

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

BOARD MEETING AGENDA

June 28, 2018

9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, June 28, 2018, in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 2040 Webster Street, Oakland, California.

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

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

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

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

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

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

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

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

Patricia K. Williams  
Interim 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. Ana Natarajan, Chairperson of the Bond Oversight Committee.\*

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of June 14, 2018.\* Board requested to authorize.
- B. Appointment of BART Police Citizen Review Board Members.\* Board requested to ratify.
- C. Revised Citizen Oversight Model.\* Board requested to approve.
- D. Award of Contract No. 15TC-260 Berkeley Hills Tunnel Lining Surface Treatment.\* Board requested to authorize.
- E. Award of Invitation for Bid No. 9050, R65/A85 Material for A-Line Interlocking.\* Board requested to authorize.

3. PUBLIC COMMENT – 15 Minutes

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

4. ADMINISTRATION ITEMS

Director Allen, Chairperson  
NO ITEMS.

5. ENGINEERING AND OPERATIONS ITEMS

Director Simon, Chairperson

- A. Single Source Procurement with Alstom Signaling, Inc., for Automatic Train Control Spare Parts for Warm Springs Extension Project.\* Board requested to authorize. (TWO-THIRDS VOTE REQUIRED.)
- B. Change Order to Contract No. 15EK-210, Procurement of Traction Power Substations - Phase 1, with Powell Electrical Systems, Inc. (C.O. No. 028).\* Board requested to authorize.



- C. Proposed BART Market Street Canopies and Escalators Modernization Project.\*
  - i. Adopt the Initial Study/Mitigated Negative Declaration.
  - ii. Adopt the Mitigation Monitoring and Reporting Plan.
  - iii. Approve the BART Market Street Canopies and Escalators Modernization Project.  
Board requested to adopt.

6. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS  
Director Blalock, Chairperson

- A. Revision to Art Policy.\* Board requested to authorize.
- B. Sustainability Action Plan.\* For information.
- C. Electric Vehicle Charging Update.\* For information.

7. GENERAL MANAGER'S REPORT

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

8. BOARD MATTERS

- A. Appointment of BART Police Citizen Review Board At-Large Member.\*  
Board requested to appoint.
- B. Resolution Directing Specific Advertising Funds.\* Board requested to adopt. (Director Dufty's request.)
- C. Resolution in Support of BART Unions.\* Board requested to adopt. (President Raburn's request.)
- D. 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.)
- E. 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.)
- F. In Memoriam.  
(An opportunity for Board members to introduce individuals to be commemorated.)

9. PUBLIC COMMENT

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

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

A. CONFERENCE WITH LABOR NEGOTIATORS:

Designated representatives: Grace Crunican, General Manager; Michael Jones, Assistant General Manager, Administration; and Martin Gran, Chief Employee Relations Officer

Employee Organizations: (1) Amalgamated Transit Union, Local 1555;  
(2) American Federation of State, County and Municipal Employees, Local 3993;  
(3) BART Police Officers Association;  
(4) BART Police Managers Association;  
(5) Service Employees International Union, Local 1021; and  
(6) Service Employees International Union, Local 1021, BART Professional Chapter  
(7) Unrepresented employees (Positions: all)

Government Code Section: 54957.6

B. PUBLIC EMPLOYEE EMPLOYMENT

Title: District Secretary

Government Code Section: 54957(b)(1)

C. CONFERENCE WITH NEGOTIATORS

Designated Representatives: Directors Keller, Raburn, and Simon

Title: District Secretary

Government Code Section: 54957.6

11. OPEN SESSION

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

Board of Directors  
Minutes of the 1,815th Meeting  
June 14, 2018

A regular meeting of the Board of Directors was held June 14, 2018, convening at 9:01 a.m. in the Board Room, 2040 Webster Street, Oakland, California. President Raburn presided; Patricia K. Williams, Interim District Secretary.

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

Absent: Director Josefowitz. Director Simon entered the Meeting later.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of May 24, 2018.
2. Title VI Fare Equity Analysis for Discontinuing the BART Discounted Orange Ticket Program for Students at Participating Middle and High Schools.
3. Agreements with the California Department of Transportation (Caltrans) for the Sustainable Access Strategy for BART's Transit-Oriented Development Program.
4. 2018 Organization of Committees and Special Appointments Revision.

Director Saltzman requested Item 2-B, Title VI Fare Equity Analysis for Discontinuing the BART Discounted Orange Ticket Program for Students at Participating Middle and High Schools, be removed from Consent Calendar. Director Allen requested Item 2-C, Agreements with the California Department of Transportation (Caltrans) for the Sustainable Access Strategy for BART's Transit-Oriented Development Program, be removed from Consent Calendar.

Director Saltzman made the following motions as a unit. Director Blalock seconded the motions, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, and Raburn. Noes – 0. Absent – 2: Directors Josefowitz and Simon.

1. That the Minutes of the Meeting of May 24, 2018, be approved.
2. That the Board ratify the appointment of Director Robert Raburn as alternate to the South Hayward BART Station Access Authority.

Mr. Maceo Wiggins, Acting Department Manager, Office of Civil Rights; and Ms. Kerry Hamill, Assistant General Manager, External Affairs, presented Item 2-B, Title VI Fare Equity Analysis

for Discontinuing the BART Orange Ticket Program for Students at Participating Middle and High Schools. The item was discussed.

Director Simon entered the meeting.

Aleta Dupree addressed the Board.

President Raburn moved the Board approve the Title VI Fare Equity Analysis for Discontinuing the BART Discounted Orange Ticket Program for Students at Participating Middle and High Schools. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, Simon and Raburn. Noes – 0. Absent – 1: Director Josefowitz.

Mr. Val Menotti, Chief Planning and Development Officer, presented Item 2-C, Agreements with the California Department of Transportation (Caltrans) for the Sustainable Access Strategy for BART's Transit-Oriented Development Program. The item was discussed.

Director Saltzman moved adoption of Resolution No. 5372, In the Matter of Authorizing the General Manager to Execute Agreements with the California Department of Transportation for the Sustainable Access Strategy for BART's Transit-Oriented Development Program. President Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, Simon and Raburn. Noes – 0. Absent – 1: Director Josefowitz.

President Raburn called for Public Comment.

The following individuals addressed the Board.

Aleta Dupree  
Erick Arguello  
Rodrigo Duran  
Carlos Gonzalez  
Marri Sorenson  
John Mendoza  
Jean Walsh

Director Allen, Chairperson of the Administration Committee, brought the matter of Update on Proof of Payment before the Board. General Manager Grace Crunican; Police Chief Carlos Rojas; Mr. Russell Bloom, Independent Police Auditor; Ms. Pamela Herhold, Acting Assistant General Manager, Performance and Budgets; and Ms. Tamar Allen, Chief Maintenance and Engineering Officer, presented the item. The item was discussed.

