evasion (new inspectors, \$0.2 million; station hardening and fare gates \$2.2 million), improve security (\$11 million), and assist homeless-related projects (attended elevators and restrooms in downtown SF, outreach teams, and increased security to reduce encampments on BART property, \$1.6 million). While removing homeless encampments is not likely to directly affect ridership unless the camps are around station entrances, camps located near tracks and electrical infrastructure can be dangerous for occupants. BART's FY 2020 Preliminary Budget Memo continues to prioritize selected quality of life issues,

proposing funds for more station hardening projects, fare inspectors, additional patrol officers, and security infrastructure.

The Grand Jury is concerned that BART, with its responsibilities as a transportation provider and its emphasis on specific quality of life issues, may not be looking forward to emerging quality of life issues on the horizon, or to longstanding irritations that could affect ridership. For example, parking and seat availability, even with declines in ridership, are consistent concerns of riders, based on ratings and comments. However, news reports state that BART is considering removing parking at certain stations to allow for transit-oriented development. Similarly, BART removed seats on cars in 2017 to allow more room for standing passengers and for bicycles. The new BART trains do not increase the number of seats per car. The Grand Jury recommends that BART add a section on emerging concerns to the customer satisfaction study report, drawing on passenger comments to document their concerns.

Ridership on BART may continue to decline for reasons outside BART's control. However, the agency should aggressively design and fund strategies to make sure that riders don't leave because of their negative experiences on BART that are indeed within BART's control.

CONCLUSION

BART is at the center of the Bay Area's transportation upheaval. A growing and far-flung urban population in need of transport to work, home, shopping and socializing has many modes from which to choose. Rising dissatisfaction with crime on BART, fare evasion, and the perception of dirty train cars and stations threatens to marginalize the agency amid the other choices available to riders. The Grand Jury notes that BART's Board of Directors, senior management and police have undertaken measures to address these issues, but the board has been slow to react to many problems. To win riders back, the board must convince the public that BART is once again clean and safe to ride and that a rigorous effort to stop crime, including fare evasion, is in progress. Furthermore, BART must do this while facing serious competition from industry disrupters like Uber and Lyft.

The seriousness of the issues facing BART was recently enhanced with the announced retirements of two key leaders. Extra diligence and resolve will be necessary to complete plans underway in an increasingly complex and competitive environment.

FINDINGS

Finding 19-30:

BART's police department staffing has been insufficient to meet crime levels, as reported by an outside expert, who recommended substantially more patrol officers and revamped patrol assignments.

Finding 19-31:

Although overall crime on BART is up only slightly from 2014 to 2018, the incidence of violent crime more than doubled during that time. All crime is serious, but the potential for violent crime is particularly frightening to riders. The high volume of lesser offenses, especially thefts of items like phones, computers, wallets, etc., dramatically affects riders' perceptions of safety and well-being on the BART system.

Finding 19-32:

Public concern about fare evasion has been one of the top issues on every customer satisfaction study since 2014. The lack of enforcement erodes confidence in BART and costs upwards of \$25 million, or 5% of passenger revenue.

Finding 19-33:

Cleanliness of BART trains and stations was the concern most cited in the Customer Satisfaction Study from 2012 through 2018. BART introduced several initiatives to target cleaning resources where most needed and to prevent messes in the first place (e.g., elevator attendants, Pit Stop program). However, continuing dissatisfaction with cleanliness was repeatedly cited in the most recent survey, in large part due to an increase in the homeless population using BART facilities.

Finding 19-34:

Board-related documents are difficult to find on the BART website because some, especially those related to the board, are not searchable.

RECOMMENDATIONS

Recommendation 19-30:

BART must increase police patrol officer staffing over the next five years to make the entire BART system safer, in accordance with the expert study it commissioned and received in 2018.

Recommendation 19-31:

BART must better educate the public on crime prevention to reduce opportunities for robberies and thefts on the transit system.

Recommendation 19-32:

BART should continue the enforcement crackdown on fare evaders and improve its overall process for handling the collection of fare evasion fines.

Recommendation 19-33:

BART must continue and expand its initiatives to keep trains and stations clean and to respond more quickly to bio-hazard complaints.

Recommendation 19-34:

BART should continue to partner with social service agencies that serve the homeless, while strongly advocating for a comprehensive regional, rather than county by county, program to aid the homeless, especially those with mental health conditions.

Recommendation 19-35:

BART must establish a method to track and report on emerging concerns within the *Customer Satisfaction Study* report, initially drawing on passenger comments that document new and persistent concerns of riders.

Recommendation 19-36:

BART must increase the transparency of BART policies, decisions, and operations by making all Board-related documents and staff reports searchable, so information may be more easily found by the public using the BART website's search feature.

RESPONSES REQUIRED

BART Board of Directors

Findings 19-30 through 19-34
Recommendations 19-30 through 19-36

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines:

Responses to Findings shall be either:

- Agree
- Disagree Wholly, with an explanation
- Disagree Partially, with an explanation

Responses to Recommendations shall be one the following:

- Has been implemented, with a brief summary of the implementation actions
- Will be implemented, with an implementation schedule
- Requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a completion date that is not more than 6 months after the issuance of this report
- Will not be implemented because it is not warranted or is not reasonable, with an explanation

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>14 Aug 2019</i> <i>Robt M. Pevan</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/9/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Angie West Dept: Office of the CIO	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>[Signature]</i> <i>8/13/2019</i>	<i>[Signature]</i> <i>8/14/19</i> []	<i>[Signature]</i> <i>8/14/19</i> []	[]	<i>[Signature]</i> <i>8/13/19</i> []

Project Portfolio Management Initiative

PURPOSE:

To obtain Board authorization for the General Manager to award Agreement No. 6M4625 to KPMG, LLP for implementation of a Project Portfolio Management (PPM) system. The Agreement term is for one (1) year, with two (2) one-year Maintenance Options, for a total not-to-exceed amount of \$5,830,601.

DISCUSSION:

With the passage of Measure RR, implementation of the Transbay Corridor Core Capacity Program, and overall focus on infrastructure, the number of capital projects and programs that BART must plan for, track, and delivery will continue to grow. The PPM system will align and improve Districtwide capital project planning, management, and monitoring of both spending and project/program deliver across multiple disciplines by establishing a common singular platform that will improve collaboration among BART employees, contractors, vendors, and other third-party stakeholders.

The PPM system will improve the process for developing BART's Capital Improvement Program (CIP) and provide reporting to project/program managers, and senior and executive management within BART as well as its funding partners. The system will be flexible and scalable to support new technologies, will integrate with existing BART systems, and will be designed to adapt to rapidly changing processes and standards.

On February 12, 2019, BART issued a Request for Proposal (RFP) No. 6M4625 to more than 400 firms, which included small business entities and large system integrators. A Pre-Proposal Meeting was held on February 26, 2019, with ten (10) firms in attendance.

On April 9, 2019 proposals were received from five (5) firms as follows:

1. Accenture, LLP – San Francisco, California
2. D.R. McNatty and Associates Inc. – Mission Viejo, California
3. e-Builder Inc, A Trimble Co. –Plantation, Florida
4. KPMG LLP – San Francisco, California
5. Stellar Services Inc – San Francisco, California

The proposals were reviewed by the BART Selection Committee, chaired by Contract Administration, which consisted of representatives from a wide range of departments and disciplines. All five proposals were determined to be responsive and to have met the RFP minimum technical requirements.

In accordance with the provisions of the RFP, the selection of firms was based on the best value methodology. Under this approach, the District retains the right to award to other than the lowest cost proposal, based on a determination that certain technical advantages available from a proposal will equate to added value for the District. The Selection Committee scored the written statement of qualifications and key personnel qualifications. The score for the written statement of qualifications was based on each firm's technical approach, the firm's experience and references, proposed services and implementation approach, project plan and schedule, and proposed key personnel and project team organization.

The Selection Committee then reviewed the price proposals and determined that all five (5) proposals were within the competitive range. All five proposing teams were requested to provide a technical demonstration of their proposed solutions. The technical solution demonstrations were conducted from May 29, 2019 through May 31, 2019.

After the technical demonstrations, the Selection Committee combined the qualifications/technical scores and technical solution demonstration scores and based on best value analysis determined that KPMG with its EcoSys solution provided the best value to the District.

KPMG is a private limited liability partnership firm with over \$9.5 billion in revenue as of September, 2018. By all key market metrics, KPMG is a responsible firm that demonstrates financial and management stability required to provide services to BART. KPMG has subcontracted with Hexagon, the provider of EcoSys software. Hexagon is a world-leading provider in asset life cycle solutions for design, construction, and operations and has over five (5) decades of project delivery experience. The EcoSys software has been implemented in over 300 large global organizations in both the public and private sectors. EcoSys is a

fully integrated, cloud-based platform that integrates all phases of project and portfolio life cycle.

Pursuant to the District’s Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Agreement for Small Businesses certified by the California Department of General Services (DGS). D.R. McNatty is a certified Small Business, making it eligible for the 5% Small Business Prime Preference for this Agreement for evaluation purposes.

Pursuant to the District’s Non-Discrimination Program for Subcontracting, the Availability Percentages for this Agreement are 5.5% for Minority-owned Business Enterprises (MBEs) and 2.8% for Women-owned Business Enterprises (WBEs). KPMG committed 0% MBE and 0% WBE participation. KPMG did not meet either the MBE or WBE Availability Percentages; therefore, KPMG was requested to provide the Office of Civil Rights with supporting documentation to determine if it had discriminated based on race, national origin, color, gender or ethnicity. Based on the review of the information submitted by KPMG, the Office of Civil Rights found no evidence of discrimination.

FISCAL IMPACT:

Funding in the amount of \$5,830,601 for award of Agreement No. 6M4625 is included in the total project cost of the Project Portfolio Management system.

The contract will include a base component (capital) and two (2) one-year maintenance options (operating). The breakdown of costs for the base contract year and the two (2) maintenance options is:

	Year 1 Base Year	Year 2 Maintenance Option (1)	Year 3 Maintenance Option (2)	TOTAL
Agreement 6M4625	\$4,003,161	\$913,720	\$913,720	\$5,830,601

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.

Capital Fiscal Impact

Funding in the amount of \$4,003,161 for the Project Portfolio Management (PPM) initiative is included in the total Project budget for FMS #65HF000 – Project Portfolio Management System.

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:

Fund No.	Fund Description	Source	Amount
8533	FY 2019 Operating to Capital Allocation	BART	\$3,000,000
8534	FY 2020 Operating to Capital Allocation	BART	\$1,172,560
TOTAL			\$4,172,560

As of 08/09/2019, \$4,172,560 is the total budget for this project inclusive of \$169,399 for BART labor. BART has expended \$4,205 and committed and reserved \$0 to date. This action will commit \$4,003,161, leaving an available fund balance of \$165,194 in the fund sources for this project.

Operating Fiscal Impact:

Funding in the amount of \$913,720 will be included in account 681355-Software & Tech Support of the proposed budget of the Assistant General Manager of Performance & Budget (Cost Center 1101466) in Year 2 (for Maintenance Option 1) and Year 3 (for Maintenance Option 2), subject to Board approval.

ALTERNATIVES:

1. Cancel the RFP
2. Do not enter into an Agreement with KPMG, LLP

These alternatives would delay the implementation of the PPM system, which would negatively impact the District's ability to effectively plan for and monitor capital projects, and potentially adversely impact the District's readiness review concerning its eligibility for the Federal Transit Administration's Capital Investment Grant.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager is authorized to award Agreement No. 6M4625 to KPMG, LLP in the amount not-to-exceed \$5,830,601 for implementation of a Project Portfolio Management system, subject to compliance with the contract's insurance provisions and pursuant to notification by the General Manager. The General Manager is further authorized to exercise two (2) one-year Maintenance Options included in the price.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Poon</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/9/2019		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: Diane Iwata Dept: Human Resources Administration <i>Diane Iwata</i> Signature/Date: 8/13/19	General Counsel <i>[Signature]</i> 8/14/19 []	Controller/Treasurer <i>[Signature]</i> 8/14/19 []	District Secretary []	BARC <i>[Signature]</i> 8/13/19 []

Actuarial Report on Changes to Pension under Consideration by the District

PURPOSE:

To provide a report on the actuarial impacts on potential changes to retirement benefits for employees of the American Federation of State, County, and Municipal Employees Local 3993 ("AFSCME"), the Amalgamated Transit Union Local 1555 ("ATU"), and the Service Employees International Union Local 1021 ("SEIU"). The General Manager has determined that Non-Represented employees (including the Board-appointees) should be subject to the same pension changes as AFSCME, ATU and SEIU members. Accordingly, this report will also include Non-Represented employees.

California Government Code 7507 requires a local legislative body, before authorizing changes in retirement benefits or other postemployment benefits (OPEB), to "secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability," and also requires that the future cost of changes in retirement benefits or OPEB, as determined by the actuary, "be made public at a public meeting at least two weeks prior to the adoption of any changes."

If the future costs of the changes exceed a specified amount, Section 7507 also requires that an actuary be present at the public meeting at which the change in benefits is adopted. Since each of the potential changes described below will result in cost savings to the District, an actuary will not be required to attend the public meeting at which the changes are adopted.

This is an informational item. No Board action is required. As required by Section 7507, staff will return to the Board in no less than two weeks to present for a ratification vote the side letters implementing the changed pension contributions.

DISCUSSION:

The District is proposing to make the following changes to pension contributions:

For Classic employees, the employee's pension contribution will be retroactively increased from the current level of 4% to 6% effective on July 1, 2019, and then increase to 7% on January 1, 2020. The employees will then pay a cost share (employer's portion) of the District's pension contribution in the amount of 1% beginning on July 1, 2020, for a total combined pension contribution (employee's and employer's share) of 8% beginning on July 1, 2020.

For Public Employees' Pension Reform Act (PEPRA) employees, employees will continue to contribute half of the normal cost of their pension benefits, as required by law. On July 1, 2020, if the required pension contribution for PEPRA employees is less than 8%, PEPRA employees will pay a cost share of the Employer's pension contribution in an amount equal to the difference between their required employee contribution and 8%, for a total combined pension contribution (employee's and employer's share) of 8% on July 1, 2020.

COST SAVINGS AND ACTUARIAL IMPACT:

1. The change to the pension contribution by represented employees is estimated to save the District \$3,691,000 in the first year of the CBA, and a total of \$10,863,000 over the remaining term of the CBA.
2. The change to the pension contribution by Non-Represented employees including Board-appointed employees is estimated to save the District \$1,038,000 in the first year, and a total of \$3,153,000 over the two-year period.

This proposed change was reviewed by the District's actuarial firm, Bartel Associates, LLC. Bartel Associates has concluded that there is no negative impact to normal cost, actuarial accrued liability, and future cost for this proposed change.

August 12, 2019

Diane M. Iwata, SPHR, SHRM-SCP
Human Resources Division Manager
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 20th Floor
Oakland, CA 94612

**Re: CalPERS Pension Plan
Non-Police Miscellaneous Employees**

Dear Ms. Iwata:

Section 7507 of the California Government Code requires agencies obtain a statement of actuarial opinion regarding the cost impact of retirement plan benefit changes. The San Francisco Bay Area Rapid Transit District (BART) has requested that Bartel Associates, LLC provide an actuarial opinion regarding the actuarial impact of changes related to the CalPERS pension benefits for the BART non-police Miscellaneous employees.

Summary of Proposed Benefit Changes

The District currently provides retirement benefits to eligible non-police Miscellaneous employees, with the District paying 3% of pensionable pay towards the CalPERS-required member contributions on behalf of Classic members ("EPMC"). These members do not contribute any of their pensionable pay towards the District's required CalPERS contribution ("cost sharing").

Under the proposed change for non-police Miscellaneous employees:

- Classic employees would increase the portion of the required member contributions they pay from 4% to 6% of pensionable pay effective retroactively to July 1, 2019. The member contribution paid by these members would increase to 7% of pensionable pay effective the first full pay period after January 1, 2020.
- Effective the first full pay period after July 1, 2020, Classic employees would increase their required member contributions to 8% of pensionable pay. The additional 1% of pensionable pay exceeds the CalPERS-required member contribution and would be considered employee payments towards the employer contributions or "employee cost sharing".
- PEPRA employees would increase their required member contributions to 7% of pensionable pay retroactively to July 1, 2019. This is ½ of their normal cost as currently required by CalPERS effective July 1, 2019 and is not a plan change.
- Effective the first full pay period after July 1, 2020, PEPRA employees would increase their required member contributions to 8% of pensionable pay. The additional 1% of pensionable pay would be considered employee payments towards the employer contributions (or "employee cost sharing") until such time as the CalPERS-required member contributions for PEPRA employees equal or exceed 8% of pensionable pay. PEPRA employees will pay the CalPERS required amounts even if they exceed 8% of pensionable pay.



Cost of Change

We estimated the cost impact of this change using the following assumptions:

- Census data was provided by the District as of December 31, 2018. Census data included pensionable and total pay.
- Pay increases were assumed to follow CalPERS 2017 actuarial valuation assumptions, including 2.75% total annual payroll growth
- Current employees were assumed to terminate and retire in accordance with CalPERS 2017 valuation assumptions. New employees were added to provide 2.75% total payroll growth. The percentage of new hires assumed to be PEPRAs increased from 70% in 19/20 to 100% after 3 years. Future hires were assumed to have the same demographics as current employees.
- Present values were calculated using a 7% discount rate.
- We assumed the CalPERS-required PEPRAs normal cost rate would not increase to be above 7% of pensionable pay.

Because the proposed changes have no impact on CalPERS pension benefits, there is no change in the Normal Cost and Actuarial Accrued Liability. However, the District's total payments to CalPERS, including employer-paid member contributions and net of employee cost sharing, will change. Therefore, the impact of the proposed changes has been measured based on expected changes in future District total payments to CalPERS.

The estimated cost of the change in current dollars (not a present value) over 5 years is as follows.

Increase/(Decrease) in District Costs For 5 Years			
<i>(Amounts in \$000's)</i>			
	Classic Employees	PEPRA Employees	Total
■ Total increase/(decrease) in BART costs due to change in employer-paid member contributions (EPMC) or employee cost sharing over 5 years (current dollars; not a present value)	(\$35,487)	(\$6,015)	(\$41,502)
■ Above increase/(decrease) in BART costs over 5 years as a percentage of total (not pensionable) pay	(1.73%)	(0.29%)	(2.02%)

Over time the number of Classic employees will decline and the number of PEPRA employees will grow. To measure the long-term impact, we estimated the cost of these changes over 30 years. The cost impact is shown below, as the present value of the cost or savings for each year.



Increase/(Decrease) in Present Value of District Costs Over 30 Years			
(Amounts in \$000's)			
	Classic Employees	PEPRA Employees	Total
■ Total increase/(decrease) in BART costs due to change in employer-paid member contributions (EPMC) or Employee Cost Sharing or over 30 years (current dollars; not a present value)	(\$58,724)	(\$37,724)	(\$96,448)
■ Above increase/(decrease) in BART costs over 30 years as a percentage of total (not pensionable) pay	(0.88%)	(0.57%)	(1.45%)

Conclusion

Our calculations show the District's future annual costs would decrease over the next 5 years due to the change in Employer-Paid Member Contributions for non-police Miscellaneous Classic employees and the change in employee cost sharing for Classic and PEPRA non-police Miscellaneous employees. When evaluated as a present value over the next 30 years, the net impact of the proposed change is a decrease in the present value of the District's future annual costs.

Note that we have not evaluated any other portion of the proposed agreement not outlined above. Bartel Associates is not a law firm and we are not qualified to render a legal opinion.

Information provided in this report is for the District's management purposes. Future results may differ significantly if the Plan or District's experience differs from our assumptions or if there are changes in plan design or actuarial assumptions. The project scope did not include an analysis of this potential variation. Our calculations are based on benefit provisions, participant data, and actuarial assumptions, and other information provided by the District and CalPERS as summarized in this report. This study was conducted using generally accepted actuarial principles and practices. I am a member of the American Academy of Actuaries and meet the Academy Qualification Standards to issue the actuarial opinion in this report.

Please contact Mary Beth Redding (mbredding@bartel-associates.com) or Bianca Lin (blin@bartel-associates.com) with any questions about this information.

Sincerely,

Mary Elizabeth Redding, FSA, MAAA, EA, FCA
 Vice President

c: Doug Pryor, Bianca Lin, Bartel Associates, LLC

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>14 Aug 2019</i> <i>Robert M. Powers</i>		GENERAL MANAGER ACTION REQ'D: Yes		
DATE: 7/8/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Wahid Amiri Dept: Planning Development & Construction	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>[Signature]</i> <i>8/14/2019</i>	<i>[Signature]</i> <i>8/14/19</i>	<i>[Signature]</i> <i>8/14/19</i>	[]	<i>[Signature]</i> <i>8.14.2019</i>

Change Orders and Associated Delay Compensation to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project

PURPOSE:

To authorize the General Manager to execute multiple Change Orders to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project. These Change Orders will be in the amount not to exceed \$6,500,000 which includes a compensable 149 calendar day extension to the Contract duration.

DISCUSSION:

On February 9, 2017, the Board authorized the General Manager to award Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project. This Contract expands and upgrades the existing paid area, constructs two new elevators and two new stairs, and provides new LED lighting throughout the station. The Contract also exercised four options to procure Automatic Fare Collection equipment to be used elsewhere on the system, relocate the passenger drop off area, enhance the Ohlone Greenway/bicycle path/hardscape, upgrade the concourse area, and provide new bus shelters.