The following individuals addressed the Board.

Joshua Davis  
Victoria Fierce  
Sasha Perigo  
Kaziah Platiner

Aaron Eckhouse  
Aleta Dupree  
Liar Zavodivker  
Gena Alexander  
Jerry Grace

Director Allen brought the matter of Resolution Approving the Fiscal Year 2019 Annual Budget before the Board. Ms. Crunican; Ms. Herhold; and Mr. Dennis Markham, Department Manager, Operating Budgets, presented the item. The item was discussed.

Director Saltzman moved adoption of Resolution No. 5373, Approving the Annual Budget for the San Francisco Bay Area Rapid Transit District and Authorizing Expenditures for the Fiscal Year July 1, 2018, to June 30, 2019; and moved that staff be directed to delay the hiring of two Community Service Officer positions until after a six-month report on the Proof of Payment program was presented to the Board. Director Simon seconded the motion.

Director Allen requested the motion be amended to include direction to staff to prepare a report on station hardening by September.

Directors Saltzman and Simon accepted the amendment. The motion carried by unanimous electronic vote. Ayes – 8: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Josefowitz.

Aleta Dupree addressed the Board.

Director Allen brought the matter of Pension Funding Strategies Update before the Board. Mr. Michael Jones, Assistant General Manager, Administration; Ms. Herhold; Ms. Diane Iwata, Human Resources, Division Manager; and Ms. Mary Beth Redding, Vice President, Bartel Associates, presented the item. The item was discussed.

Gena Alexander addressed the Board.

Discussion continued.

President Raburn announced that the order of agenda items would be changed.

Director Simon brought the matter of Award of Professional Services Agreements to Provide Construction Management Services for BART Projects before the Board. Ms. Tamar Allen and Mr. Robert Mitroff, Chief Planning and Development Officer, presented the item.

The following individuals addressed the Board.

Raewyn Butcher  
John Cockle  
Chuck Tran

The item was discussed.

President Raburn moved that the General Manager be authorized to award, subject to the negotiation of fair and reasonable cost reimbursement rates and fees, the below listed Agreements to provide Construction Management Services for BART's Projects in an amount not to exceed \$25,000,000.00 each, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and Federal Transit Administration (FTA) requirements related to protest procedures.

- a. Agreement No. 6M8132, with AECOM Technical Services, Inc./Cooper Pegueda Management, Inc., a Joint Venture, Oakland, CA
- b. Agreement No. 6M8133, with Ghirardelli Associates, Inc., Oakland, CA
- c. Agreement No. 6M8134, with HDR Construction Control Corporation, Walnut Creek, CA
- d. Agreement No. 6M8135, with Jacobs Project Management Company, Oakland, CA
- e. Agreement No. 6M8136, with Parsons Transportation Group, Inc., Oakland, CA
- f. Agreement No. 6M8137, with PGH Wong Engineering, Inc., San Francisco, CA
- g. Agreement No. 6M8150, with PreScience Corporation, Oakland, CA
- h. Agreement No. 6M8151, with Allen Group, LLC/Vali Cooper & Associates, Inc., a Joint Venture, San Francisco, CA

Director Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Josefowitz.

Director Simon brought the following items before the Board.

1. Award of Contract No. 09AF-111A, TBT Cross Passage Doors Replacement.
2. Change Order No. 79HM-120, SFTS MB, with Manson Construction Company, Inc., for Extension of Time for Revised Cathodic Protection (C.O. 104).

Director Simon made the following motions:

1. That the General Manager be authorized to award Contract No. 09AF-111A, TBT Cross Passage Doors Replacement, for the Base Bid Price of \$6,388,000.00, 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 be also authorized to exercise either Option A for the Bid Price of \$300,000.00 or Option B for the Bid Price of \$200,000.00 for upgrades to the door monitoring system.
2. That the General Manager be authorized to execute Change Order No. 104, Part 1, Time Extension for Revised Cathodic Protection, in an amount not to exceed \$400,000.00, and extend the Contract completion date by 196 calendar days, for Contract No. 79 HM-120, SFTS MB, with Manson Construction Company, Inc.

President Raburn seconded the motions, which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Blalock, Dufty, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Josefowitz.

President Raburn announced that the Board would enter into closed session under Item 11-B (Public Employee Employment), Item 11-C (Conference with Negotiators), and Item 11-C (Conference with Legal Counsel) of the Meeting agenda, and that the Board would reconvene upon conclusion of the closed session.

The Board meeting recessed at 12:30 p.m.

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The Board reconvened in closed session at 12:41 p.m.

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

Absent: Director Josefowitz.

The Board Meeting recessed at 1:24 p.m.

Director Saltzman exited the meeting.

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The Meeting reconvened in open session at 1:25 p.m.

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

Absent: Directors Josefowitz and Saltzman.

President Raburn announced that the Board had concluded its closed session, that Item 11-A (Conference with Labor Negotiators) was not discussed and would be continued to a future meeting, and that there were no announcements to be made.

Director Allen brought Agreements for Temporary Bus Bridge Services before the Board. Ms. Tamar Allen and Mr. Joel Soden, Senior Transportation Engineer, presented the item. The item was discussed.

Director Blalock moved that the General Manager be authorized to enter into agreements with public and/or private bus operators and vendors, including but not limited to the Alameda-Contra Costa Transit District, to provide temporary bus transportation services and related expenses in a total amount not to exceed \$200,000.00 per day for each day the District is unable to provide complete train service due to maintenance projects; and that these authorizations will expire on December 31, 2018. President Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Blalock, Dufty, Keller, McPartland, Simon, and Raburn. Noes – 0. Absent – 2: Directors Josefowitz and Saltzman.

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Scoop Carpool Matching Service Contract Amendment before the Board. Mr. Carl Holmes, Assistant General Manager, Planning, Development and

Construction; and Ms. Jumana Nabti, Manager of Access Programs, presented the item. The item was discussed. President Raburn moved that the General Manager be authorized to negotiate and enter into a contract amendment with Scoop Technologies for a not-to-exceed amount of \$230,000.00 to provide interim carpool services until a long-term carpool program can be implemented. Director Keller seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Blalock, Dufty, Keller, McPartland, Simon, and Raburn. Noes – 0. Absent – 2: Directors Josefowitz and Saltzman.

Director Blalock brought the Resolution in Support of Advocating for BART's Transit-Oriented Development and Station Access Policies in Santa Clara County BART Stations before the Board. Mr. Holmes and Mr. Menotti presented the item. The item was discussed. President Raburn moved adoption of Resolution No. 5374, In the Matter of Directing the General Manager to Advocate for BART's Transit-Oriented Development and Station Access Policies at Santa Clara County BART Stations, with an amendment to the Resolution to include BART's approved performance measures. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Blalock, Dufty, Keller, McPartland, Simon, and Raburn. Noes – 0. Absent – 2: Directors Josefowitz and Saltzman.