The Change Orders associated with this EDD will resolve Contract delays associated with design changes, differing site conditions as well as incorporating elements of work from the State of Good Repair (SOGR) Program which can be more efficiently performed through this Contract.

Change Order #33 Uninterruptible Power Supply System (UPS) NTE \$400,000

This element of work was originally part of the SOGR Program and will be funded by Measure RR. This work addresses essential upgrades to the emergency lighting system for the station and can be more efficiently executed under this Contract.

Change Order #39 Revise Overhead Conduits NTE \$800,000

Differing site conditions were uncovered during construction which required revisions to the overhead power and communication conduits and routing.

Change Order #54 Fire/Life Safety & Other Design Changes NTE \$1,500,000

Design changes were necessary to bring the station up to current Fire/Life Safety building code requirements. This change order will be used to cover the costs to install a code compliant system in the station. In December 2018, the Board authorized the General Manager to procure long lead materials that will be used as part of this installation. An accurate estimate of the costs for installation was not available at that time.

Change Order #55 5-months Delay Compensation NTE \$2,500,000

During the course of construction, the project made multiple design changes as a result of differing site conditions and design omissions which delayed the schedule. Change Notice No. 55 addresses the delays caused by these design changes as well as escalation of material and labor. Change Order No. 55 will provide the Contractor with an amount not to exceed \$2,500,000 and will add 149 day calendar days to the Contract duration.

Change Order #82 Water Intrusion Mitigation Measure NTE \$250,000

This element of work was originally part of the SOGR Program and will be funded by Measure RR. This work mitigates water intrusion in the station coming through the joints between the overhead track girders.

Change Order #90 Swing-Style Fare Gate Pilot Program NTE \$300,000

In a continuing effort to address fare evasion the District would like to retrofit two of the Accessible Fare Gates procured through this Contract to incorporate swing-style fare gates for testing.

Change Order #91 New PG&E Meter for New Fire Pump NTE \$750,000

This change order will provide for the design and construction of a new 800-amp PG&E service meter to support the new fire pump required for the code compliant fire/life safety system at the Station.

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

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

CAPITAL FISCAL IMPACT:

Funding in the amount of \$6,500,000 to execute the various Change Orders for Contract 05HA-100 is included in the following project budgets.

FMS# 05HA002 – El Cerrito Del Norte Station Modernization (\$5,700,000 for CO#33 – Partial funding of \$150,000; CO#39; CO#54; CO#55; CO#91)

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

Proposed Funding	
F/G 802A – 2017 Measure RR	\$ 9,200,000
TOTAL	9,200,000

As of August 12, 2019, \$9,200,000 is the total budget for this project. BART has expended \$2,005,471, committed \$877,290, and reserved \$0 to date. This action will commit \$5,700,000, leaving an available fund balance of \$617,239 in this fund source for this project.

FMS# 15IIRR1 – Stations Emergency Lighting (\$250,000 for CO#33)

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

Proposed Funding	
F/G 802A – 2017 Measure RR	\$ 27,010,696
TOTAL	27,010,696

As of August 12, 2019, \$27,010,696 is the total budget for this project. BART has expended \$3,156,420, committed \$0, and reserved \$14,920,789 to date. This action will commit \$250,000, leaving an available fund balance of \$8,683,487 in this fund source for this project.

FMS# 15TC021 – Water Intrusion at C&R Lines (\$250,000 for CO#82)

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

Proposed Funding	
F/G 802A – 2017 Measure RR	\$ 20,254,325
TOTAL	20,254,325

As of August 12, 2019, \$20,254,325 is the total budget for this project. BART has expended \$89,880, committed \$462,268, and reserved \$0 to date. This action will commit \$250,000, leaving an available fund balance of \$19,452,176 in this fund source for this project.

FMS# 15TK000 – M&E Capital Maintenance (\$300,000 for CO#90)

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

Proposed Funding	
F/G 850Z - CAPITAL MAINTEN. ALLOC	\$410,025
F/G 851W - FY07-11 Capital Allocation	\$1,206,109
F/G 8524 - FY12 Operating Allocation to Capital	\$1,100,000
F/G 8525 - FY13 Operating Allocation to Capital	\$1,048,000
F/G 8526 - FY14 Operating Allocation to Capital	\$1,600,000
F/G 8529 - FY15 Bart Op to Capital (BOAC)	\$1,200,000
F/G 8530 - FY16 Operating Allocation to Capital	\$975,000
F/G 8531 - FY17 Operating Allocation to Capital	\$200,000
F/G 8533 - FY19 Capital Allocation	\$1,200,000
F/G 8534 - FY20 Capital Allocation	\$1,200,000
TOTAL	10,139,134

As of August 12, 2019, \$10,139,134 is the total budget for this project. BART has expended \$7,095,187, committed \$725,129, and reserved \$628,741 to date. This action will commit \$300,000, leaving an available fund balance of \$1,390,077 in these fund sources for this project.

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

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

ALTERNATIVES:

Failure to issue these Change Orders for Contract No. 05HA-100 will require the work to be performed in a future contract at a potentially higher cost and will result in a claim for District-caused delays, with the potential for litigation.

RECOMMENDATION:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to execute the various Change Orders in an aggregate amount not to exceed \$6,500,000 to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: August 16, 2019

FROM: General Manager

SUBJECT: Quarterly Service Performance Review – Fourth Quarter FY 2019

Attached is the “Quarterly Service Performance Review – Fourth Quarter FY 2019” presentation that will be presented at the August 22, 2019 Board meeting as an information item.

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



Robert M. Powers

cc: Board Appointed Officers
Executive Staff



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>14 Aug 2019</i> <i>Robert M. Pomeroy</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 8/9/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Kimberly Koempel Dept: Systems Development <i>Kimberly Koempel</i> Signature/Date: <i>8/13/2019</i>	General Counsel <i>[Signature]</i> Signature/Date: <i>8/14/19</i> []	Controller/Treasurer <i>[Signature]</i> Signature/Date: <i>8/14/19</i> []	District Secretary []	BARC <i>[Signature]</i> Signature/Date: <i>8/13/2019</i> []

Amend the Transit-Oriented Development Policy to address Unsolicited Proposals, Adopt a Resolution creating a fee for Unsolicited Proposal Review, and Authorizing the General Manager to enter into reimbursement agreements for Unsolicited Proposals

PURPOSE:

To request that the Board of Directors

- 1) Amend the Transit-Oriented Development Policy to address Unsolicited Proposals for property development.
- 2) Adopt a resolution creating a new fee for Unsolicited Proposals for property development.
- 3) Authorize the General Manager or his designee to enter into agreements with parties who submit an Unsolicited Proposal in order to reimburse the District for costs associated with the review.

DISCUSSION:

Transit-Oriented Development Policy Amendment

Ordinarily BART will identify sites as priority opportunities for transit-oriented development, and then issue a Request for Qualifications (RFQ) or a Request for Proposals (RFP), which allows the District to identify a developer to work with to develop that property. BART occasionally receives unsolicited proposals from potential partners who are interested in

developing BART-owned property that is not the subject of an RFQ or RFP and, in some cases, has not been identified as a priority development opportunity (“Unsolicited Proposals”). In the past, each Unsolicited Proposal has been reviewed and processed on a case by case basis. Staff proposes to amend BART’s Transit Oriented Development Policy, adopted by the Board on June 9, 2016, in order to provide all interested parties with a clear, structured process for the consideration of Unsolicited Proposals.

There are benefits to reviewing Unsolicited Proposals. An Unsolicited Proposal can indicate that the market is ready to support development at that site and that it could be in BART’s interest to act expeditiously. An Unsolicited Proposal could also represent a unique development opportunity that is not typically received during a traditional RFQ/RFP process. However, there is a cost to BART when reviewing Unsolicited Proposals because resources are redirected from other already identified priorities.

It should be noted that this proposed amendment is specific to BART’s Transit-Oriented Development program, in which BART has land that could potentially be developed with private sector resources. The policy amendment is not intended to apply more broadly to BART’s procurement processes, which need to follow BART’s policies, and any applicable state- and/or federal-procurement guidance.

To ensure that Unsolicited Proposals are reviewed consistently, and that the review process and criteria are transparent to the development community and the public, a review procedure document has been developed and is included for information purposes (Attachment 3). The review procedure would establish a two-step review process. Step 1 is designed to be a short, technical review that evaluates certain minimum threshold criteria for Unsolicited Proposals and ensures that the Unsolicited Proposal offers something that is not readily available through BART’s traditional RFQ/RFP process. At the end of Step 1, BART staff would determine if the criteria have been met to continue with the next step in the review process. Step 2 is a more in-depth review that is consistent with what staff would consider when evaluating RFQs or RFPs. At the end of Step 2, staff would prepare a recommendation to the Board of Directors, and the Board would be requested to act on the Unsolicited Proposal. The three likely outcomes of the Step 2 process are as follows:

1. The Unsolicited Proposal is determined to not meet the review criteria and is rejected.
2. The Unsolicited Proposal is found to have merit, but BART decides to conduct a competitive procurement for the development opportunity.
3. The Unsolicited Proposal meets the review criteria and BART decides it is in the District’s best interest to enter into an Exclusive Negotiation Agreement (ENA) with the party that submitted the Unsolicited Proposal.

BART’s Transit-Oriented Development (TOD) Policy does not specifically address Unsolicited Proposals for property development. It is recommended that the policy be amended to direct staff to develop a review procedure for Unsolicited Proposals that

outlines the review process and criteria. In addition, the Policy would state that BART does not encourage Unsolicited Proposals but recognizes the potential benefits they may bring and therefore wants to provide a process for their evaluation.

Review Fee for Unsolicited Proposals for property development

Unsolicited Proposals for property development, by their very nature, are proposed by a third party at its own discretion. It is recommended that any staff time and any outside consultant time required to review an Unsolicited Proposal be reimbursed by the proposer. In order to recover staff costs, an hourly review fee of \$149 has been calculated based on the current fiscal year (FY20) salary and benefit information for the employee classifications that are typically involved in reviewing TOD projects. Using a weighted average to account for some employee classifications spending more time on the review than others, the average hourly base and fringe labor cost was determined to be \$112 per hour. Specifically, the following employee classifications and assumed percentage of review hours were used to determine the average base labor cost per hour:

Employee Classifications	Percentage of Review Time
Principal Development Officer	50%
Department Manager, Property Development	5%
Access Manager	5%
Senior Planner	15%
Senior Engineer	5%
Principal Engineer	10%
Group Manager, Engineering	10%

In addition, BART utilizes a 33% Cost Allocation Plan (CAP) rate to account for BART overhead costs which brings the fee up to the recommended \$149 per hour. The fee will be updated annually at the beginning of each fiscal year using the average hourly base and fringe labor cost rates then in effect.

As a point of comparison, BART utilizes a review fee schedule to recover costs related to the review of Permits to Enter, Easements, and Plan Reviews. The current fee schedule was approved by the Board of Directors in 2006 and is updated annually. Currently the review fees included in the existing fee schedule are \$146 per hour.

A party who submits a Unsolicited Proposal to the District will be required to sign an agreement that requires all staff and consultant costs to be reimbursed.

FISCAL IMPACT:

There is no fiscal impact from the proposed amendment to the Transit-Oriented Development Policy. The new review fee for Unsolicited Proposals will allow BART to recover from developers, all staff costs required to review the proposals. Because BART cannot determine the amount or quality of Unsolicited Proposals it may receive, it is unknown what the fiscal impact will be for any given fiscal year. The fiscal impact will depend on the number of proposals received, project complexity, and how many steps the proposal makes it through. However, based on staff estimates, the following revenue estimates can be anticipated for each proposal review step:

Unsolicited Proposal Review Step	Estimated Staff hours	Estimated Review Fee Revenue
Step 1	40	\$5,960
Step 2	160	\$23,840

ALTERNATIVES:

1. Do not amend the TOD Policy as presented. Continue to operate under the existing 2016 TOD Policy.
2. Do not adopt the new Unsolicited Proposal Review Fee. This would result in costs associated with the review of Unsolicited Proposals becoming part of BART operating costs.

RECOMMENDATION:

It is recommended that the following motions be adopted.

MOTIONS:

1. The BART Board of Directors hereby amends the Transit-Oriented Development Policy by adding the following new Section 4 under Strategy A:

Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.

2. The BART Board of Directors hereby adopts the attached resolution regarding a new

review fee for Unsolicited Proposals for property development.

3. The BART Board of Directors hereby authorizes the General Manger or his designee to enter into agreements with parties that submit Unsolicited Proposals requiring that they reimburse the District for all expenses, including staff and consultant costs, associated with the review of those Unsolicited Proposals.

Attachments:

1. Unsolicited Proposal Review Fee Resolution
2. Red line of 2016 TOD Policy showing proposed amendment
3. Unsolicited Proposal Review Procedure (For Information Only)

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

In the matter of adopting a new fee for the review
of unsolicited proposals for property development

Resolution No. _____

WHEREAS, from time to time the District receives proposals for potential development of BART-owned property that are not submitted in response to a request for qualifications, request for proposals, or other solicitation from the District regarding the development of the property in question ("Unsolicited Proposals"); and

WHEREAS, the District incurs costs, in the form of staff time expended to review Unsolicited Proposals; and

WHEREAS, the best interests of the District will be served by adopting a new fee to recover the costs associated with reviewing Unsolicited Proposals; and

WHEREAS, the best interests of the District will be served further by the imposition of a deposit requirement and associated reimbursement agreement in connection with the submittal of an Unsolicited Proposal; and

WHEREAS, the fee will be calculated annually, at the beginning of each fiscal year, based on the current fiscal year Salary and Fringe Rates (weighted as outlined in Exhibit A) and a 33% Cost Allocation Plan ("CAP") Rate to ensure the District is able to recover costs incurred in reviewing Unsolicited Proposals; and

WHEREAS, notice of the District's intent to institute the new fee was publicly advertised in accordance with statutory requirements; and

WHEREAS, a public hearing on the new fee was held on August 22, 2019.

NOW, THEREFORE, BE IT RESOLVED, the following policy is adopted;

Effective August 23, 2019, BART will institute an Unsolicited Proposal Fee of \$149 per hour of time spent by BART staff in conjunction with the review of Unsolicited Proposals. Thereafter, the fee will be amended on a fiscal year basis based on the calculation described in Exhibit A to this Resolution.

EXHIBIT A

Unsolicited Proposal Fee Calculation

Unsolicited Proposal Fee Employee Base and Fringe Rate Classifications and Weighted Average

The Unsolicited Proposal Fee is determined by identifying the average base and fringe salary information for the BART employee classifications listed in the table below, and then calculating a weighted average of that salary information based on each position's corresponding "Percentage of Review Time." That weighted average is then multiplied by 1.33, BART's "Cost Allocation Plan Rate," to account for BART's overhead costs associated with the listed employee classifications, and then rounding the resulting number to the nearest dollar.

Employee Classifications	Percentage of Review Time
Principal Development Officer	50%
Department Manager, Property Development	5%
Access Manager	5%
Senior Planner	15%
Senior Engineer	5%
Principal Engineer	10%
Group Manager, Engineering	10%

An updated Unsolicited Proposal Fee shall be calculated annually on a fiscal year basis.

Transit-Oriented Development Policy

Adopted June 9, 2016

VISION

The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large scale public investment. This includes real estate assets essential to BART's transit operations, and real estate assets that can be used to catalyze transit-oriented development in furtherance of BART's purpose and goals. BART leverages these opportunities by working in partnership with the communities it serves in order to implement the regional land use vision and achieve local and regional economic development goals. Strengthening the connections between people, places, and services enhances BART's value as a regional resource.

GOALS

- A. **Complete Communities.** Partner to ensure BART contributes to neighborhood/district vitality, creating places offering a mix of uses and incomes.
- B. **Sustainable Communities Strategy.** Lead in the delivery of the region's land use and transportation vision to achieve quality of life, economic, and greenhouse gas reduction goals.
- C. **Ridership.** Increase BART ridership, particularly in locations and times when the system has capacity to grow.
- D. **Value Creation and Value Capture.** Enhance the stability of BART's financial base by capturing the value of transit, and reinvesting in the program to maximize TOD goals.
- E. **Transportation Choice.** Leverage land use and urban design to encourage non-auto transportation choices both on and off BART property, through enhanced walkability and bikeability, and seamless transit connectivity.
- F. **Affordability.** Serve households of all income levels by linking housing affordability with access to opportunity.

STRATEGIES

A. Manage Resources Strategically to Support Transit-Oriented Development

1. Develop a 4-Year Work Plan to assess how staff and financial activities toward TOD will be most fruitful. Identify BART staffing priorities and assignments to promote TOD on and around District property, including contributions to efforts such as planning and development, community engagement, funding and financing strategies.
2. Favor long-term ground leases of no more than 66 years, rather than sale of property, as the standard disposition strategy for joint development projects, except in cases where alternative approaches are required to achieve specific development objectives or where other strategies would generate greater financial return to the District.
3. Solicit proposals for transit-oriented development in localities that have an adopted plan allowing for transit-supportive land uses as defined in the TOD Guidelines. Utilize a competitive selection process but ensure the solicitation process considers property assembly with adjacent land owners for optimal TOD.

Transit-Oriented Development Policy

Adopted June 9, 2016

3-4. Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.

4-5. Revisit the Transit-Oriented Development Policy every 10 years.

B. Support Transit-Oriented Districts

1. Proactively support local jurisdictions in creating station area plans and land use policies that: a) encourage transit-supportive, mixed-use development on and around station properties, b) enhance the value of BART land, and c) enhance the performance of the BART system as a whole.
2. Form partnerships with public agencies, developers and landowners, community development organizations, finance entities, and consider strategic land acquisition to help build TOD both on and off BART property.
3. For BART system expansion, ensure that transit-oriented development and value capture opportunities are explicitly accounted for in major investments such as the location of new station sites, design and construction of station facilities, and acquisition of new properties.

C. Increase Sustainable Transportation Choices using Best Practices in Land Use and Urban Design

1. Utilize BART's TOD Guidelines to ensure future development and investments seamlessly connect BART stations with surrounding communities.
2. Ensure that combined TOD/parking/access improvements on and around each BART station encourage net new BART ridership, utilizing corridor-level, shared, and off-site approaches to parking replacement as appropriate. Following the aspirational Station Access Policy place types, use the following guidelines to replace current BART parking as follows when developing BART property with TOD: strive for no or limited parking replacement at "Urban with Parking" Stations; and use the access model to maximize revenue to BART from development and ridership when determining a parking replacement strategy at all station types.
3. Utilize strategies including mixed-use development, transportation demand management, and pedestrian-friendly urban design to encourage reverse-commute, off-peak, and non-work trips on BART and other modes of non-auto transportation, thereby reducing greenhouse gas emissions.

D. Enhance Benefits of TOD through Investment in the Program

1. Evaluate the financial performance of proposed projects based on sound financial parameters and the ability to generate transit ridership, fare revenue, lease payments, parking revenues, grant resources, other financial participation, and/or cost savings. Consider the opportunity cost to the District of delaying or accelerating development opportunities.
2. Use a variety of financing and governance mechanisms, including joint powers authorities, assessment districts, improvement districts, and lease credits to achieve station area TOD objectives.
3. As appropriate, and in consideration of District-wide financial needs, reinvest revenues from the sale and lease of BART land into the TOD Program, informed by the priorities identified in the 4-Year Work Plan.

E. Invest Equitably

1. Increase scale of development at and near BART stations through catalytic investments in TOD, to help address the regional shortfall in meeting housing and other sustainable growth needs.

Transit-Oriented Development Policy

Adopted June 9, 2016

2. Implement BART's adopted Affordable Housing Policy and aim for a District-wide target of 30 percent of all units to be affordable, with a priority to very low (<50% AMI), low (51-80% AMI) and/or transit-dependent populations.
3. Ensure the 4-Year Work Plan addresses how BART will achieve its affordable housing goals.

BART Property Development Unsolicited Proposal Procedure

Article I. Introduction

Section 1.01 The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large-scale public investment. This includes real estate assets essential to BART's transit operations, and real estate assets that can be used to catalyze transit-oriented development in furtherance of BART's purpose and goals. Unsolicited proposals can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver community benefits in excess of what is typically provided by the market. An unsolicited proposal is a written proposal that is submitted to BART on the initiative of a prospective offeror (organizations or individuals) for the purpose of developing or improving property owned by BART and is not in response to a formal or informal request issued by BART.

Section 1.02 As a public entity, BART has an obligation to act as a good steward of public funds. Laws and regulations require BART to seek full and open competition for most procurement opportunities, including land development. This procedure is intended to facilitate the proper receipt and evaluation of unsolicited proposals while preserving the integrity of the procurement process and conforming to applicable laws and regulations.

Section 1.03 BART is under no obligation to accept an unsolicited proposal, or to enter into any agreements arising from an unsolicited proposal.

Article II. Definition of Unsolicited Proposal

Section 2.01 An unsolicited proposal is a proposal that is:

- (a) Innovative, unique, feasible
- (b) Independently originated and developed by the proposer.
- (c) Meets BART TOD Guidelines
- (d) Sufficiently detailed that its benefits in support of BART's goals and responsibilities are apparent
- (e) Not an advance proposal for property that BART plans/intends to acquire/develop through traditional competitive methods in the next 12 months
- (f) Not an offer responding to a currently or previously advertised (within the last 12 months) BART Request for Qualifications or Proposals.
- (g) Submitted by a well-capitalized development team with experience delivering on projects with similar scale and uses to those proposed

Section 2.02 Unsolicited Proposals for Development Rights Review Process

Section 2.03 This process would be used for those who wish to ultimately enter into an Exclusive Negotiation Agreement with BART in order to procure development rights to a parcel of land owned by BART in accordance with BART's TOD policy and guidelines.