Director Blalock brought the matter of North Concord Transit-Oriented Development Update before the Board. Mr. Holmes; Mr. Sean Brooks, Department Manager, Real Estate and Property Development; and Mr. Ian Griffiths, Senior Planner, presented the item. The item was discussed.

Director Blalock brought the Art Master Plan Update before the Board. Ms. Ellen Smith, Department Manager, Strategic Planning; and Ms. Jennifer Easton, Art Program Manager, presented the item. The item was discussed.

Director Simon exited the meeting.

Jerry Grace and Charlotta Wallace addressed the Board.

President Raburn called for the General Manager's Report.

Mr. David Kutrosky, Managing Director, Capitol Corridor, gave a brief presentation on the draft agenda for the Capitol Corridor Joint Powers Board Meeting of June 20, 2018.

Ms. Crunican reported on steps she had taken and activities and meetings she had participated in, ridership, upcoming events, and outstanding Roll Call for Introductions items. Ms. Tamar Allen gave a report on the ridership and activities during the Golden State Warriors Parade.

Ms. Crunican reported on the BART to Antioch (eBART) Grand Opening and the American Public Transportation Association (APTA) Rail Rodeo results, and gave an update on the Fleet of the Future.

President Raburn called for the Controller/ Treasurer's Report.

Ms. Rose Poblete, Controller/Treasurer; and Mr. Christopher Gan, Assistant Controller, presented the Quarterly Report of the Controller/Treasurer for the period ending March 31, 2018. The report was discussed.



President Raburn brought the matter of Resolution to Direct Profits Derived from Paid Advertising by Progressives for Immigration Reform to BART's Office of Civil Rights before the Board. The item was discussed and was continued to a future Board meeting.

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

Director Dufty thanked the Salvation Army for its participation at the 24<sup>th</sup> and Mission BART Station with the BART Police and District staff working on the homelessness and cleanliness issues.

Director Dufty exited the meeting.

Director Blalock reported he had given a presentation on Rebuilding BART at a senior housing facility in Union City.

Director Allen reported she had attended the Tri-Valley - San Joaquin Regional Rail Authority meeting, the BART Citizen Review Board Meeting, the Contra Costa Mayors Conference, and the eBART Grand Opening. Director Allen thanked Director Dufty for all his work with homelessness and cleanliness.

Director Keller reported he had attended the APTA Rail Conference, and thanked employees and rodeo participants. Director Keller thanked staff for the successful eBART Grand Opening.

Director McPartland reported he had attended the eBART Grand Opening and the Tri-Valley – San Joaquin Regional Rail Authority meeting.

President Raburn reported he had attended the eBART Grand Opening and a crane event at the Coliseum Station, ridden a safety train with Capitol Corridor, and attended the BART and AC Transit Coordinating Committee meeting.

Director Blalock requested the Meeting be adjourned in memory of James Van Houten.

President Raburn called for Public Comment. Jerry Grace and Aleta Dupree addressed the Board.

The Meeting was adjourned at 3:11 p.m. in honor of James F. Van Houten.

Patricia K. Williams  
Interim District Secretary



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> <i>21 June 2018</i> <i>Rhet M. Powers</i>		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and Forward to the Board		
<b>DATE:</b> 5/30/2018		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Chung-Soo Doo Dept: Maintenance and Engineering  <i>Chung-Soo Doo</i> Signature/Date: <i>6/15/2018</i>	<b>General Counsel</b> <i>[Signature]</i> <i>6/15/18</i> [ ]	<b>Controller/Treasurer</b> <i>[Signature]</i> <i>6/15/18</i> [ ]	<b>District Secretary</b> [ ]	<b>BARC</b> <i>[Signature]</i> <i>for P.O. 6.18.2018</i> [ ]

### Award Contract No. 15TC-260 Berkeley Hills Tunnel Lining Surface Treatment

**PURPOSE:**

To obtain Board authorization for the General Manager to award Contract No. 15TC-260 Berkeley Hills Tunnel Lining Surface Treatment to DMZ Builders for the Bid price of \$1,416,600.00.

**DISCUSSION:**

This Contract is for the mitigation of potential risks to trains passing through the Berkeley Hills Tunnel by removing loose concrete, patching removed concrete area, grouting cracks, and installing permanently anchored wire mesh panel system to retain any spalling concrete at the location where the Berkeley Hills Tunnel crosses the Hayward Fault.

On April 2, 2018, Advanced Notice to Bidders were sent to one-hundred one (101) prospective Bidders, and seven (7) Plan Rooms. On March 29, 2018, the Contract was advertised in local publications. The Contract documents were available to Bidders on April 2, 2018 in hard copy and electronic format on the District's Procurement Portal. A total of nineteen (19) prospective Bidders and five (5) Plan Rooms downloaded copies of the Contract Documents from the Procurement Portal. A pre-bid meeting occurred on April 12, 2018 with six (6) prospective Bidders in attendance. A site tour was conducted on April 14, 2018, with five (5) prospective Bidders in attendance. Bids were publicly opened on May 15, 2018, with one (1) Bid received. The Bid and the Engineer's Estimate, are as follows:

Bidder	Location	Total Bid Price
DMZ Builders	Concord, CA	\$1,416,600.00

	Engineer's Estimate	\$1,209,000.00
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After review by District staff, the Bid submitted by DMZ Builders was deemed to be responsive to the solicitation. Furthermore, a review of this Bidder's license, business experience, and financial capabilities has resulted in a determination that the Bidder is responsible. The Total Base Bid Price of \$1,416,600.00 was found to be fair and reasonable.

District staff has determined that this work is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Title 14, California Code of Regulations, Section 15301, Existing Facilities, because it consists of minor alterations of existing facilities involving no expansion of use.

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. DMZ Builders is a certified Small Business but since DMZ Builders was the only Bidder, the application of the Prime Preference will not alter the award to DMZ Builders.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 20.3% for Minority Business Enterprises (MBEs) and 14.1% for Women Business Enterprises (WBEs). DMZ Builders will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-Discrimination Program for Subcontracting do not apply.

**CAPITAL FISCAL IMPACT:**

Funding in the amount of \$1,416,600 for Contract No. 15TC-260 is included in the total project budget for 15TC003 – Berkeley Hills Tunnel Lining Surface Treatment.

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:

<b>Proposed Funding</b>	
807F Seismic Fund	\$ 947,880
801J Seismic Fund	\$ 1,552,120
<b>TOTAL</b>	<b>\$ 2,500,000</b>

As of June 1, 2018, \$2,500,000 is the total budget for this project. BART has expended

\$46,979 and committed \$50,665 to date. This action will commit \$1,416,600, leaving an available fund balance of \$985,756 in these fund sources for this project.

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

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

**ALTERNATIVES:**

The Board may elect to reject all Bids and authorize staff to re-advertise the Contract. Under this alternative, staff would have to reissue the Bid package and obtain new Bids. The reissuance process will delay the mitigation of potential risks for the District's ability to provide reliable and safe operation of train service for our patrons. There is no assurance that Bids following a reissuance of the Contract will be lower than the amount of the current Bid received.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award Contract No. 15TC-260 Berkeley Hills Tunnel Lining Surface Treatment to DMZ Builders for the Bid price of \$1,416,600.00, pursuant to notification to be issued by the General Manager.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>21 June 2018</i> <i>Robert M. Power</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 6/12/2018		BOARD INITIATED ITEM: Yes		
Originator/Prepared by: David Scherer Dept: Maintenance and Engineering Signature: <i>[Signature]</i> Date: <i>6/20/18</i>	General Counsel <i>[Signature]</i> <i>6/20/18</i> [ ]	Controller/Treasurer <i>[Signature]</i> <i>6/20/18</i> [ ]	District Secretary [ ]	BARC <i>[Signature]</i> <i>P.O. 6.20.2018</i> [ ]

### Award of IFB No. 9050 R65/A85 Interlocking Materials

#### PURPOSE:

To request Board authorization for the General Manager to award Invitation For Bid (IFB) No. 9050 to Voestalpine Nortrak, Cheyenne, WY. in the amount of \$1,858,237.61 (including all taxes) for the purchase of: R65/A85 Interlocking Materials.

#### DISCUSSION:

The R65 Interlocking is located between Richmond Station and the Richmond Yard. The A85 Interlocking is located between Union City and Fremont Stations. These interlocking projects are Measure RR funded and will be rebuilt by BART staff. This procurement contract will provide all the necessary special track work to rebuild the turnouts, reducing maintenance requirements, and increase reliability and ride quality for patrons.

The District currently has 14 interlockings consisting of 58 turnouts that were installed during the original system construction and need replacement. The interlockings have been prioritized for replacement and R65 and A85 interlockings are identified as BART Maintenance replacement projects.

This is a Two (2) year Estimated Quantity Contract. Pursuant to the terms of the District's standard Estimated Quantity Contract, during the term of the contract the District is required to purchase from the supplier a minimum amount of 50% of the contract bid price. Upon Board approval of this contract, the General Manager will also have the authority to purchase up to 150% of the contract bid price, subject to the availability of funding.

A notice requesting bids was published on April 13, 2018. On the same day, the solicitation

was also uploaded to the Vendor Portal. Correspondence was sent to Four (4) prospective bidders inviting them to view and bid via the portal. Bids were opened on May 8, 2018 and one (1) bid was received.

**Bidder**

**Including 9.75% Sales Tax**

Voestalpine Nortrak

**Total: \$1,858,237.61**

Independent cost estimate by BART staff:

**Total: \$1,452,431.50**

Pursuant to the Special Provisions, bids were evaluated based on the total bid price. Staff determined that the apparent low bidder, Voestalpine Nortrak, submitted a responsive bid based on the comparison to the independent cost estimate.

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

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Local Small Business Prime Preference for this Invitation for Bid for Local Small Businesses certified by the California Department of General Services located in Alameda, Contra Costa, or San Francisco County. The lowest responsive Bidder, Voestalpine Nortrak is not a certified Local Small Business and, therefore, is not eligible for the 5% Local Small Business Prime Preference, but it is still the lowest responsive Bidder.

**FISCAL IMPACT:**

Funding in the amount of \$2,787,356 (\$1,858,238 base contract value including CA Sales Tax, plus \$929,118 additional contract potential value) for contract award in response to IFB No. 9050 submitted by Voestalpine Nortrak is included in the total budget for FMS project #15CQ002- Replace Rails, Ties, Fasteners Phase 3. This Contract is an estimated quantity Contract. Upon Board approval of this Contract, the General Manager will also have the authority to purchase an additional 50 percent of the Contract Base Bid Price, subject to the availability of funds.

The table below lists funding assigned to the referenced project and is included in totality to track funding history against spending authority. Funds needed to meet this commitment will be expended from a combination of these sources as listed.

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

As of June 13, 2018, \$617,146,525 is the total budget for this project. BART has expended \$36,287,634, committed \$46,818,121 and reserved \$56,657,789 to date for other project actions. This action will commit \$2,787,356 leaving an available fund balance of \$474,595,625.

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

There is no fiscal impact on available unprogrammed District Reserves.

**ALTERNATIVES:**

Reject the bid and re-advertise the contract. This is not likely to lead to increased competition or lower prices and would result in delay to the replacement of the existing interlocking which is nearing the end of its useful life.

**RECOMMENDATION:**

Based on the analysis by staff and certified by Controller-Treasurer that the funds are available for this purpose; it is recommended that the board adopt the following motion.

**MOTION:**

The General Manager is authorized to award IFB No. 9050 for R65/A85 A-Line Interlocking to Voestalpine Nortrak for the bid price of \$1,858,237.61 including all taxes, pursuant to notification to be issued by the General Manager, subject to compliance with the Districts Protest Procedure.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: 21 June 2018 <i>Robert M. Power</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: 6/5/2018		BOARD INITIATED ITEM: No		
Originator/Prepared by: Paul Medved Dept: Planning, Development, and Construction	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i>	District Secretary	BARC <i>[Signature]</i> FOR PD: 6/18/2018
Signature/Date: <i>[Signature]</i> 6/14/18	6/14/18 [ ]	6/14/18 [ ]	[ ]	[ ]

## Single Source of Procurement of Automatic Train Control Spare Parts, Tools, and Equipment for the Warm Springs Extension - (Two-Thirds Vote Required)

### PURPOSE:

To obtain Board approval by two-thirds vote of a finding, under Public Contract Code Section 20227, that Alstom Signaling, Inc. is the single source of supply for spare parts, tools, and equipment for the Automatic Train Control system and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, and material currently in use on the Warm Springs Extension, and to obtain authorization for the General Manager to purchase Automatic Train Control system spare parts, tools, and equipment from Alstom Signaling, Inc. sufficient to support the continued uninterrupted operations of the Warm Springs Extension in an amount not to exceed \$600,000.

### DISCUSSION:

On June 23, 2011, the Board of Directors authorized the award of the Warm Springs Extension (WSX) Design-Build Line, Track, Station, and Systems (LTSS) Contract No. 02EE-120 to Warm Springs Constructors, a joint venture of Kiewit Infrastructure West Co. and Mass Electric Construction Co. Construction, testing and Safety/Security Certification was subsequently completed and the Warm Springs Extension was opened for revenue service on March 25, 2017.

For reasons of functionality, reliability and compatibility with the interfacing A Line Automatic Train Control (ATC) infrastructure, the WSX LTSS Contract Specifications included a Designated Matching Product (DMP) requirement for Alstom Signaling, Inc. (Alstom) technology. In October of 2008, technical staff recommended and provided justification for this DMP specification and this was approved by BART's Procurement



Department and the Office of the General Counsel. Accordingly, the WSX Extension was successfully outfitted with the latest generation of Alstom microprocessor and track circuit technology.