Article III. Step 1: Technical Review

Section 3.01 Proposer will submit a written inquiry to BART's Real Estate Manager that will include the following information:

- (a) Written description of proposed project that includes uses, approximate density, planned improvements, and analysis of how the proposal meets BART's TOD guidelines, TOD performance targets, TOD workplan criteria, and current zoning.
- (b) Description of any partnerships, including any letters of support
- (c) Description of how proposal meets at least 4 of the Step 1 review criteria
- (d) Ridership projections, including ridership that would be considered "off-peak" or "reverse"
- (e) Concept plans and renderings if available
- (f) Description of current uses
- (g) Explanation of unique and/or innovative aspects of proposal
- (h) Anticipated impacts and benefits to BART
- (i) Map that includes subject property location, distance to nearest BART station, adjacent land ownership, current zoning
- (j) Development Team Description
 - (i) *Team members/roles and responsibilities*
 - (ii) *Relevant experience*
 - (iii) *Financial Capability*
- (k) Reimbursement Agreement and deposit (\$25,000)
 - (i) *All staff review time will charged towards the deposit.*
 - (ii) *All review costs, including any consultant costs, will be reimbursed by proposer regardless of outcome of Step 1 review*
 - (iii) *Step 1 review is estimated to be 30 to 40 hours of staff time but can vary depending on complexity of proposal*
 - (iv) *When the balance falls to \$5,000 or below, the proposer will be asked to deposit additional funds based on the current estimate needed to complete review.*
 - (v) *If funds remain after Step 1 review, they will either be returned to the proposer or the proposer can choose to have them apply to Step 2 review, if applicable.*

Section 3.02 Review Criteria:

- (a) Meets unsolicited proposal definition
- (b) Staff capacity exists to continue evaluation
 - (i) *Applicant must address how proposal meets BART work plan priority criteria*
- (c) Determination made that there is not a transit operation need that precludes development of the site or would need to be incorporated into the project for it to be feasible
- (d) Proposal furthers BART's Performance Targets
- (e) Comparison of how proposal compares to planned uses and densities (including under AB2923 if applicable) by the following elements:
 - (i) *Number of housing units*
 - (ii) *Number of affordable housing units*
 - (iii) *Number of jobs*
 - (iv) *Ridership*

(f) Meets four or more of the following:

- (i) Offers benefit that has not been previously identified or had been identified but not budgeted for*
- (ii) Provides a unique or significant active transportation access opportunity*
- (iii) Significant partnership with City and/or other public or non-profit organization.*
- (iv) Includes significant community benefit (as identified by previous plans)*
- (v) Includes unique or innovative methods of development, approaches, or financing*
- (vi) Existing zoning supports BART density guidelines*
- (vii) Catalytic project as defined by BART's TOD policy*
- (viii) Proposes a use that is desired by BART and difficult for the market to deliver (i.e integrated affordable housing in excess of 20%)*
- (ix) Delivers a concentration of jobs with identified end user.*
- (x) Delivers a regional use with substantial economic impact and ridership*
- (xi) Adjacent land is integrated creating a more impactful project*
- (xii) Demonstrates deep understanding of the community and city approval process*

Section 3.03 Review Process

- (i) BART Board notified that a proposal has been received*
- (ii) Technical review may include a meeting between proposer and BART*
- (iii) Technical review shall include soliciting input from applicable BART departments*
- (iv) Technical review may also include soliciting input from the City where the project is located, or another public agency potentially impacted by the project*

Section 3.04 Step 1 review results:

- (i) BART Real Estate Manager determines proposal does not meet review criteria and will no longer be evaluated*
- (ii) BART Real Estate Manager determines proposal meets technical review and can proceed to Step 2*
 - 1) BART Board Informed of Staff decision
 - 2) BART will provide developer any design criteria determined from Step 1 review

Article IV. Step 2: Substantive Review

Section 4.01 Proposer will submit the following information:

- (a) Concept Plan
 - (i) Location and layout of proposed development*
 - (ii) Building type, footprints, and planned use*
 - (iii) Proposed lot lines, lot widths, and setbacks*
 - (iv) Proposed parking (public and private identified)*
 - (v) Building heights and stories*
 - (vi) Proposed public spaces (if any)*
 - (vii) Proposed access, including those required for ADA*
 - (viii) Proposed EVA routes*
 - (ix) Proposed BART maintenance and operations access/parking*
 - (x) Proposed multimodal infrastructure*
 - (xi) Existing station entrances and roads*
 - (xii) Available architectural renderings or sketches*
- (b) Written Narrative

- (i) *Highlights of proposal including innovative and unique aspects of proposal*
- (ii) *Description of potential BART impacts and benefits*
- (iii) *Ridership analysis that includes anticipated non-peak hours or direction trips*
- (iv) *If applicable, affordable housing percentage of residential units, number of units, income level.*
- (v) *Community benefits*
- (vi) *BART TOD policy and guidelines analysis*
- (vii) *Anticipated entitlement process*
- (viii) *Proposed TDM and/or multimodal transportation improvements*
- (ix) *Response to any operational impacts identified during the technical review process*
- (x) *Community engagement process*
- (xi) *Implementation/phasing plan*
- (xii) *Addresses Step 2 review criteria*
- (xiii) *Development Team description*
 - 1) *Team members and relevant experience*
- (c) *Financial Plan*
 - (i) *Preliminary Pro Forma*
 - (ii) *Development Financing Plan*
 - (iii) *Market conditions summary*
 - (iv) *BART Financial Offer*
- (d) *Reimbursement Agreement and deposit (\$25,000)*
 - (i) *Proposer will be responsible for all BART costs related to proposal review including consultant/outside attorney costs.*
 - (ii) *All review costs will be reimbursed by proposer regardless of outcome of Step 2 review*
 - (iii) *When the balance falls to \$5,000 or below, the proposer will be asked to deposit additional funds based on the current estimate needed to complete review*
 - (iv) *Any remaining funds after Step 2 review will be reimbursed to proposer*
- (e) *Any other information determined by BART to be required during Step 1 review*

Section 4.02 Review Process

- (a) Step 2 review will be conducted within 120 days of the proposal being deemed complete unless developer and BART agree to a longer timeline to accommodate required studies that may be necessary for BART's review
- (b) BART staff time is estimated at 150-250 hours but will depend on project complexity
- (c) BART may utilize outside consultants for other studies as appropriate including ridership analysis
- (d) Evaluation Committee will evaluate proposal and will consist of representatives from BART, including representation from various departments.
- (e) Evaluation Committee will make a recommendation on next step to the BART board.

Section 4.03 Review Criteria

- (a) Provides an opportunity that is not readily available through the open market including the incorporation of adjacent parcels
- (b) Includes unique or innovative methods of development, approaches, or financing
- (c) Integration with transit facilities
- (d) Transit benefits
- (e) Community benefits
- (f) Depth and breadth of Community Engagement Plan
- (g) Significance of partnerships
- (h) Significance of active transportation infrastructure (as determined by need, cost, or amount)
- (i) Economic and regulatory feasibility/certainty
- (j) Qualifications of development team and Proposer
- (k) Quality of design
- (l) Small business participation
- (m) Financial return to BART
- (n) Feasibility and timeliness of implementation/phasing plan
- (o) Significant ridership increase
- (p) Any other factors deemed appropriate for the proposal

Section 4.04 Results of Step 2 review (Board action required)

- (a) No further action, proposal is rejected
- (b) Competitive RFP/RFQ process initiated
- (c) Determination made that proposal qualifies for sole source
 - (i) *Refer to section 5.07*

Article V. Competitive RFP/RFQ process

Section 5.01 Purpose: Ascertain whether other parties may desire and be able to offer a project within a similar scope to that contemplated within the original Unsolicited Proposal or could provide transit and/or community benefits of a similar magnitude.

Section 5.02 Notification of BART's interest in development on site of received unsolicited proposal:

- (a) BART will open a competitive process that will include the following:
 - (i) *Basic elements of the original Unsolicited Proposal*
 - (ii) *Include specific development goals/criteria by which proposals would be evaluated*
 - (iii) *Include submittal requirements*
 - (iv) *Give adequate opportunity to compete (30 – 90 days depending on complexity of project)*

Section 5.03 Process:

- (a) Evaluation Committee formed in anticipation of multiple proposals
- (b) Proposer of original unsolicited proposal may choose to submit a new proposal or additional information
- (c) If no additional proposals are received:
 - (i) *BART board can approve the developer selection resulting from the original Unsolicited Proposal evaluation and a non-binding term sheet allowing sufficient time for the developer and BART staff to complete due diligence and negotiate final terms (typically, the exclusive negotiating agreement) based on a staff recommendation*
- (d) If additional proposals are received:
 - (i) *Evaluation Committee engaged*
 - (ii) *Written proposals are evaluated*
 - (iii) *Interviews conducted with teams of the top-ranking proposals*

Section 5.04 Review Criteria:

- (a) BART TOD guidelines
- (b) All review criteria used to evaluate original Unsolicited Proposal
- (c) Any additional criteria/goals included in the competitive solicitation

Section 5.05 Results:

- (i) *Reject all proposals*
- (ii) *BART board to approve the developer selection resulting from the Competitive RFP evaluation and a non-binding term sheet allowing sufficient time for the developer and BART staff to complete due diligence and negotiate final terms (typically, the exclusive negotiating agreement) based on a staff recommendation*

Section 5.06 Possible exceptions to Competitive RFP Process

- (a) There are conditions by which BART may choose not to publicly notice an unsolicited proposal and move forward with a sole source negotiation.
 - (i) *If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, as determined by BART*
 - (ii) *If the offeror is the City in which the property is located, or offeror has partnered with the City in a significant way.*
 - (iii) *If the offeror is an adjacent landowner and the combination of the parcels results in the entire project maximizing allowed densities.*
 - (iv) *BART Board of Directors finds that the proposal has unique and beneficial attributes that have not been provided in previous competitive Request for Qualifications or Proposal processes.*
- (b) If development of the land is subject to FTA then an exception to the competitive RFP process may not be possible.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Poon</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 8/5/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basuino Dept: Planning, Development and Construction	General Counsel <i>V. B. [Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC
Signature/Date: <i>Joseph M Basuino 8-13-19</i>	<i>8/14/19</i> []	<i>8/14/19</i> []	[]	<i>[Signature]</i> <i>8/13/2019</i> []
Status: Routed		Date Created: 8/5/2019		

Re-Authorization for the North Concord/Martinez Station Transit Oriented Development Exclusive Negotiating Agreement Award

PURPOSE:

To authorize the General Manager or his designee to execute an Exclusive Negotiating Agreement (“ENA”) with Brookfield Residential for Transit-Oriented Development (“TOD”) at the North Concord/Martinez BART station.

DISCUSSION:

BART owns approximately 20 acres at the North Concord/Martinez BART Station consisting of the parking lot and the transit center (the “BART Property”). Currently, BART staff is engaged with the City of Concord (“City”) and community in developing the Concord Reuse Specific Plan (“Specific Plan”), initiated in 2017 which includes the BART Property. The Specific Plan, Environmental Impact Report (“EIR”) and associated entitlements are expected to be completed in mid- 2020. The Specific Plan will establish zoning and environmental clearance for the former Concord Naval Weapons Station (the “Base”), the BART property, and the former Coast Guard Property to the south of BART. FivePoint will develop Phase I of the former Base, and the City of Concord has selected DeNova Homes to re-develop the former Coast Guard property.

The BART property is a key area within the Specific Plan boundaries in which development interests are not represented by a developer. Staff have found that this places BART at a disadvantage in negotiating future uses, infrastructure needs, and circulation within the Specific Plan, which is far more detailed than a typical City planning document where no developers are directly seeking entitlements. For this reason, BART initiated a solicitation process during the summer of 2018 seeking a team to advance the development process.

Based on the anticipated draft Specific Plan and BART policies, the District sought a financially feasible, long-term, mixed-use development, featuring commercial office, affordable and market-rate housing, with a focus on active access and a sustainable long-term parking strategy.

On December 6, 2018, following a lengthy evaluation process, the BART Board authorized staff to enter into an ENA with a team comprised of Brookfield Residential and Novin Development Corporation (“Brookfield/Novin”). Unfortunately, Brookfield and Novin were unable to successfully reach agreement regarding the terms of this proposed partnership. In April 2019, Brookfield and Novin informed BART staff that they had dissolved their partnership.

On April 17, 2019 staff reissued the Request for Qualifications (“RFQ”) by invitation to the developers that previously responded. Brookfield Residential and Novin Development Corporation were invited to submit separate responses. All teams were welcome to add, replace, or remove team members, so long as the lead developers remained the same. The four teams invited were:

- Brookfield Properties
- Novin Development Corporation
- The Michaels Organization
- Essex Properties

An invitation only RFQ provided expediency in the process, given the ongoing planning efforts and imminent release of a draft Specific Plan and EIR. Since the last solicitation process occurred less than a year ago, and economic conditions have not substantially changed in the area, it was not anticipated that new parties would be interested in the offering. BART’s solicitation and scoring process was also largely unchanged. On May 10, 2019, BART received three submittals in response to the RFQ. Essex Properties did not respond to the RFQ.

An evaluation committee comprised of seven individuals from BART and Contra Costa County reviewed and scored the written proposals, with additional analysis of financial strengths completed by Economic and Planning Systems, a consultant firm working with BART. Although BART’s original intent was to include City of Concord staff and Community Advisory Committee members on the evaluation panel, the City of Concord’s attorney again determined that these parties had a conflict of interest, therefore the City declined to participate in the evaluation process.

Three development teams were invited to participate in oral interviews on June 4, 2019. The teams were:

- Brookfield Residential
- Novin Development Corporation
- The Michaels Organization

Proposals were scored using criteria in the following categories:

- *Direct relevant qualifications and experience of Developer Team.* Experience with:

Master planning and mixed-use development; negotiating and executing complex land transactions; public agency partnerships, particularly transit; and large-scale infrastructure investment.

- *Preliminary development concept and proposed project approach.* Demonstration that: Concept meets BART's goals and objectives for site while being sensitive to community transition; approach addresses real estate market context, development phasing and finance, and community concerns; development concept is compatible with the City's Area Plan; and proposed approach shows overall innovation and creativity.
- *Financial capability of Developer Team, including lender references.* Demonstrated ability to secure funding and financing for a long term, multi-phase project; and provided lender references.
- *Roles and responsibilities of Developer Team.* Provided organizational chart that meets required disciplines with relevant project manager experience and clear delineation of roles and responsibilities; and Small Business ("SB") participation commitment percentage.

As unanimously identified by the selection committee, the top scoring proposal was from Brookfield Residential. The Brookfield team's higher rating was based on the basis of:

- Assembling a strong local development team, which included prime consultants and a 20% commitment to Small Business participation.
- Extensive experience with multiple public agencies and large multi-phased projects.
- Proposed project alignment with the Area Plan.
- Financial strength indicating an ability to fund predevelopment and other expenses.
- Past history of working with adjacent developers to finance infrastructure.

Staff therefore requests authorization to enter into an ENA with Brookfield Residential for a period of 24 months with an option to extend for an additional 12 months if project milestones are met, to advance a transit-oriented development project at the North Concord/Martinez BART station. If staff determines that Brookfield Residential has substantially met the terms of the ENA, but is not ready to return to the Board with a project and ground lease option at the end of the 36-month ENA period, staff may return to the Board to request an extension of the ENA term with Brookfield Residential. This development is expected to be longer term in nature than a typical BART project due to the larger scale master planning efforts, and the large size of the property. Therefore a longer ENA period is requested to allow additional time to work within the City's specific plan process, while ensuring additional time beyond that process for other tasks needed to complete any additional entitlement process needed for the BART property specifically.

FISCAL IMPACT:

If approved, BART Real Estate and Property Development Department staff will work with the selected developer to execute an ENA and initiate work on development scoping. BART Staff time (0.5-0.75 FTE) is programmed into the operating budget and the department work

plan already. BART will receive a \$100,000 ENA fee to compensate BART staff time and consultant and legal fees during the term of this ENA, with a provision in the ENA that this amount will be increased to compensate for BART's expenses as negotiated. This action will not have any impact on unprogrammed District reserves.

Revenues to BART associated with ground lease terms and ridership increases are yet to be determined, but staff will ensure that the combination of the ground lease and ridership revenues result in a net positive fiscal impact to BART. The BART Board will review the terms of the deal at key milestones to monitor its fiscal impact and ultimately approve the deal terms.

ALTERNATIVES:

1. Do not authorize staff to proceed with an ENA with Brookfield Residential.
2. Authorize staff to proceed with an ENA with a different team.
3. Do not authorize staff to pursue the North Concord/Martinez TOD without further direction from the Board.

RECOMMENDATION:

Adopt the following Motion.

MOTION:

Authorize the General Manager or his designee to enter into an Exclusive Negotiating Agreement with the development team led by Brookfield Residential for a term of 24 months, with an option to extend the Exclusive Negotiating Agreement period an additional 12 months if key milestones are substantially met.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: August 16, 2019

FROM: General Manager

SUBJECT: Federal and State Legislation for Consideration

At the August 22 Board of Directors meeting, staff will present federal and state legislation for your consideration.

Attached are analyses and text for each bill. The legislation being presented has a nexus to BART and aligns with the Board's adopted Federal and State Advocacy Program for 2019.

LEGISLATION FOR SUPPORT

FEDERAL

H.R. 1313	Transit Security Grant Program Flexibility Act
H.R. 2864	Rebuild America Act of 2019
H.R. 3437	Saving Transit Art Resources Act

STATE

AB 67	Homeless Integrated Data Warehouse
SB 277	Road Maintenance and Rehabilitation Program: Local Partnership Program

Following the staff presentation, a request will be made of the Board to consider passing the draft motion shown below.

If you have any questions, please contact Rodd Lee, Interim Assistant General Manager of External Affairs, at 510-464-6235.



Robert Powers

Attachments

cc: Board Appointed Officers
Executive Staff

DRAFT MOTION:

That the Board of Directors supports H.R. 1313, H.R. 2864, H.R. 3437, AB 67, and SB 277.



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pawne</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board of Directors		
DATE: 5/10/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Planning, Development & Construction <i>Paul Medved</i> Signature/Date: 8/8/19	General Counsel <i>[Signature]</i> 8/8/19 []	Controller/Treasurer <i>[Signature]</i> 8/8/19 []	District Secretary []	BARC <i>[Signature]</i> 8/12/2019 []

IRVINGTON STATION MODIFICATIONS AND ADDENDUM 2 TO THE WARM SPRINGS BART EXTENSION FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

PURPOSE:

To consider Addendum 2 to the Final Supplemental Environmental Impact Report (FSEIR) pursuant to the California Environmental Quality Act (CEQA) for the Warm Springs BART Extension (WSX Project), evaluating the potential environmental effects of modifications to the optional Irvington Station in the WSX Project (Irvington Station Modifications); adopt the attached Resolution finding that a subsequent or supplemental environmental impact report is not necessary and adopting the Irvington Station Modifications as considered in Addendum 2.

DISCUSSION:

The potential environmental effects of the WSX Project were first evaluated in a Final Environmental Impact Report (FEIR) that was certified by the BART Board of Directors on September 15, 1992 for the purposes of evaluating environmental impacts under the California Environmental Quality Act (Public Resources Code Section 21000, et seq.). The WSX Project, which at that time included two stations to be located in the Irvington and Warm Springs districts of Fremont, was adopted but did not go forward because of financial and other constraints.

Following the passage of Measure B by Alameda County voters in 2000, the WSX Project's scope was substantially modified. Among the modifications, the Irvington Station became an optional station subject to the City of Fremont identifying funding. The modified WSX Project, including the optional Irvington Station, was studied in the Final Supplemental

Environmental Impact Report (FSEIR), which was certified on June 26, 2003 when the modified WSX Project and a Mitigation Monitoring and Reporting Plan (MMRP) were adopted by the BART Board of Directors. On or about the same time the Board of Directors also authorized the General Manager to enter into agreements with affected public agencies, utilities and property owners and acquire property in support of the WSX Project.

The Federal Transit Administration (FTA), acting as the lead agency pursuant to the National Environmental Policy Act (NEPA), published a Final Environmental Impact Statement and Section 4(f)/6(f) Evaluation (FEIS) for the WSX Project in June 2006 and issued a Record of Decision on October 24, 2006. The MMRP was revised in September 2006 following publication of the FEIS.

On December 6, 2012, the Board of Directors considered the first Addendum to the FSEIR and adopted modifications to the WSX Project related to the addition of photovoltaic (PV) panels to several structures at the Warm Springs/South Fremont Station and elsewhere within the WSX Project.

As described in the 2003 FSEIR and 2006 FEIS, the optional Irvington Station would be a two-story, side-platform station located just south of Washington Blvd approximately mid-way along the WSX alignment between the Fremont and Warm Springs/South Fremont Stations. The platforms would be located on either side of the at-grade BART trackway, and the concourse, located directly overhead, would be connected to three entry plazas offering multi-modal access to the station from both east and west sides. Pedestrian overpasses of a UPRR freight track to the west and of Osgood Road to the east were also included. Along with a full suite of station access provisions, a total of 960 parking spaces would be provided. The 2003 modified WSX Project also included mitigation measures associated with the preservation and interpretation of the remnants of the historic Gallegos Winery site located just to the east of Osgood Road and the documentation, rehabilitation and adaptive re-use of the Ford House located on Osgood Road south of Washington Blvd.