On the assumption that the District’s existing inventory of Alstom spare parts, tools, and equipment would be adequate to sustain successful operation and maintenance of the WSX Extension, the Contract Specifications had no requirement for provision of extra spare parts and equipment. Staff has subsequently determined that the District's inventory of Alstom parts and equipment is not identical to the latest generation of Alstom's technology installed on the WSX Extension. The District, therefore, needs to augment its inventory of ATC spare parts, tools, and equipment with Alstom's latest technology in sufficient type and quantity to match the existing infrastructure and ensure the continued uninterrupted service to the newly opened Warm Springs/South Fremont Station.

Pursuant to Section 20227 of the California Public Contract Code, “the board may direct the purchase of any supply, equipment, or material without observance of any provision requiring contracts, bids, or notice upon a finding by two-thirds of all members of the board that there is only a single source of procurement therefor and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material, as the case may be in use.” Staff requests that the Board approve, by a two-thirds vote, a finding that Alstom Signaling, Inc. is the single source of supply for the Automatic Train Control system spare parts, tools, and equipment and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, and material in use at BART. Further, staff requests that the Board authorize the General Manager to purchase the Automatic Train Control system spare parts, tools, and equipment from Alstom Signaling Inc. for the Warm Springs Extension.

The value of this purchase, including applicable taxes and shipping, is not expected to exceed \$600,000.

**FISCAL IMPACT:**

Funding in the amount of \$600,000 for this purchase is included in the total budget for FMS# 02EE000 Warm Springs Extension Line, Track, Station, System Design-Build.

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:

<b>Source</b>	<b>Fund Description</b>	<b>Total</b>
STATE	Prop. 1B, STA and TCRP funds	\$288,069,661
Regional	Bridge Tolls, Measures A and B	\$155,229,256
BART	BART Operating to Capital Allocation	\$392,287
	<b>Total</b>	<b>\$443,691,204</b>

As of June 6, 2018, \$443,691,204 is the total budget for this project. BART has expended \$432,747,239 committed \$4,158,018 and reserved \$411,709 to date for other actions. This action will commit \$600,000 leaving an available fund balance of \$5,774,236 in fund sources for this project.

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

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

**ALTERNATIVES:**

The Board can decline to authorize this sole source purchase of Automatic Train Control system spare parts, tools, and equipment for the Warm Springs Extension in bulk, however, given the long lead time required to obtain items on an individual, as-needed basis, the risk of service disruption and delay can be expected to increase sharply over time. Furthermore, declining this opportunity to have the WSX Project procure such spare parts, tools and equipment would mean that, later on, the District would be responsible to fund its purchase from other sources.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion.

**MOTION:**

The Board finds, pursuant to the California Public Contract Code Section 20227, that Alstom Signaling, Inc. is the single source for procurement of Automatic Train Control system spare parts, tools, and equipment, that the purchase is for the sole purpose of duplicating or replacing supply, equipment, and material currently in use on the Warm Springs Extension, and that the General Manager is authorized to purchase the Automatic Train Control system spare parts, tools, and equipment from Alstom Signaling, Inc. sufficient to support the continued uninterrupted operations of the Warm Springs Extension, in an amount not to exceed \$600,000.



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Power</i> 21 June 2018		GENERAL MANAGER ACTION REQ'D: Approval and presentation to the Board		
DATE: 5/22/2018		BOARD INITIATED ITEM: No		
Originator/Prepared by: Michael Peters Dept: Maintenance and Engineering <i>[Signature]</i> 6/18/18 Signature/Date:	General Counsel <i>[Signature]</i> 6/20/18 [ ]	Controller/Treasurer <i>[Signature]</i> 6/20/18 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 6.20.2018 [ ]
Status: Routed		Date Created: 5/22/2018		

### Change Order No. 28 to Contract No. 15EK-210 Procurement of Traction Power Substations Phase 1

#### PURPOSE:

To authorize the General Manager to execute Change Order Number 28 to Contract Number 15EK-210, Procurement of Traction Power Substation Phase 1, in the amount of \$1,216,584.00, and which extends the Contract period by 1,000 Days.

#### DISCUSSION:

On March 19, 2012, the District issued the Notice to Proceed on Contract Number 15EK-210. The Contract provides new traction power substation (TPSS) equipment with an original Contract value of \$17,904,407. This equipment was to be installed by a series of installation contracts for the District's Traction Power Replacement Phase 1 program.

The sum of undisputed mutual Change Orders for Contract Number 15EK-210 is \$2,433,151.54. This amount includes Board-approved Change Order Number 8 for \$1,612,168.00 to provide a DC equipment house to replace equipment damaged in the Richmond Yard TPSS fire. Change Order Number 22 was an undisputed unilateral change to de-scope four TPSS's from the Contract for a credit of (\$6,101,687). Change Order Numbers 24 and 25 deducted (\$965,051) from Contract Number 15EK-210 to compensate the District for claims paid to installation Contractors due to late Supplier equipment deliveries. Powell filed claims disputing Change Order Numbers 24 and 25.

The District and Powell negotiated these Change Orders and Supplier claims to reach a

global settlement agreement resolving all claims. This global settlement agreement provides for the following:

- BART will collect \$753,616 as liquidated damages related to late equipment deliveries outside the scope of this agreement, recovering 78% of installation contractor claims.
- In lieu of 22% of installation contractor claims and an additional \$121,533, Powell will extend the contract for 1,000 Days, completely rebuild a rectifier-transformer of disputed quality, store TPSS equipment until times specified by BART when the District is prepared to install the equipment, and extend two TPSS equipment warranties by 1,000 Days.
- BART will restore Contract Number 15EK-210 funds deducted by Change Order Numbers 24 and 25, allowing Powell to invoice for previously provided equipment and services.
- Establish an allowance to tap should circumstances prevent the District from taking delivery of the remaining equipment at the agreed times.

Total additional funding included in the global settlement agreement represented by Change Order Number 28 is \$121,533.00 toward extending the Contract plus a \$130,000 storage allowance, for a total of \$251,533. The Change Order Number 28 total amount also includes restoring to Powell \$965,051.00 previously withheld by the District from the Contract.

There are no DBE goals in this Procurement Contract.

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

#### **CAPITAL FISCAL IMPACT:**

Funding in the amount of \$1,216,584 for award of Contract Order Number 28 for Contract number 15EK-210 is included in the total project budget for FMS # 15EK200 Traction Power Substation Renovation.

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 Group	Amount
Various FTA Grant Sources	\$22,296,849
Local Area Bridge Toll	\$3,627,067
BART Funds	\$3,865,078
Total	\$29,788,994

As of May 24, 2018, \$29,788,994 is the total budget for this project. BART has expended \$24,940,549 and committed \$3,423,202 to date. This action will commit \$1,216,584, leaving an available fund balance of \$208,659 in these fund sources for this project.

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

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

**ALTERNATIVES:**

The Board can elect not to authorize the General Manager to approve the Change Order. In this case the District:

- Will be subject to adjudication of Notice of Potential Claim Numbers 5 and 6
- Will potentially be liable for extended storage of ASL and KTE equipment

**RECOMMENDATION:** Staff recommends that the Board approve the following Motion.

**MOTION:**

The General Manager is authorized to execute Change Order Number 28 to Contract Number 15EK-210, Procurement of Traction Power Substation Phase 1, in the amount of \$1,216,584.00, and which extends the Contract period by 1,000 Days.



# EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>21 June 2018</i> <i>Robert M. Poore</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 5/24/2018		BOARD INITIATED ITEM: No		
Originator/Prepared by: Mark Dana Dept: Extensions	General Counsel	Controller/Treasurer	District Secretary	BARC
Signature/Date: <i>Mark Dana 6/18/18</i>	<i>[Signature]</i> 6/18/18 [ ]	<i>[Signature]</i> 6/19/18 [ ]	[ ]	<i>[Signature]</i> 6-21-2018 [ ]

## Adopt The Proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Proposed BART Market Street Canopies and Escalators Modernization Project

### PURPOSE:

To obtain the following Board actions on the Proposed BART Market Street Canopies and Escalators Modernization Project (Proposed Project): 1) Adoption of the Proposed Initial Study/Mitigated Negative Declaration (IS/MND) and the Mitigation Monitoring and Reporting Plan (MMRP) for the Proposed Project, and 2) Adoption of the Proposed Project.

### DISCUSSION:

The existing escalators at station street entrances/exits and to/from station platforms in the four downtown San Francisco Stations of Embarcadero, Montgomery Street, Powell Street, and Civic Center regularly malfunction and currently need replacement. The Proposed Project is intended to upgrade the durability and reliability of escalators to current industry standards while improving safety, security and passengers' experience. The proposed improvements include the installation of canopy covers over all 22 street entrance/exit openings, including those openings without escalators, to protect District assets, to provide aesthetically pleasing and attractive entrances to the stations, and to improve passenger wayfinding. Each protective canopy will be equipped with a motorized grille that would lock

at the street level of each station entrance/exit when the stations are closed. The improvements consist of the replacement of 40 escalators: 22 escalators from the street to Concourse Level, and 18 escalators from the Concourse to Platform Level. Two canopies, one at Civic Center and one at Powell Street are currently being completed in a Pilot Project that was determined to be categorically exempt from the California Environmental Quality Act (CEQA) by District Staff in December 2015. Numerous public and stakeholder meetings have been conducted by BART and the City and County of San Francisco in connection with the Proposed Project. Input from those meetings has been incorporated into the project design process.

In order to meet the requirements of CEQA, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) and Notice of Intent to Adopt a MND for the Proposed Project was prepared and circulated for public review on April 30, 2018. The Draft IS/MND evaluated the environmental impacts associated with the Proposed Project. With implementation of the specific mitigation measures identified in the IS/MND, all potential Proposed Project impacts can be avoided, minimized, reduced, or compensated for, to a level that is less than significant and therefore the project would create no significant environmental impacts. The public comment period for the Draft IS/MND occurred from April 30, 2018 through May 30, 2018. A Public Meeting was held on May 16, 2018 at the City of San Francisco Public Library. Comments received during the public review period and corresponding responses are included in the Final IS/MND. The Final IS/MND provides a full disclosure of the anticipated potentially significant environmental impacts to a less-than-significant level. The MMRP defines a program to ensure implementation of specific mitigation measures to these impacts.

#### **FISCAL IMPACT:**

There is no fiscal impact in adoption of the motion described below as this action will not commit any funding or impact any unprogrammed District Reserves.

#### **ALTERNATIVES:**

The Board can elect not to adopt the IS/MND, MMRP, and/or the Proposed Project. The escalators and entrances to the stations would remain the same, with no improvements to access or safety. Further design efforts would have to be suspended. Also, if the Proposed Project is not adopted, the District risks the loss of grant funds programmed for the Proposed Project.

**RECOMMENDATION:**

Adoption of the following motion:

**MOTION:**

Based on the findings presented in the Final Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Proposed BART Market Street Canopies and Escalators Modernization Project together with the comments received during the public review process, the Board hereby:

1. Finds on the basis of the whole record before it that there is no substantial evidence that the Proposed BART Market Street Canopies and Escalators Modernization Project, as revised by the incorporation of mitigation measures, may have a significant effect on the environment, and therefore no further environmental review is required.

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2. Finds that the Initial Study/Mitigated Negative Declaration reflects the Board's independent judgment and analysis.

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3. Adopts the Initial Study/Mitigated Negative Declaration.

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4. Adopts the Mitigation Monitoring and Reporting Plan.

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5. Approves the BART Market Street Canopies and Escalators Modernization Project as proposed.





## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>21 June 2018</i> <i>Robert M. Powers.</i>		GENERAL MANAGER ACTION REQ'D:		
DATE: 6/15/2018		BOARD INITIATED ITEM: No		
Originator/Prepared by: Jennifer Easton Dept: Planning, Development & Construction	General Counsel	Controller/Treasurer	District Secretary	BARC
<i>[Signature]</i> Signature/Date: <i>6/21/18</i>	<i>[Signature]</i> <i>6/21/18</i> [ ]	<i>[Signature]</i> <i>6/21/18</i> [ ]	[ ]	<i>[Signature]</i> <i>6/21/2018</i> [ ]

### Art Master Plan and Art in Transit Policy Amendment

#### PURPOSE:

To request Board approval of the amendment to the BART Art in Transit Policy (Art Policy) to support the BART Art Program with the funding from certain station-related capital projects at 2% of construction costs, and 0.25% of construction costs for certain off-station infrastructure and new rail cars.

#### DISCUSSION:

In April 2013, the Board directed staff to develop an Art in Transit policy establishing the vision, goals, and strategies for developing a robust art in transit program modeled on national and international best practices. In August 2015, the BART Board adopted an Art in Transit Policy that outlined a vision, goals, strategies, guidelines and procedures, and program elements for the development of an art program for BART. At the time the policy was adopted, the Board deferred adopting a funding strategy in support of the program.

Following the adoption of the Art Policy, in spring 2016 an art program manager was hired. Beginning in spring 2017, development of a master plan for the art program was undertaken and is now in final review. The master plan process included significant internal document research, internal and external outreach, two customer surveys, as well as coordination with a community advisory committee. The final document will include recommendations for long term development of the art program at BART;

transparent to BART staff, artists, and other interested organizations; and metrics for successful program development.