Beginning in 2001 with an exchange of letters between the City of Fremont and BART, and thereafter in two Letters of Intent and four separate formal agreements, including the 2009 Comprehensive Agreement between BART and the City of Fremont Relating to the WSX Project, the City and BART have committed to prepare for and pursue the construction of the Irvington Station as part of the WSX Project if and when funding is identified by the City. In 2011 the City revised its General Plan to include a Transit Oriented Development (TOD) "Overlay" in the vicinity of the station site and attempted to fund the station using Redevelopment (RDA) funds. However, plans to utilize RDA funding had to be abandoned when the State of California subsequently revoked the RDA authority from cities statewide. The City then worked closely with BART and the Alameda County Transportation Commission (Alameda CTC) to identify the necessary funding. In 2014 Alameda County voters passed Measure BB which included \$120 million specifically designated for the Irvington Station. By virtue of these sustained coordination efforts, as well as other

funding from the City of Fremont, when the Warm Springs Extension opened for passenger service on March 25, 2017, it did so with elements of infrastructure (steel sleeves positioned beneath the trackway so as to accommodate foundation tie-beams and personnel access) already in place to help facilitate construction of the future Irvington Station on an "infill" basis.

In 2017, BART and the City began to take a fresh look at the 2003 Irvington Station concept plan with the intent of making the Irvington Station more responsive to current policy objectives and project requirements. These include improved adherence to the BART Station Access Policy as adopted by the BART Board in 2016, input received from BART Operations staff, consultations with the BART Accessibility Task Force, and feedback received from the BART Board of Directors following staff presentations given on May 10, 2018 and June 13, 2019. Important public feedback was received via three community meetings, two on-line surveys and multiple stakeholder meetings, including with the Irvington Business Association and the City of Fremont Bicycle and Pedestrian Technical Committee. Chief among the public concerns were traffic safety and congestion as well as parking impacts, particularly on residential streets.

As a result, the Irvington Station Modifications include a number of important modifications: improved pedestrian and bicycle access and safety, more efficient passenger pick-up and drop-off arrangements, a reduction in automobile parking from 960 spaces to 225-275 spaces, the addition of a new aerial walkway directly connecting the concourse to the sidewalk running along the west side of Osgood Rd, and creating a single paid area within the concourse to better control fare collection activities. Eliminating the remote parking lot to the east also eliminated the need for a pedestrian overpass over Osgood Rd, both of which will improve the cost effectiveness of the Irvington Station while still meeting ridership objectives. The City is in the process of developing an overall parking management plan to prevent spillover station parking in nearby areas. This plan will include a Residential Parking Permit Program for use in surrounding neighborhoods as well as other tools such as meters, short term parking spaces, and signage appropriate to non-residential areas. The Irvington Station Modifications will also require acquisition of substantially less private property than the 2003 Irvington Station design (3 parcels vs. 17), thus eliminating the impact to the historic Ford House, lessening impacts to the historic Gallegos Winery site and providing more opportunity for transit oriented development (TOD) adjacent to the station site. In addition, the City also prepared and, on July 16, 2019, the City Council approved a Station Area Plan with the goal of improving overall connectivity to the Irvington Station and guiding development consistent with its General Plan update of 2011.

In drafting Addendum 2, BART environmental consultants and BART staff revisited the analyses conducted in the 1992 FEIR, 2003 FSEIR, 2006 FEIS, and first Addendum and evaluated the Irvington Station Modifications for all the required categories of impact (aesthetics, air quality, greenhouse gas emissions, biological and cultural resources, energy, seismicity, hydrology and water quality, land use and planning, transportation, etc.). The

analysis did not identify any substantial changes to the affected environment; any new significant or substantially increased environmental effects not already identified in the previous environmental documents, or any change in the feasibility or effectiveness of previously identified mitigation measures. Based on the evaluation presented in Addendum 2, there is no substantial evidence, in light of the whole record, that the conditions outlined in Section 15162 of the CEQA Guidelines requiring a subsequent EIR are met. Therefore, an EIR addendum is appropriate.

FISCAL IMPACT:

There is no fiscal impact associated with the recommended action.

Per the 2009 WSX Comprehensive Agreement between BART and the City of Fremont (the "Comprehensive Agreement") and the 2017 Irvington Station Letter of Intent between BART and the City of Fremont, the City of Fremont remains responsible for identifying and securing all capital funding necessary to design and construct the Irvington Station. The Comprehensive Agreement further confirms that "BART and the City also acknowledge and agree that, following completion of construction of the WSX Project, BART will assume all operation and maintenance responsibilities for all BART-owned facilities", including the Irvington Station.

ALTERNATIVES:

The alternative is not to adopt the Irvington Station Modifications. In that case, design of the Irvington Station would proceed based upon the station concept plan included in the WSX Project as previously approved by the Board of Directors in 2003.

RECOMMENDATION:

It is recommended that the Board adopt the following Motion:

MOTION:

Having reviewed and considered the information contained in Addendum 2, the 1992 FEIR, 2003 FSEIR, 2006 FEIS and First Addendum, the BART Board of Directors hereby:

Adopts the attached Resolution in the matter of making CEQA findings and adopting modifications to the Irvington Station, Warm Springs Extension Project (WSX Project).

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

In the Matter of Adopting the Irvington Station Modifications to the Warm Springs Extension Project (WSX Project)

Resolution No. _____

WHEREAS, BART constructed a 5.4-mile extension of the BART system from the existing Fremont Station to the new Warm Springs/South Fremont Station (WSX Project or Project), which opened for passenger service on March 25, 2017; and

WHEREAS, since its initial adoption by the Board of Directors in 1992, the WSX Project has included plans for a second station to be located midway along the Project alignment in the Irvington district of Fremont (Irvington Station); and

WHEREAS, in 2002 the Board of Directors authorized the General Manager to enter into agreements with affected public agencies, utilities and property owners in support of the WSX Project; and

WHEREAS, in 2003 the Board of Directors adopted a revised WSX Project, which included the Irvington Station as an unfunded optional station, and authorized the General Manager to acquire the property necessary to construct the WSX Project; and

WHEREAS, on numerous occasions beginning in 2001, BART and the City of Fremont (City) have documented their mutual interest in letters, Letters of Intent and in formal Agreements, including the 2009 Comprehensive Agreement Between BART and the City Relating to the WSX Project, for BART to construct the Irvington Station should funding be identified by the City; and

WHEREAS, as a result of this sustained interagency cooperation and coordination, certain activities were performed, and physical elements constructed, which were paid for by the City and performed by BART, so as to enable the future addition of the Irvington Station in a cost-effective manner; and

WHEREAS, the City has since worked with BART and Alameda County Transportation Commission (Alameda CTC) to secure \$120 million in funding for the Irvington Station, a named project in Measure BB which was passed by Alameda County voters in November of 2014; and

WHEREAS, the City, as the Sponsoring Agency, with cooperation and assistance from BART, the Implementing Agency, has assumed responsibility for identifying and securing any

additional funding necessary for the Irvington Station's complete buildout, which may be phased until such additional funding becomes available; and

WHEREAS, Alameda CTC has, to date, entered into project funding agreements with the City for scoping, planning and environmental analyses, and with BART for design of the Irvington Station and preparation of property appraisals; and

WHEREAS, on July 16, 2019 the Fremont City Council approved a Station Area Plan for the Irvington Station to guide nearby development based upon the General Plan update of 2011 and committed to closing sidewalk gaps, implementing its planned pedestrian and bicycle improvement projects in the station area and aggressively seeking funding for the East Bay Greenway and Sabercat Trail projects, two extensive Class 1 trails that will connect the Irvington Station to locations north, south and east of the station, including Ohlone College; and

WHEREAS, BART and the City intend to enter into a further Comprehensive Agreement pursuant to which the Irvington Station and surrounding access infrastructure will be built or completed; and

WHEREAS, the potential environmental effects of the WSX Project were first evaluated in a Final Environmental Impact Report (FEIR) that was certified by the Board of Directors on September 15, 1992 for the purposes of evaluating environmental impacts under the California Environmental Quality Act (CEQA); and

WHEREAS, the Project was not constructed at that time and the Project was revisited and reevaluated in a Final Supplemental Environmental Impact Report (FSEIR), which was certified on June 26, 2003, when the WSX Project, including the optional Irvington Station, and a Mitigation Monitoring and Reporting Plan (MMRP) were adopted; and

WHEREAS, the Federal Transit Administration (FTA), acting as the lead agency pursuant to the National Environmental Policy Act (NEPA), published a Final Environmental Impact Statement and Section 4(f) Evaluation (FEIS) for the WSX Project in June 2006 and issued a Record of Decision on October 24, 2006; and

WHEREAS, Section 15164 of the CEQA Guidelines allows a lead agency to prepare an addendum to a previously certified EIR, rather than a subsequent EIR (SEIR), if some changes or additions to a project are necessary, as long as none of the conditions described in Section 15162 requiring the preparation of a SEIR have occurred. Section 15162 states that, when an EIR has been certified, no SEIR shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, that 1) there are substantial changes proposed in the project which require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the in the severity of previously identified significant effects; 2) substantial changes occur with respect to the circumstances under which the project is undertaken

which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the in the severity of previously identified significant effects; or 3) there is new information of substantial importance, which was not known with the exercise of reasonable diligence at the time the previous EIR was certified as complete that shows any of the following: a) the project will have one or more significant effects not discussed in the previous EIR; b) significant effects previously examined will be substantially more severe than shown in the previous EIR; c) mitigations measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or d) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment but the project proponents decline to adopt the mitigation measure or alterative; and

WHEREAS, no federal funds are being contributed toward the WSX Project, no additional federal environmental evaluation is necessary at this time; and

WHEREAS, BART staff has revisited the analysis conducted in the 1992 FEIR, 2003 FSEIR and the first Addendum and evaluated the potential effects of the Irvington Station Modifications as described in Addendum 2, surrounding circumstances, and new information; and

WHEREAS, based upon the evaluation, none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a SEIR have occurred; and therefore, an addendum is appropriate: and

WHEREAS, CEQA Guidelines Section 15164(d) provides that the lead agency's decision-making body shall consider Addendum 2, together with the FSEIR, FEIR and first Addendum prior to making a decision on the Irvington Station Modifications.