The feedback to making a successful art program for BART aligned in three categories: "Sense of Place," "Diversity and Equity," and "Make BART Work." The art program objectives from this input were then aligned to existing BART policies and initiatives to more fully integrate the art program within the organization.

The programmatic recommendations are:

- Art integrated into stations and station areas
- Changing art in and adjacent to stations
- Community arts systemwide
- A robust, engaging, and professionally managed art collection.

Integrated art takes advantage of active capital projects to enhance infrastructure. By creating opportunities for artists to participate early in project design, and by identifying standard materials and locations; the station art will provide a better station experience within planned station elements.

Changing and temporary art provide a dynamic opportunity for partnerships that have the opportunity to showcase the diversity of BART communities, and the greater Bay Area. This art may be visual, literary, performative arts or festivals and events. By establishing known locations for these elements, riders and community will come to expect and anticipate these experiences – whether on a construction enclosure, on a BART plaza or parking lot, or an in-station area specially reserved for musicians and poets.

Community arts is the method by which BART will be able to solicit and review ideas from the community. The arts can create a more relatable and activated system. A series of administrative guidelines and review procedures will be enacted to make it easy to develop a dynamic program.

BART has an art collection of over 50 artworks that can be made a more integral part of the station experience through strategic and ongoing management of this collection. However BART needs to address the significant conservation and maintenance backlog to bring this collection to a state where it can be more fully enjoyed by patrons, staff, and the community. By partnering internally with BARTable, the collection can become a source of pride for communities and riders, and a springboard for public art exploration throughout the District.

## **FISCAL IMPACT:**

The proposed amendment provides that the BART Art Program receives 2% of the construction cost of capital projects in or adjacent to station facilities; 0.25% of the construction cost of capital projects along trackways, above grade vents and substations, and maintenance facilities where riders or employees may benefit from art; and 0.25% as part of future revenue vehicle procurements. Capital projects that are related to life safety, system critical, required for ADA compliance, or not publicly visible will be omitted from contribution to the program. These funds will be deductive from the capital budgets.

Allocations from projects will be subject to the eligibility limitations of the identified fund sources.

Additionally, funding from the Operating Budget is requested for art conservation and maintenance, collection management, and curated programming. FY19 funding has been identified and is part of the Stations & Access initiatives in the adopted budget. A minimum of \$100,000 in subsequent years will be identified annually from operating sources during the budget process, and is subject to Board approval. Additional funding, if necessary, will be considered as part of the budget process. The Art Program Work Plan will establish private and grant fundraising target amounts each year, leveraging BART's commitment of funds to the program.

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

Procedures for establishment and implementation of program funding and eligibility of fund sources will be developed by staff following adoption of the Art Policy amendment.

## **ALTERNATIVES:**

1. Do not adopt the amendment to the Art in Transit Policy. Staff would continue to negotiate art budgets on an ad hoc basis, and art programming will be inconsistently implemented. This will result in an inequitable distribution of projects throughout the District and will negatively impact BART's ability to fundraise, develop partnerships, and support community projects. The maintenance, conservation and engagement of the existing art collection would be further delayed leading to the continued deterioration of valuable artworks, and a further negative perception by riders of the station experience.
2. Adopt a modified Art in Transit Policy, with changes to the percentage for art

allocated from capital projects, and/or changes to the projects from which the recommended percentage is sought. The recommended operating budget could be revised. Additionally a minimum threshold for capital projects that contribute to the Art Program could be established. A downward reduction of the Operating Budget recommendation will result in a slowed timeframe to address the conservation and maintenance backlog for the art collection. Additionally funds available for collection management, partnership development, and education and outreach will be similarly constrained.

A reduction in the recommended percentage contribution from capital projects will impact the ability of art to address the eight goals of the art policy, and, with less funds available per project, reduce the likelihood of funds available for pooling, and therefore the availability of funds for distribution of projects throughout the District.

**RECOMMENDATION:**

It is recommended that the Board adopt the attached amendment to the Art in Transit Policy.

**MOTION:**

Approve the proposed amendment to the BART Art in Transit Policy.

## SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ART IN TRANSIT POLICY

### *VISION:*

The San Francisco Bay Area Rapid Transit District (BART) seeks to implement an arts program that will enrich rider experience, strengthen station identity, connect to communities, and support a distinctive sense of place at stations and beyond. BART's art program will build on best practices, lead the field in community participation strategies, engage with arts and cultural organizations and artists, and make riding BART more delightful, vibrant, and welcoming.

### *GOALS:*

- A. **Cohesion.** Create a cohesive and consistent art program.
- B. **Opportunity.** Proactively seek opportunities to implement art across the District, and leverage general capital investments by incorporating art and design elements into public-facing infrastructure.
- C. **Partnerships.** Maximize art in the system by leveraging BART's investments through partnerships with other organizations and agencies, and through grant writing and fundraising.
- D. **Make Transit Work.** Use arts programming to further BART's functional goals and enhance public perception of BART as a transit system that works well for its riders.
- E. **Showcase Art.** Maintain and make BART's art collection accessible through effective asset management and interpretive strategies.
- F. **Integrated Design.** Utilize art to elevate the design of stations and affirm the distinct identity of the surrounding community.
- G. **Transparency.** Establish a transparent and effective process for developing and implementing collaborative projects and programming.
- H. **Engagement.** Engage with communities throughout the BART system to enhance customer relations, support BART's positive impact in communities and create visible expressions of the unique characteristics of neighborhoods around stations and along tracks.

### *STRATEGIES:*

#### *Program Elements:*

1. **Master Plan.** Create a 15-year system-wide arts master plan, focusing on the art vision for stations and the system as a whole, including the identification and prioritization of arts opportunities. The plan will serve as a valuable tool to guide the allocation of resources as they are available.
2. **Implementation Plan.** Create a five-year art program work plan to identify short-term project workload, establish fundraising goals, and create a phasing and implementation plan for building up the program.
3. **Permanent Works.** Continue to add permanent works to the BART system, including station art works in the stations as well as murals on BART infrastructure visible in public areas, to add visual appeal and abate graffiti.
4. **Integrated Art.** Maximize visual impact of arts funds by identifying opportunities to integrate art and artistic elements into the design of capital improvements.
5. **Temporary Art.** Offer temporary art programming opportunities that appropriately activate public spaces and engage BART riders. This may include visual arts, rotating displays, performance, media, music,

literature

***Process Guidelines and Procedures:***

1. **Acquisition.** Establish guidelines to ensure that artworks are acquired and maintained in accordance with recognized standards and best practices in the field of public art.
2. **Engagement.** Design effective programs of ongoing engagement for the arts community and the community at large.
3. **Internal Protocols.** Establish an internal protocol to support BART staff in integrating art opportunities early in capital project development, and create tools to educate staff about the appropriate treatment of artworks in BART facilities.
4. **Internal Review.** Establish an internal BART review process to ensure that all works of art are compliant with BART policies, maintenance, safety and operational needs.
5. **Community Generated Projects.** Establish guidelines for the submittal and review of community-generated projects.
6. **Partnerships.** Establish an ongoing plan for cultivating collaborative partnerships with other public agencies, non-profit groups, and private organizations.
7. **Committee.** Establish an external committee to engage the community, support the development of Program Elements, the work plan and art budget, and review the success of the Art Program.