THEREFORE, BE IT RESOLVED that the BART Board of Directors, having reviewed and considered the information contained in Addendum 2 and the FSEIR, FEIR and first Addendum for the WSX Extension Project:

1) Finds that, on the basis of substantial evidence contained in Addendum 2, the FSEIR, FEIR and First Addendum and in light of the whole record, that:

- a) there are no substantial changes proposed in the Irvington Station Modifications that will require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- b) there are no substantial changes with respect to the circumstances under which the Irvington Station Modifications are undertaken which will require major revisions of the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

c) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the FSEIR was certified, showing that:

i) the Irvington Station Modifications will have one or more significant effects not discussed in the FSEIR;

ii) significant effects previously examined will be substantially more severe than shown in the FSEIR;

iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce significant effects of the Irvington Station Modifications but the project proponent declines to adopt the mitigation measure or alternative; or

iv) mitigation measures or alternatives considerably different from those analyzed in the FSEIR would substantially reduce significant effects on the environment but the project proponent declines to adopt the mitigation measure or alternative; and

2) Adopts the Irvington Station Modifications as considered in Addendum 2; and

3) Authorizes staff to implement the Irvington Station Modifications, subject to funding availability as identified and secured by the City of Fremont.

Attachment: Addendum 2

FSEIR, FEIR and First Addendum are located here:

<https://www.bart.gov/about/projects/wsx/environmental>

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors

DATE: August 14, 2019

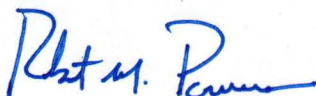
FROM: General Manager

SUBJECT: FASTER Bay Area Overview

As was mentioned at the June 13, 2018 Board meeting, a coalition of policy groups, led by the Bay Area Council, SPUR, and the Silicon Valley Leadership Group, are considering a transformational transportation funding measure – called FASTER Bay Area - that could be brought to Bay Area voters as early as November 2020. The proponents are evaluating a nine-county measure that could raise up to \$100 billion (in the year of expenditure dollars) over 40 years. They have been interested in big, transformational projects that better connect jobs to housing through a more integrated transit system, and have begun to engage with transit district general managers, Congestion Management Agencies, MTC, and key stakeholders.

At the August 22, 2019 Board meeting, the FASTER Bay Area proponents and BART staff will co-present an overview for discussion purposes.

Please contact Val Menotti, Chief Planning & Development Officer, at (510) 287-4794 should you have any questions.



Robert M. Powers

cc: Board Appointed Officers
Executive Staff

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** August 15, 2019
FROM: Independent Police Auditor
SUBJECT: Update re Revised Citizen Oversight Model Implementation

As required by the BART Citizen Oversight Model (Model) Chapter 3-01, the Office of the Independent Police Auditor (OIPA) engaged the OIR Group in January 2017 to conduct a review and evaluation of the BART oversight system intended to determine whether there was a need to adjust the system to improve its continued performance. The OIR Group completed its review in June 2017 and submitted a report to the Board of Directors (Board) including 54 recommendations for improvements. Over the course of two meetings in March and April 2018 the Board voted to implement 50 of the recommendations and requested a report from OIPA, the Chief of Police, and the General Manager to review the implementation process and fiscal impact of the revised Model. The revised Model was ratified by the Board at its June 28, 2018 meeting.

Please refer to the attached OIPA Impact Assessment Matrix, which includes the language of each OIR Group recommendation that was incorporated into the revised Model and/or resulted in adjustments to BART Police Department (BPD) policies and/or OIPA internal practices. Generally, OIPA has seen a workload increase in some areas, requiring some shifting of priorities and some redistribution of responsibilities within the department, but very few recommendations have been deemed impractical to implement at this time using available OIPA resources.

In the year since OIPA began working with BPD and revising BPD policies and OIPA practices to comply with the requirements of the revised Model, there has been no significant direct fiscal impact to OIPA and we did not exceed our budget during the 2018-2019 fiscal year despite some atypical expenses related to staff training, production of informational materials, and community outreach efforts.

OIPA will defer to the General Manager to report whether his department has experienced any fiscal impact from the implementation of the revised Model and related adjustments to policy and practice, but discussions with the General Manager indicate that there has been no notable impact. BPD replied to OIPA inquiries regarding fiscal impact by stating that the changes to the Model have served to bolster transparency and accountability with no significant fiscal impact to the Police Department. The Office of the General Counsel (OGC) was also engaged in the incorporation of the implemented recommendations into the final language of the revised Model and experienced no fiscal impact beyond that engagement and effort by OGC staff.

Though not specifically requested by the Board, it stands to reason that there has been some fiscal impact to the Office of the District Secretary (DSO) as that department has absorbed the staff support function for the BART Police Citizen Review Board (BPCRB), including the addition of

a Principal Administrative Analyst (PAA) to perform those functions.¹ The DSO has estimated substantial annual related costs of approximately \$10,000 including BPCRB member travel to an annual conference (this \$3500 line item will be ported from OIPA's budget), BPCRB Clipper Cards, BPCRB meeting refreshments, BPCRB signage and office supplies, DropBox document management/transmission accounts, and annual BPCRB membership fees to the National Association for Civilian Oversight of Law Enforcement (NACOLE). The DSO is also paying overtime for two staff members to attend monthly BPCRB meetings. As a practical matter, DSO staff and managers other than the PAA have spent time becoming familiar with BPCRB processes and files, including the Citizen Oversight Model.

The Board also requested an opportunity to revisit the 4 OIR Group recommendations that were deferred and not implemented in 2018. These deferred recommendations include the following:

Recommendation #1: The Model should be revised to make clear that the scope of OIPA's authority extends to non-sworn employees of BART PD and to all potential misconduct involving sworn officers whether on or off duty.

- Because OIPA is not authorized to independently investigate complaints of misconduct related to non-sworn BPD employees, we have deferred all complaints identifying BPD Fare Inspectors, Community Service Officers, and Dispatchers to the BPD Internal Affairs Division (IA) for investigation. OIPA continues to monitor those referred IA investigations to ensure that they are timely, thorough, fair, and objective. OIPA is not currently authorized to independently investigate any allegation of off-duty misconduct but retains the authority to review any administrative investigation conducted by IA, which could include review of off-duty conduct.

Recommendation #3: Should OIPA move to real-time monitoring, it should be involved in decisions regarding whether a matter should be forwarded to the District Attorney for criminal review, and the appropriate scoping of an investigation.

- As a practical matter, OIPA is engaged in the real-time monitoring of IA investigations and OIPA has been and remains ethically obligated to forward information regarding any potentially criminal conduct to the District Attorney via the BPD chain of command, therefore implementation of this recommendation would have no impact on current practices.

Recommendation #12: When a concluded investigation does not result in a sustained finding, OIPA should offer the complainant the opportunity to view any video account of the incident.

- Though this would result in significant additional work for OIPA related to the maintenance of confidentiality (e.g. video redaction, audio redaction), changes to state law resulting from SB 1421 and AB 748 have increased public access to video related to significant uses of force and other sustained allegations of misconduct.

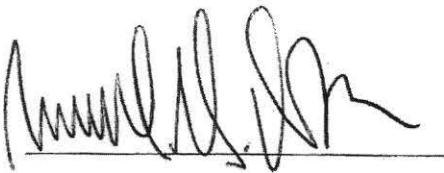
Recommendation #22: The Model should be revised to require BART to apprise OIPA of any offers to settle cases after discipline has been imposed and provide the Auditor an opportunity for consultation. The Model should provide the Auditor the opportunity to appeal any intention to

¹ The addition of the PAA has also enabled the DSO to provide support to the Transit Safety Advisory Committee.

settle the matter to the General Manager should the Auditor find that the settlement would amount to a serious erosion of individual accountability. The Model should require the Auditor to publicly report on any cases settled at the post-discipline stage and whether OIPA agreed with the decision to settle.

- Implementation of this recommendation would provide the District an opportunity to collect the impressions of the Auditor in a limited number of circumstances, and any public reporting would not run afoul of either officers' privacy protections or OIPA's requirement to maintain confidentiality of records where appropriate.

The color-coded Impact Assessment Matrix mentioned above is attached hereto for your reference and convenience. If you have any questions or concerns, please contact me at 510-874-7471.

A handwritten signature in black ink, appearing to read 'Russell G. Bloom', written over a horizontal line.

Russell G. Bloom

cc: Board Appointed Officers

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** August 13, 2019
FROM: Jeana Zelan Peterson
SUBJECT: Amendment to Money Purchase Pension Plan

Attached please find a resolution to amend the District's Money Purchase Pension Plan to provide for additional contributions on behalf of the General Manager in accordance with the Board's direction at its July 25, 2019 meeting.



Jeana Zelan Peterson

cc: Board Appointed Officers (w/attachments)
AGM, Administration (w/attachments)

Motion: Adoption of the attached resolution "In the Matter of An Amendment to the Money Purchase Pension Plan."

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

In the Matter of An
Amendment to the Money
Purchase Pension Plan

Resolution No. _____

WHEREAS, at its July 25, 2019 meeting, the Board expressed its wish to provide additional contributions to the Money Purchase Pension Plan on behalf of the General Manager equal to \$30,000 per year, provided the General Manager makes the maximum deferral contributions to the District's Deferred Compensation Plan under Internal Revenue Code Sections 457(e)(15) and (18); and

WHEREAS, California Government Code Section 7507 requires that adoption of a retirement benefit change occur no less than two weeks after the actuarial impact upon future annual costs is made public at a public meeting; and

WHEREAS, at the July 25, 2019 meeting it was publicly disclosed that the actuarial impact upon future annual costs to the District of this change will not exceed \$30,000 per year; and

NOW, THEREFORE, BE IT RESOLVED that the Board approves the attached Amendment No. 14 to the February 1, 2013 Restatement of the Money Purchase Pension Plan, effective August 26, 2019, which adds subsection (f) to current Section 3.01, and authorizes the Board President to sign the amendment on behalf of the Board.

Adopted: _____

AMENDMENT FOURTEEN TO THE
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
MONEY PURCHASE PENSION PLAN
(As Restated Effective February 1, 2013)

The San Francisco Bay Area Rapid Transit District Money Purchase Pension Plan (as Restated Effective February 1, 2013) (the "Plan") is hereby amended, effective August 26, 2019, as follows:

Subsection (f) of Section 3.01 is added as follows:

- (f) On behalf of the General Manager appointed July 25, 2019, an additional amount equal to \$30,000 per year. The Employer contribution described in this subsection (f) shall be contributed to the General Manager's Plan Account ratably for each payroll period occurring during the Plan Year; provided, however, in the event the General Manager terminates employment during the Plan Year, the remaining balance of such contribution for such year shall be contributed in a lump-sum amount for the General Manager's final payroll period. Furthermore, such contribution is conditioned on the General Manager electing to defer to the San Francisco Bay Area Rapid Transit District's Deferred Compensation Plan, for each Plan Year, the maximum annual applicable dollar amount described in Internal Revenue Code Sections 457(e)(15) and (18) (the "Maximum Deferral Amount"). In the event the General Manager does not, for any Plan Year, defer to the Deferred Compensation Plan the Maximum Deferral Amount, then any Employer contribution described in this subsection (f), for such Plan Year, shall be forfeited from the General Manager's Plan Account.

The foregoing Amendment No. Fourteen to the Plan is adopted this ____ day of August, 2019.

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

By: _____
Its: Board President