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***Recommended Amendment to "Strategies" subsection***

***Funding:***

1. **Capital Funds.** Allocate a share of the construction cost of capital projects for the integration of art, consistent with the requirements of individual fund sources.
  - a. 2% of construction cost of capital improvements to stations and areas adjacent to stations (including parking and transit intermodal facilities) that have a visual impact to riders or communities.
  - b. 0.25% of construction cost of capital improvements for at- and above-grade guideways; shops and yards; above-grade vent structures; substations either above-grade or that require closures of previously publicly accessible areas; and other locations with passenger, community, or employee visibility.
  - c. 0.25% of new train car procurement.
  - d. Omit capital projects related to life safety, system critical (e.g., train control), ADA-required compliance, or is lacking public visibility (e.g., tubes and tunnels).
  - e. Pooling Funds: Where the funding source allows, funds allocated for art may be pooled for use at a future project. An annual art plan will be developed to determine the redistribution of the pooled funds based on the areas of greatest need or impact per the Art Policy and Art Master Plan.
2. **Operating Funds.** Provide a minimum of \$100,000 annual allocation from the Operating Budget, subject to Board approval, for art conservation and maintenance, collection management, and curated programming. Additional funding, if necessary, will be considered as part of the budget process.
3. **Partnerships.** Develop a partnership program with annual funding targets to engage partner agencies and organizations to maximize funding opportunities from outside sources including community, private, government, and foundations.
4. **TOD.** Require BART TOD in cities with existing private percent for art requirements to retain those funds onsite to enhance the TOD or adjacent BART station in accord with city's policy. For cities without a private percent for art requirement, 1% of TOD construction cost is required to implement public art or art amenity onsite or in the adjacent BART station.







**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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MEMORANDUM

**TO:** Board of Directors **DATE:** June 22, 2018  
**FROM:** General Counsel  
**SUBJECT:** Proposed Resolution Directing Specific Advertising Funds

At the request of Director Dufty, attached is a Resolution he will ask you to consider at the June 28<sup>th</sup> Board meeting. The proposed Resolution directs the profits derived from a recent advertising campaign to towards restoration of a mural adjacent to the 24<sup>th</sup> Street BART station.

PROPOSED MOTION:

Adoption of the attached Resolution.



Matt Burrows

cc: Board Appointed Officers  
Executive Staff

*Attachment*

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

In the Matter of Directing Profits  
Derived From Paid Advertising by  
Progressives for Immigration Reform Towards  
Restoration of the "BART Station Mural" \_\_\_\_\_ /

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

WHEREAS, The San Francisco Bay Area Rapid Transit District (the "District") is committed to providing safe and efficient transit to all members of the public and has passed a Safe Transit Policy<sup>1</sup> codifying that position; and

WHEREAS, The District's advertising guidelines permit point of view advertising without regard to the viewpoint expressed, consistent with First Amendment freedom of speech rulings; and

WHEREAS, the group Progressives for Immigration Reform recently purchased advertising within the BART system that resulted in numerous complaints from the public; and

WHEREAS, "The BART Station Mural" was painted in 1975 by Michael Rios, Anthony Machado and Richard Montez on a two story building located at 2779 Mission Street, adjacent to the 24<sup>th</sup> Street Station; and

WHEREAS, the "BART Station Mural" holds cultural significance for San Francisco's Mission District; and

WHEREAS, the "BART Station Mural" provides BART riders utilizing the 24<sup>th</sup> Street station an art display relevant to the station's area and history; and

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<sup>1</sup> BART Resolution 5346 (6/22/17)

WHEREAS, the "BART Station Mural" is in need of restoration and Calle 24 Latino Cultural District has sought funds for a Mural Restoration Project; and

WHEREAS, the Board of Directors wishes to direct the advertising revenues of the District from this particular paid advertising campaign towards restoration of the "BART Station Mural" adjacent to the 24<sup>th</sup> Street station.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors directs that the General Manager dedicate the advertising revenues generated from the recent advertising by Progressives for Immigration Reform to restoration of the "BART Station Mural" as managed by Calle 24 Latino Cultural District; and

BE IT FURTHER RESOLVED, that it is requested that the Board of Directors be advised as to the status of the project as it moves forward.

Adopted: \_\_\_\_\_

# # #

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors

**DATE:** June 22, 2018

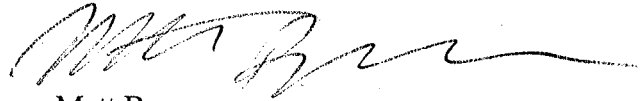
**FROM:** General Counsel

**SUBJECT:** Proposed Resolution in Support of BART Unions

At the request of President Raburn, attached is a Resolution he will ask you to consider at the June 28<sup>th</sup> Board meeting. The proposed Resolution pledges support for BART unions in light of a case pending before the United States Supreme Court that could inhibit the ability of unions to remain strong.

**PROPOSED MOTION:**

Adoption of the attached Resolution.



Matt Burrows

cc: Board Appointed Officers  
Executive Staff

*Attachment*

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

In the Matter of Support of  
BART Unions Post Janus v. AFSCME Decision /

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

WHEREAS, the Board of Directors of the San Francisco Bay Area Rapid Transit District (District) shares and supports the goals and ideals of employees of the BART family, for a better life and a decent and fair wage, including those represented by organized labor;

WHEREAS, the United States Supreme Court is currently considering the case Janus v. AFSCME Council 31, which could restrict unions from requiring dues from non-member employees who benefit from collective bargaining, effectively weakening the BART unions' power to negotiate on behalf of public sector workers; and

WHEREAS, a decision by the United States Supreme Court against AFSCME Council 31 may deny public sector workers access to strong unions that work to protect and enhance the lives of working families; and

WHEREAS, the District and its employees rely on employees in the public sector, not just for the District's core service, but also to educate the community, keep the community safe and provide other services to help the Bay Area thrive;

NOW, THEREFORE, BE IT RESOLVED, that the District's Board of Directors supports the rights of employees to join strong unions; and

BE IT FURTHER RESOLVED, that in the event that the United States Supreme Court rules against AFSCME Council 31, in the matter Janus v. AFSCME Council 31, the District's Board of Directors urges the General Manager and the District's Labor Relations Department to work with its' public sector unions by engaging in good faith discussions designed to mitigate any impacts, including, but not limited to an inability to require dues from non-members.